

Wednesday, June 28, 2023, 7:00 P.M.

A quorum of Planning Commission will be in attendance at
Tracy City Hall Chambers, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

And a Commissioner will attend remotely at the following location:
Sentral East Austin at 1630 E. Sixth St, Austin TX 78702

THIS MEETING WILL BE OPEN TO THE PUBLIC FOR IN-PERSON AND REMOTE PARTICIPATION PURSUANT TO GOVERNMENT CODE SECTION 54953(e).

MEMBERS OF THE PUBLIC MAY PARTICIPATE REMOTELY IN THE MEETING VIA THE FOLLOWING METHOD:

As always, the public may view the Planning Commission meetings live on the City of Tracy's website at CityofTracy.org or on Comcast Channel 26/AT&T U-verse Channel 99. To view from the City's website, open the "Government" menu at the top of the City's homepage and select "Planning Commission", then select "[Planning Commission Meeting Videos](#)" under the "Boards and Commissions" section.

If you only wish to watch the meeting and do not wish to address the Council, the City requests that you stream the meeting through the City's website or watch on Channel 26.

Remote Public Comment:

During the upcoming Planning Commission meeting public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following
 - **Event Number: 2555 236 7823** and **Event Password:** Planning
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - Join by phone by dialing +1-408-418-9388, 2555 236 7823#75266464# Press *3 to raise the hand icon to speak on an item.
- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "New Business" or "Items from the Audience" portions of the agenda:*
 - *Listen for the Chair to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the "New Business" or "Items from the Audience" portions of the agenda will be accepted until the public comment for that item is closed.*

Comments received on Webex outside of the comment periods outlined above will not be included in the record.

Americans With Disabilities Act – The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6105) 24 hours prior to the meeting.

Addressing the Council on Items on the Agenda – The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. To facilitate the orderly process of public comment and to assist the Council to conduct its business as efficiently as possible, members of the public wishing to address the Council are requested to, but not required to, hand a speaker card, which includes the speaker's name or other identifying designation and address to the City Clerk prior to the agenda item being called. Generally, once the City Council begins its consideration of an item, no more speaker cards will be accepted. An individual's failure to present a speaker card or state their name shall not preclude the individual from addressing the Council. Each citizen will be allowed a maximum of five minutes for input or testimony. In the event there are 15 or more individuals wishing to speak regarding any agenda item including the "Items from the Audience/Public Comment" portion of the agenda and regular items, the maximum amount of time allowed per speaker will be three minutes. When speaking under a specific agenda item, each speaker should avoid repetition of the remarks of the prior speakers. To promote time efficiency and an orderly meeting, the Presiding Officer may request that a spokesperson be designated to represent similar views. A designated spokesperson shall have 10 minutes to speak. At the Presiding Officer's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. The City Council's Meeting Protocols and Rules of Procedure provide that in the interest of allowing Council to have adequate time to address the agenda items of business, "Items from the Audience/Public Comment" following the Consent Calendar will be limited to 15-minutes maximum period. "Items from the Audience/Public Comment" listed near the end of the agenda will not have a maximum time limit. A five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agenda items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

Notice – A 90-day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but

not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

Full copies of the agenda are available on the City's website: www.cityoftracy.org.

MEETING AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ACTIONS, BY MOTION, OF CITY COUNCIL PURSUANT TO AB 2449, IF ANY

ROLL CALL

MINUTES – 5/24/23 Regular Meeting

DIRECTOR'S REPORT REGARDING THIS AGENDA

ITEMS FROM THE AUDIENCE - *In accordance with Council Meeting Protocols and Rules of Procedure, adopted by Resolution No. 2019-240, a five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Planning Commissioners may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to the Planning Commission.*

1. NEW BUSINESS

1.A BY MOTION, ELECTION OF NEW PLANNING COMMISSION CHAIR

- 1.B STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: 1) APPROVING A DEVELOPMENT REVIEW PERMIT (D23-0003) TO ALLOW A NEW OUTDOOR EATING AND DRINKING ESTABLISHMENT CONSISTING OF THREE STRUCTURES AT 22 E. 9TH STREET, INCLUDING REQUISITE CONDITIONS OF APPROVAL NECESSARY TO CURE EXISTING DEFICIENCIES AND MAKE SUCH STRUCTURES CODE-COMPLIANT; AND 2) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15303, WHICH PERTAINS TO CONSTRUCTION OF LIMITED NUMBER OF NEW, SMALL FACILITIES OR SIMILAR STRUCTURES NOT INVOLVING THE USE OF SIGNIFICANT AMOUNTS OF HAZARDOUS SUBSTANCES, AND NOT EXCEEDING 2,500 SQUARE FEET IN FLOOR AREA. THE APPLICANT AND OWNER ARE CANDIDO & GABRIELA MACHUCA.

- 1.C STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: 1) APPROVING A DEVELOPMENT REVIEW PERMIT FOR THE TRIANGLE PLAZA COMMERCIAL DEVELOPMENT ON A 1.91-ACRE SITE LOCATED AT 3788 N. TRACY BLVD., APN 212-250-01 & 02; 2) APPROVING A 20% OFF-STREET PARKING SPACE REDUCTION PURSUANT TO TRACY MUNICIPAL CODE SECTION 10.08.3740(E); AND 3) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PER SECTION 15332. THE APPLICANT IS TECTA ASSOCIATES AND THE PROPERTY OWNER IS 3788 TRACY LLC, APPLICATION NUMBER D21-0006.
- 1.D STAFF RECOMMENDS THAT THE PLANNING COMMISSION RECOMMEND THAT THE CITY COUNCIL ADOPT A RESOLUTION: (1) DIRECTING CITY STAFF TO FINALIZE THE DRAFT HOUSING ELEMENT AND SUBMIT THE DRAFT HOUSING ELEMENT TO THE STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR REVIEW, AND (2) DETERMINING THE PROJECT IS EXEMPT FROM CEQA PURSUANT GUIDELINES SECTION 15061(B)(3).

THIS ITEM HAS BEEN REMOVED FROM THE AGENDA AND WILL BE RE-NOTICED FOR A LATER DATE.

2. ITEMS FROM THE AUDIENCE
3. DIRECTOR'S REPORT
4. ITEMS FROM THE COMMISSION
5. ADJOURNMENT

Posted: June 23, 2023

Any materials distributed to the majority of the Planning Commission regarding any item on this agenda will be made available for public inspection via the City of Tracy website at www.cityoftracy.org.

**MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
MAY 24, 2023, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

CALL TO ORDER

Vice Chair Orcutt called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE

Vice Chair Orcutt led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Vice Chair Orcutt present. Chair Hudson was not present at the time of roll call. Also present were: Jaylen French, Director of Development Services; Bill Dean, Assistant Director of Development Services; Victoria Lombardo, Senior Planner; Kenneth Lipich, Associate Planner; Kimberly Matlock, Associate Planner; Bijal M. Patel, City Attorney; Koosun Kim, City Engineer; Al Gali, Associate Engineer; Veronica Child, Management Analyst; Ana Contreras, Community Preservation Manager; Lacy Starling, Code Enforcement Officer; and Miranda Aguilar, Administrative Assistant.

MINUTES

Vice Chair Orcutt introduced the Regular Meeting Minutes from the April 26, 2023 meeting.

ACTION: It was moved by Commissioner Augustus and seconded by Commissioner Atwal to approve the April 26, 2023 Planning Commission Regular meeting minutes. A voice vote found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng and Vice Chair Orcutt in favor; Chair Hudson absent. Passed and so ordered; 4-0-1-0.

DIRECTOR'S REPORT REGARDING THIS AGENDA

Bill Dean, Assistant Director of Development Services reported that Item 1.A from tonight's agenda would be removed and re-noticed for a later date and reported that the Planning department received a call from the property owner of Item 1.B requesting the item to be removed and is recommending to remove Item 1.B and re-notice for a later date until.

ITEMS FROM THE AUDIENCE

Dinesh, property owner for Item 1.B, via Webex, requested to move forward and hear Item 1.B for tonight's Agenda.

Gabriela Rodriguez-Machuca, business owner, stated her business was on tonight's Agenda and was removed and would like to know why.

Alice English, Tracy Resident, expressed support for Gabriela Machuca.

Richard Rollins, local business owner, expressed support for local businesses.

Alexis Roberts, Tracy resident, expressed support for Machuca's business.

1. NEW BUSINESS

A. THIS ITEM HAS BEEN REMOVED FROM THE AGENDA AND WILL BE RE-NOTICED FOR A LATER DATE.

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: 1. APPROVING A DEVELOPMENT REVIEW PERMIT FOR A NEW OUTDOOR EATERY CONSISTING OF TWO SHIPPING CONTAINERS AT APPROXIMATELY 240 SQ. FT. AND 160 SQ. FT. AND A 152 SQ. FT. MOBILE FOOD TRAILER AT 22 E. 9TH STREET; AND 2. DETERMINING THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15303. THE APPLICANT AND OWNER ARE CANDIDO & GABRIELA MACHUCA, APPLICATION NUMBER D23-0003.

B. STAFF RECOMMENDSTHAT THE PLANNING COMMISSION ADOPT A RESOLUTION: 1. APPROVING A SIX-MONTH RENEWAL (EXT23-0001) OF THE CONDITIONAL USE PERMIT FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2179 W. GRANT LINE ROAD (ASSESSOR'S PARCEL NUMBERS 214-560-02 & 214-560-03), APPLICATION NUMBER CUP21-0008; AND 2. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS DOCTOR'S CHOICE MODESTO, LLC AND THE PROPERTY OWNER IS KM REALTY, LLC, APPLICATION NUMBER EXT23-0001.

Kimberly Matlock, Associate Planner, presented the staff report and addressed questions from the Commission.

Vice Chair Orcutt opened the Public Hearing at 7:40 p.m.

Alex Montso, Tracy resident, expressed support for cannabis businesses.

Shan Bal, business owner, expressed he would answer any questions.

Vice Chair Orcutt closed the Public Hearing at 8:43 p.m.

ACTION: It was moved by Commissioner Atwal and seconded by Commissioner Augustus that the Planning Commission adopt a resolution:

- 1) approving a six-month renewal (EXT23-0001) of the conditional use permit for a cannabis storefront retailer (dispensary) at 2179 W. Grant Line Road (assessor's parcel numbers 214-560-02 & 214-560-03), application number CUP21-0008; and

- 2) Determining that this project is categorically exempt from the California Environmental Quality Act.

A roll call vote found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Vice Chair Orcutt, in favor; Chair Hudson absent. Passed and so ordered; 4-0-1-0.

C. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: 1. GRANTING A CONDITIONAL USE PERMIT (CUP22-0017) FOR A CANNABIS DISPENSARY AT 775 W. CLOVER RD.; AND 2. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15301. THE APPLICANT IS CYRUS PAI REPRESENTING STIIIZY'S (AUTHENTIC TRACY, LLC) AND THE PROPERTY OWNER IS UNITED HOLDING GROUP, LLC.

Kenny Lipich, Associate Planner, presented the staff report and addressed questions from the Commission.

Cyrus Pai, applicant, addressed the Commission.

Vice Chair Orcutt opened the Public Hearing at 7:54 p.m.

Vice Chair Orcutt opened the Public Hearing at 7:55 p.m.

ACTION: It was moved by Commissioner Augustus and seconded by Commissioner Atwal that the Planning Commission adopt a resolution:

- 1) Granting a conditional use permit (CUP22-0017) for a cannabis dispensary at 775 W. Clover RD.; and
- 2) Determining that this project is categorically exempt from the California Environmental Quality Act.

A roll call vote found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Vice Chair Orcutt, in favor; Chair Hudson absent. Passed and so ordered; 4-0-1-0.

D. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1. GRANTING A CONDITIONAL USE PERMIT (CUP22-0007) FOR A CANNABIS DISPENSARY AT 22 E. TENTH STREET, APN 235-170-20; AND 2. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS INSIDE THE CULTURE TRIANGLE, INC. AND THE PROPERTY OWNER IS ALHUSUN, LLC.

Kimberly Matlock, Associate Planner, presented the staff report and addressed questions from the Commission.

Vice Chair Orcutt opened the Public Hearing at 8:00 p.m.

Alex Montso, Tracy resident, expressed support for the Project.

Devon Julian, Applicant, addressed the Commission.

Vice Chair Orcutt opened the Public Hearing at 8:03 p.m.

Victoria Lombardo, Senior Planner, addressed questions from the Commission.

ACTION: It was moved by Commissioner Boakye-Boateng and seconded by Commissioner Augustus that the Planning Commission adopt a resolution:

- 1) Granting a conditional use permit (CUP22-0007) for a cannabis dispensary at 22 E. Tenth Street, APN 235-170-20; and
- 2) Determining that this project is categorically exempt from the California Environmental Quality Act.

A roll call vote found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Vice Chair Orcutt, in favor; Chair Hudson absent. Passed and so ordered; 4-0-1-0.

E. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: 1. GRANTING A CONDITIONAL USE PERMIT (CUP22-0013) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 60 & 72 E. TENTH STREET, APNS 235-172-04 & 05; 2. APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0030) FOR MODIFICATIONS TO THE BUILDING FAÇADE AND PARKING AREA; AND 3. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT THE APPLICANT IS MANZANITA OF TRACY, LLC AND THE PROPERTY OWNERS ARE RICHARD AND SUSAN MOE.

Kimberly Matlock, Associate Planner, presented the staff report and addressed questions from the Commission.

Vice Chair Orcutt opened the Public Hearing at 8:12 p.m.

Jeff Linden, Applicant, addressed the Commission

Vice Chair Orcutt opened the Public Hearing at 8:15 p.m.

ACTION: It was moved by Commissioner Augustus and seconded by Vice Chair Orcutt that the Planning Commission adopt a resolution:

- 1) Granting a conditional use permit (CUP22-0013) for a cannabis storefront retailer (dispensary) at 60 & 72 E. Tenth Street, APNs 235-172-04 & 05;

- 2) Approving a development review permit (D22-0030) for modifications to the building façade and parking area; and
- 3) Determining that this project is categorically exempt from the California Environmental Quality Act.

A roll call vote found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Vice Chair Orcutt, in favor; Chair Hudson absent. Passed and so ordered; 4-0-1-0.

F. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION FINDING, PURSUANT TO GOVERNMENT CODE SECTIONS 65103(C) AND 65401, THAT THE CITY OF TRACY'S CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2023/2024 THROUGH FISCAL YEAR 2027/2028 IS CONSISTENT WITH THE GENERAL PLAN.

Al Gali, Associate Engineer, presented the staff report and addressed questions from the Commission.

Koosun Kim, City Engineer, addressed the Commission.

Vice Chair Orcutt opened the Public Hearing at 8:21 p.m.

Vice Chair Orcutt opened the Public Hearing at 8:21 p.m.

ACTION: It was moved by Vice Chair Orcutt and seconded by Commissioner Augustus that the Planning Commission adopt a resolution:

- 1) Adopting a resolution finding, pursuant to GOVERNMENT code sections 65103(C) and 65401, that the City of Tracy's Capital Improvement Program for fiscal year 2023/2024 through fiscal year 2027/2028 is consistent with the General Plan.

A roll call vote found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Vice Chair Orcutt, in favor; Chair Hudson absent. Passed and so ordered; 4-0-1-0.

2. ITEMS FROM THE AUDIENCE

None.

3. DIRECTOR'S REPORT

None.

4. ITEMS FROM THE COMMISSION

Commissioner Atwal would like to confirm if the Title 10 discussion will continue.

Bill Dean, Assistant Director of Development Services, reported that the item was seen

at City council and will be continued to December City Council Meeting.

Vice Chair Orcutt inquired about the annual Planning Conference dates.

5. ADJOURNMENT

ACTION: It was moved by Vice Chair Orcutt and seconded by Commissioner Augustus to adjourn.

A voice vote found Commissioner Atwal, Commissioner Augustus, Commissioner Boakye-Boateng, and Vice Chair Orcutt in favor; Chair Hudson absent. Passed and so ordered; 4-0-1-0.

Time: 8:25 p.m.

CHAIR

STAFF LIAISON

Agenda Item 1.B

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

- 1. APPROVING A DEVELOPMENT REVIEW PERMIT (D23-0003) TO ALLOW A NEW OUTDOOR EATING AND DRINKING ESTABLISHMENT CONSISTING OF THREE STRUCTURES AT 22 E. 9TH STREET, INCLUDING REQUISITE CONDITIONS OF APPROVAL NECESSARY TO CURE EXISTING DEFICIENCIES AND MAKE SUCH STRUCTURES CODE-COMPLIANT; AND**
- 2. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15303, WHICH PERTAINS TO CONSTRUCTION OF LIMITED NUMBER OF NEW, SMALL FACILITIES OR SIMILAR STRUCTURES NOT INVOLVING THE USE OF SIGNIFICANT AMOUNTS OF HAZARDOUS SUBSTANCES, AND NOT EXCEEDING 2,500 SQUARE FEET IN FLOOR AREA.**

THE APPLICANT AND OWNER ARE CANDIDO & GABRIELA MACHUCA.

EXECUTIVE SUMMARY

Through this item, staff recommends that the Planning Commission approve a Development Review Permit for a new outdoor eating and drinking establishment consisting of three structures and a patio and determine that such approval is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303.

BACKGROUND

On September 15, 2022, the City's Development Services Department approved a Temporary Use Permit (Application No. TUP22-0021) to allow a mobile food trailer with two outdoor picnic tables and a portable toilet at 22 E. 9th Street. The Temporary Use Permit was approved for 180 days per the City's Emergency Ordinance and had an expiration date of March 14, 2023. On January 12, 2023 City's Code Enforcement Division issued a citation for two unpermitted metal storage containers and unpermitted electrical and plumbing services connected to the two metal storage containers at 22 E. 9th Street. On March 3, 2023, Code Enforcement issued a Notice and Order (Attachment A: Notice & Order).

On March 24, 2023, the City received a Development Review Permit application for a new eating and drinking establishment consisting of three structures at 22 E. 9th Street. The Development Review Permit, if approved by Planning Commission, would provide authorization for a building permit to be submitted and issued to correct the Code Enforcement citation of January 12, 2023 and the Notice and Order dated March 3, 2023.

A Development Review Permit is regulated by Tracy Municipal Code (TMC) Title 10 Article 30, most recently amended by Ordinance 1236 on July 18, 2017. The application is to be reviewed for compliance with the regulations in the Tracy Municipal Code, the Citywide Design Standards, and the City's Standard Plans and Specifications (Engineering Division standards).

ANALYSIS

Zoning

The project site is a 3,043 sq. ft. paved lot with three existing, unpermitted structures located in the Central Business District (CBD) Zone of Downtown Tracy. In addition to other violations, the proposed application violates the Zoning Ordinance as one of the structures is the mobile food trailer, which is not permitted in the CBD Zone. Staff has included requisite Conditions of Approval (see Exhibit 2 to Attachment C) to make the proposed project compliant with all Code requirements, including conditions requiring the applicant to “immobilize” the trailer. The project site is surrounded by commercial businesses including a drinking establishment, barbershop, salon to the west, and a barbershop and bridal shop to the north. There is a nonconforming residence to the east (the residential use does not meet the density requirement of the CBD Zone), and parking lot to the south of the project site (Attachment B: Vicinity Map). The proposed project, if modified as required by the Conditions of Approval, would conform with the Zoning Development Standards including off-street parking (effectively, the City does not currently require private parking in the CBD Zone, discussed below) and descriptive regulations of the CBD Zone including “A pedestrian-oriented establishment that creates cumulative attraction.” The proposal is for an eating and drinking establishment, which is a principally permitted land use pursuant to TMC Section 10.08.1080 and 10.08.2380.

Architecture

The proposed eating and drinking establishment consists of three structures plus a future proposed shade structure, market lighting, picnic tables, and planter boxes. The first structure is an approximately 240 sq. ft. deli/cafe shipping container, second structure is an approximately 160 sq. ft. restroom/storage shipping container, and the third structure is a 152 sq. ft. trailer in the rear of the site. The approximately 240 sq. ft. shipping container and 160 sq. ft. restroom/storage structure both feature a decorative wood cladding material. In addition, both structures have windows and doors to break up the wood cladding on the east elevation and the wood cladding is proposed to wrap around all three sides visible from public view. The 152 sq. ft. pad-mounted food trailer will be in the rear of the site and feature a skirt or screen along the lower portion. The applicant requests approval of the shade structure with the Development Review Permit but does not intend to construct the shade structure initially, but instead, at a yet-to-be determined date. The proposed outdoor eatery plaza is expected to feature market lighting, picnic tables, and planter boxes to create a sense of arrival to the pedestrian-oriented establishment (Attachment B: Site Plan).

Parking

Upon construction of a new building or an existing building that is enlarged or undergoes a use change that requires more parking than the previous use of a building, a minimum number of off-street parking spaces must be provided in accordance with the Tracy Municipal Code (TMC), except for in the CBD Zone. The CBD Zone is unique from other zones in the City in that the TMC provides an option for payment of an in-lieu fee, referred to as the CBD Zone parking in-lieu fee, in order to satisfy the minimum off-street parking requirements. On October 6, 2015, the City Council approved a reduction of the CBD Zone parking in-lieu fee to \$0 as a five-year pilot program. On July 6, 2019, the City Council approved a five-year extension to the program. The ending date of the program is set at October 6, 2025. Any business that does not provide the number of otherwise-required parking spaces established while the pilot program is in effect does not need to

pay the parking in-lieu fee.

Code Enforcement Notice and Order

On March 3, 2023, the City's Code Enforcement Division issued a Notice and Order (Attachment A) identifying two shipping containers ("Conex boxes"), plumbing, and electrical services installed without the required City permits as well as the illegal siting and use of the mobile food trailer on the property. Acquisition of permits and completion of improvements required by the project recommended Conditions of Approval (Exhibit 2 to the Resolution, Attachment C) will remedy the identified code violations. Should the applicant fail to satisfy the Conditions of Approval, the Development Review Permit would not be issued and further enforcement actions would be taken as the applicant is currently operating at the site without compliance.

Consistency with General Plan Policies and City Standards

The project site is designated Downtown in the Tracy General Plan and zoned Central Business District. Eating and drinking establishments are a permitted use in this land use designation and zone district. However, as noted above, the mobile food trailer is not a permitted use in the CBD Zone District and applicant must immobilize this structure in order to use it at this site.

As evidenced in the analysis above, this proposed development with recommended conditions of approval meets the City's objectives for design as required by the Tracy General Plan and the City of Tracy Design Goals and Standards, including the following:

Goal LU-5 *A physically, socially, and economically vibrant Downtown.*

Objective LU-5.1 *Target new uses for the Downtown to rein-force its role as the heart of the City.*

Policy P4. *Specialty retail and restaurants shall be encouraged to locate in the Downtown.*

Design Goals and Standards

2.1 Site Planning and Design

- Establish visual links between multi-building complexes by using landscaping and other site design elements that allow pedestrians to easily navigate within a complex of buildings.
- Buildings should be oriented to include adequate setbacks to create public spaces.
- Landscaping at site entrances should support the character of the project and provide sense of arrival. Design features may include monoliths, low ornamental walls or fences, accent planting, and special paving.

2.3 Service Areas

- Storage areas, trash enclosures, and mechanical equipment should be located behind or to the sides of buildings and screened from view from all public rights-of-way through a combination of walls/fences and/or landscaping.

2.5 Lighting

- Site lighting should be attractive and consistent with the overall character of the project.
- Accent lighting shall be used to enhance the appearance of a structure, draw attention to points of interest, and define open spaces and pathways. Accent lighting will only be permitted when it does not impact adjacent development, roadways, or residences.

3.1 General Architectural Design

-All publicly visible building sides shall be designed with a complementary level of detailing and quality of materials. A design concept shall be established ...on all visible faces of each building and on all accessory structures, such as trash enclosures.

-All buildings should utilize a variety of colors and materials. Building base materials may consist of, but not be limited to wood, stucco, stone, brick, concrete or slump block, and concrete tilt-up panels. Accent materials may consist of, but not be limited to tile, glass, stone, brick, wood, stucco and metal.

-All buildings shall be designed to completely screen any roof-mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes from view of all public rights-of-way.

3.4.3 Architectural Design

-Elements that promote pedestrian activity such as awnings, covered arcades, windows, and hardscape features (benches, stepping stones, etc.) shall be incorporated into the design of commercial/retail buildings.

-Design building footprints with offsets, recesses, and orient buildings to create courtyards, and/or to provide for a variety of gathering places.

-All publicly visible sides of commercial buildings shall be designed with a complementary level of detailing and quality of materials so that there is equal visual interest on all sides.

Findings

Development Review Permits must meet the requirements set forth in TMC Section 10.08.3920. Before approving a Development Review Permit, the Planning Commission must make the following findings:

- (a) That the proposal increases the quality of the project site, and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy; and
- (b) That the proposal conforms to this chapter, the general plan, any applicable specific plan, the Design Goals and Standards, any applicable Infrastructure Master Plans, and other City regulations.

Staff recommends that the Planning Commission make the requisite findings for this project based on the evidence in the record, including, without limitation, the following:

- (a) The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed project would develop an existing site that is surrounded by commercial development. The proposed shipping containers will be covered in wood cladding meeting the City's objectives for quality design. The market lighting, picnic tables, planter boxes, and umbrellas will create a sense of arrival to the outdoor eatery plaza. The outdoor eatery plaza will create a pedestrian accessed gathering space featuring enhanced lighting. The lower portion of the proposed pad-mounted food trailer will be blocked and hidden behind a screen or skirt, and located to the rear of the property, and not readily visible from public right of way.
- (b) The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, because the proposed

development will comply with all applicable City and State Regulations for building design and construction and zoning development standards. Compliance with the project Conditions of Approval will remedy the outstanding City code violations identified in the March 3, 2023 Notice and Order for the site, Case Number CD23-0014 and should the applicant fail to satisfy the Conditions of Approval, the Development Review Permit would not be issued and further enforcement actions may be taken.

PUBLIC OUTREACH/ INTEREST

This item was duly noticed in the local newspaper and public hearing notices were mailed to all property owners of property within 300 feet of the subject site.

COORDINATION

This development application was reviewed by multiple City Departments, the South San Joaquin County Fire Authority, the San Joaquin Environmental Health Department, the Air Pollution Control District, PG&E, and San Joaquin County Habitat Conservation Plan as part of the City's normal application review process. This staff report was prepared by the Development Services Planning Division.

CEQA DETERMINATION

The proposed project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15303, which pertains to construction of limited numbers of new, small facilities or structures like a restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area, no further environmental assessment is necessary.

ACTION REQUESTED OF THE PLANNING COMMISSION

Staff recommends that the Planning Commission adopt a Resolution:

- 1. Approving a Development Review Permit (D23-0003) to allow a new outdoor eating and drinking establishment consisting of three structures at 22 E. 9th Street, including requisite conditions of approval necessary to cure existing deficiencies and make such structures code-compliant; and**
- 2. Determining that this project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15303, which pertains to construction of limited number of new, small facilities or similar structures not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area.**

Prepared by: Kenny Lipich, Associate Planner

Reviewed by: Alan Bell, Senior Planner
Bill Dean, Assistant Development Services Director

Approved by: Karin Schnaider, Assistant City Manager

ATTACHMENTS

Attachment A – Notice & Order

Attachment B – Vicinity map, site plan, floor plan, and photos received on April 25, 2023

Attachment C – Planning Commission Resolution

Exhibit 1 – Findings

Exhibit 2 – Conditions of Approval



TRACY POLICE DEPARTMENT

CODE ENFORCEMENT DIVISION
333 CIVIC CENTER PLAZA, FIRST FLOOR, TRACY, CA 95376
DIRECT LINE (209) 831.6401 FAX (209) 831.6439

NOTICE AND ORDER

Date: March 3, 2023
Case Number: CD23-0014
Assessor Parcel Number: 235-161-02
Address of Violation: 22 E. Ninth Street, Tracy, CA 95376
Property Owners: Gabriela R & Candido Machuca Jr.
Property Owner's Mailing Address: 2734 Diablo View, Manteca, CA 95337

**GABRIELA R & CANDIDO MACHUCA JR,
AS OWNERS OF THE ABOVE REFERENCED PROPERTY,
YOU ARE HEREBY SERVED THIS NOTICE AND ORDER**

The City of Tracy (City) received reports of building code violations on property located at 22 E. Ninth Street, Tracy, California, hereinafter referred to as "referenced property." An on-site investigation conducted on January 12, 2023, and January 23, 2023, respectively, substantiated the reports of violations on the referenced property. A search of City records was conducted on February 27, 2023. This search showed no evidence of building permits applied for and/or secured for the violations identified in this Notice and Order.

The following is a brief summary of Code Enforcement actions:

On January 3, 2023, Code Enforcement received a complaint regarding non-permitted metal storage containers on the referenced property.

On January 12, 2023, at approximately 1355 hours, Officer Alcantar arrived at the referenced property and substantiated the complaint. Alcantar observed two metal storage containers and one mobile food truck on the referenced property (illustrated on the attached aerial map). One of the containers was remodeled to serve as a restaurant; the second container housed their restroom facility. Electrical and plumbing services were added to both containers. Staff researched City records that revealed an electrical permit was issued for a temporary power pole to provide lighting at the property; however, there were no permits on file with the City of Tracy Building Safety Division for the siting of the storage containers nor the plumbing and electrical serving the containers. The only permit on file is a City of Tracy Temporary Use Permit (TUP) dated September 15, 2022, issued by the City of Tracy Planning Division, for the siting and operation of a mobile food truck on the referenced property. The TUP expires on March 14, 2023, copy attached.

During the inspection, Alcantar was met by property owner, Gabriela Machuca. Alcantar explained the reason for his visit, stating that the metal storage containers, plumbing and electrical services all require building permits. Mrs. Machuca stated she was told that a permit wasn't required; however, Mrs. Machuca did not reveal who provided her with this information. She stated she only applied for and received a building permit for the temporary electrical pole. In an effort to guide the owners through the development process, Alcantar offered to coordinate the required paperwork from both the City's Building Safety and Planning Divisions and obtain development requirements to help them continue with the development of their proposed restaurant and to assist in bringing the containers into compliance. Mrs. Machuca stated she was in discussions with the City's Planning Division regarding use of one of the containers as a restaurant business. She further stated she escalated the situation to City Management Administration for resolution.

On January 19, 2023, Alcantar emailed the required building permit forms to begin the permitting process. A Violation Notice was also emailed to Mrs. Machuca by Alcantar, attached.

On January 23, 2023, Officer Alcantar arrived at the referenced property and met Jeff Carrasco from the San Joaquin County Environmental Health Department. Mr. Carrasco was there to conduct a Health Department inspection and had requested Alcantar's presence. The property owner, Mr. Machuca, saw Alcantar was also present for the inspection and stated he felt uncomfortable with Mr. Carrasco having Alcantar present for the inspection when he had not been afforded the opportunity to have City Management present. Mr. Machuca stated the Mayor and the City Manager were providing him with guidance on how best to work through the City's permitting process. During the inspection, Mr. Carrasco stated he was not aware that the Machuca's proposed restaurant had not received the requisite City approvals. Mr. Carrasco voiced his concern that grease renderings from their food preparation was being dumped into the storm drain. Mr. Machuca responded, stating that he was not able to get out of his lease at his former restaurant located in the Save Mart Shopping Center, 2213 N. Tracy Boulevard and, as such, had access to the property. Mr. Machuca stated he was disposing of the grease rendering from the referenced property to the Tracy Boulevard location and assured Mr. Carrasco that no grease was being disposed of onsite.

During this inspection, Mr. Carrasco informed Alcantar that the Machuca's health permit had expired, and the County would not reissue the permit as they were in violation of the Mobile Food Vendor Requirement #62, Non-Compliance with Commissary Requirements. Once this violation is corrected, the County will move forward with review of a new permit.

Officer Alcantar contacted Save Mart Supermarkets by phone to confirm Mr. Machuca's statement that all grease renderings from the mobile food service was being dumped at his previous business location. A Save Mart representative from the Leasing Department stated the Machuca's lease had expired and the building was rented by a new tenant.

Alcantar advised Mr. Machuca that the handwritten plans submitted to the City's Building Safety Division on January 21, 2023, did not meet the City's submittal requirements. Alcantar stated that a City of Tracy Permit Technician would be sending an email, outlining the steps necessary to obtain required building permits. Alcantar informed Mr. Machuca that all commercial development in the City of Tracy require the submittal of plans prepared by a licensed architect and must also undergo development review prior to the issuance of permits.

Based on Mr. Machuca's request for City Management to be present during the inspection, Mr. Carrasco terminated the inspection.

On January 23, 2023, a City Permit Technician sent an email to the property owners restating that their handwritten plans were rejected as submitted; however, they could resubmit once they are prepared by a licensed architect. The City Permit Technician also advised Mr. Machuca that a development review permit is required prior to the issuance of building permits.

On January 25, 2023, an email was sent to Mr. and Mrs. Machuca from Senior Planner Scott Claar from the City of Tracy Planning Division offering to assist the Machuca's through the development process. Claar's email also stated City staff was in the process of preparing a staff report to begin Council discussions on food trucks, trailers, and restaurant containers.

On March 7, 2023, Development Services Director Jaylen French sent an email to Mrs. Machuca providing details of the development process, including, but not limited to site plan review, building elevations, grading and utility plans. The email also provided the development review process steps, proposed fees, and a general timeline associated with the review process.

Any person having any record title or legal interest in the building may appeal from the Notice and Order or any action of the Building Official to the City of Tracy Board of Appeals, provided the appeal is made in writing as provided in this code and filed with the Building Official **within thirty (30) days from the date of service** of the Notice and Order (or by **April 3, 2023**). Failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

Pursuant to Tracy Municipal Code Section 1.28, this Notice and Order serves as notification that the Tracy Municipal Code provides the legal authority to issue Administrative Citations for TMC Code violations. The fines are \$100.00 for the first citation, \$200.00 for the second, \$500.00 for the third and subsequent citations for violations of the same code section within one year. These fines are cumulative and new citations may be issued *for each day the violation continues to exist*. A person who receives an Administrative Citation may contest the citation in the form of an appeal. Details regarding the appeal process are set forth in Chapter 1.28, attached.

Information regarding this Notice and Order and the provisions contained herein is available in the Development Services Department, City Hall, 333 Civic Center Plaza, Tracy, or by calling (209) 831-6401.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 3rd day of March 2023, in Tracy, California, 95376



ANA CONTRERAS
Community Preservation Manager

Attachments:

- Violation Notice dated January 12, 2023
- Arial Map of Property – 22 E. Ninth Street
- Tracy Municipal Code Chapter 1.28, Administrative Citations
- Tracy Municipal Code Section 9.02.040 (a)
- 2022 California Building Code Section [A] 105.1
- 2022 California Plumbing Code Section 104.1
- Temporary Use Permit and Conditions of Approval dated September 15, 2022
- Email to Candido and Gabriela Machuca dated January 25, 2023
- Email to Gabriela Candido dated February 20, 2023



TRACY POLICE DEPARTMENT

Code Enforcement Division • 333 Civic Center Plaza • Tracy, CA 95376 • (209) 831-6401

VIOLATION NOTICE

Address of Violation: 22 E. 9TH ST. Date/Time of Inspection: 1-12-23 @ 1355 Case No.: CD23-0014

The City of Tracy Code Compliance Division inspected the above-referenced property for reports of violations of the Tracy Municipal Code and/or state law. Results of the inspection found the following violations:

TITLE 3 – PUBLIC SAFETY

- ☐ Parking that impedes the sidewalk (TMC 3.08.260 (b))
- ☐ Repair of vehicles on streets (TMC 3.08.500)
- ☐ Graffiti prohibited (TMC 3.48.030)

TITLE 4 – PUBLIC WELFARE, MORALS, CONDUCT

- ☐ Weeds, rubbish, refuse, flammable materials public nuisances Accumulation of rubbish and refuse (TMC 4.12.260)
Remove by: _____
- ☐ Accumulation of rubbish and refuse prohibited (TMC 4.12.265)
Remove by: _____
- ☐ Abandoned, wrecked, dismantled, or inoperative vehicles, or parts thereof (TMC 4.12.570) Remove by: _____

Chapter 4.20 – MASSAGE ESTABLISHMENTS & THERAPIST

- ☐ Lack of required licensing through CAMTC (TMC 4.20.030)
- ☐ Lack of required city business license (TMC 4.20.030)
- ☐ Lack of required registration with Tracy Police Department (TMC 4.20.040)
- ☐ Improper posting and recordkeeping (TMC 4.20.050)
- ☐ Violation of facility requirements (TMC 4.20.060)
- ☐ Improper hours of operation (TMC 4.20.070)

TITLE 5 – SANITATION AND HEALTH

- ☐ Accumulation of garbage and refuse (TMC 5.20.050)
Remove by: _____
- ☐ Accumulation of construction and demolition debris (TMC 5.20.070) Remove by: _____
- ☐ Disposal of garbage and refuse on premises (TMC 5.20.090)
- ☐ Customer responsibilities for garbage, recycling and yard waste toters (TMC 5.20.200 (b))
- ☐ Public nuisances – Any adverse condition or unsanitary use (TMC 5.20.400)

TITLE 6 – BUSINESSES, PROFESSIONS AND TRADES

- ☐ Unauthorized possession of a shopping cart (TMC 6.24.060 (a)(4))

TITLE 7 – PUBLIC WORKS

- ☐ Public right-of-way excavation and/or encroachment (TMC 7.04.010) ☐ Basketball Hoop ☐ Vegetation ☐ Other

Remove by: _____

TITLE 9 – BUILDING CODE

- ☒ Work done without permit(s) (TMC 9.02.040) (a) 2 CONNEX BOXES 1 OVER 120' ELECTRICAL & PLUMBING
 - ☐ California Residential Code (CRC) R105.1
 - ☐ California Building Code (CBC) [A] 105.1
Obtain Permit or Demolition Permit by: 2-20-23 PLUMBING
Repair by: CONNECTED TO CONNEX'S
- ☐ Missing building address numbers (TMC 9.40.050 (c) (4))
Affix by: _____
- ☐ Unsecured buildings (TMC 9.60.030 (a))

TITLE 10 – ZONING ORDINANCE

- ☐ Detached accessory building not in rear 1/3rd of property or 70 feet from property line (TMC 10.08.____ (b))
Remove or Relocate by: _____

TITLE 10 – ZONING ORDINANCE (CONTINUED)

- ☐ 6 foot clearance between accessory buildings (TMC 10.08.____ (d)) Remove or Relocate by: _____
- ☐ Permitted locations of boats and boat trailers (TMC 10.08.3150 (b))
Remove or Relocate by: _____
- ☐ Paving more than 50% of the front yard (TMC 10.08.3225)
- ☐ Wall, fence and hedge requirements (TMC 10.08.3250 (____))
Remove/Reduce by: _____
- ☐ Parking on an unpaved surface (TMC 10.08.3530 (a))
Remove by: _____
- ☐ Temporary Storage Containers (PODS) (TMC 10.08.4243 (____))
Remove or Obtain a Permit by: _____
- ☐ Unlicensed Home Occupation (TMC 10.08.4590)
Obtain a Home Occupation Permit by: _____
- ☐ Prohibited Home Occupation (TMC 10.08.4610)
Cease illegal home occupation immediately

TITLE 11 – PUBLIC UTILITIES

- ☐ Leaking, broken or defective pipes, faucets, plumbing fixtures, other water appliances, sprinklers, watering or irrigation systems (TMC 11.28.100) Repair by: _____
- Waste Disposal of solid or liquid waste (TMC 11.34.100)

2019 CALIFORNIA BUILDING CODE VIOLATIONS

- ☐ Unsafe structure (CBC [A] 116.1) _____

2019 CALIFORNIA ELECTRICAL CODE VIOLATIONS

- ☐ Installation and Use (CEC 110.3 (B)) _____
- ☐ Extension cords used as permanent wiring (CEC 400.12 (1))
- ☐ Extension cords through holes in walls, ceilings, or floors (CEC 400.12 (2))
- ☐ Extension cords run through doorways, windows, or similar openings (CEC 400.12 (3))
- ☐ Extension cords attached to building surfaces (CEC 400.12 (4))
Extension cords need to be removed by: _____
- ☐ Face plates missing from switches (CEC 404.9 (A)) Repair by: _____
- ☐ Face plates missing from receptacles (CEC 406.6) Repair by: _____

HEALTH AND SAFETY CODE VIOLATIONS

- ☐ Health and Safety Violation (H&S 17920.3 (____))
 - ☐ Lack of Hot/Cold Running Water ☐ Stagnant Water
 - ☐ Raw Sewage ☐ Improper Heating ☐ Unmaintained Pool
Repair/Replace/Clean by: _____
- ☐ Improper Occupancy (H&S 17920.3 (____))
Repair/Replace/Clean by: _____

OTHER VIOLATION(S)

- ☒ IF BATHROOM CONNEX IS OVER 120' FT THEN PERMIT NEEDED

(See reverse side for information regarding your legal rights)

Code Enforcement Officer: B. ALCANTAR

Phone Number: (209) 831-6401

Please contact the City of Tracy Code Enforcement Division for more information

IMPORTANT – READ CAREFULLY
THIS PAGE CONTAINS IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS

Consequences of Failure to Correct Violation(s)

The City of Tracy may use numerous enforcement options to require the correction of violation(s). These options include, but are not limited to:

- Administrative penalties
- Civil penalties
- Abatement
- Criminal prosecution
- Civil litigation
- Recording the violation with the County Recorder
- Forfeiture of certain state tax benefits for the non-compliant property.

Any of the above options or others may be used if the code violation(s) referenced on this Violation Notice is not promptly corrected.

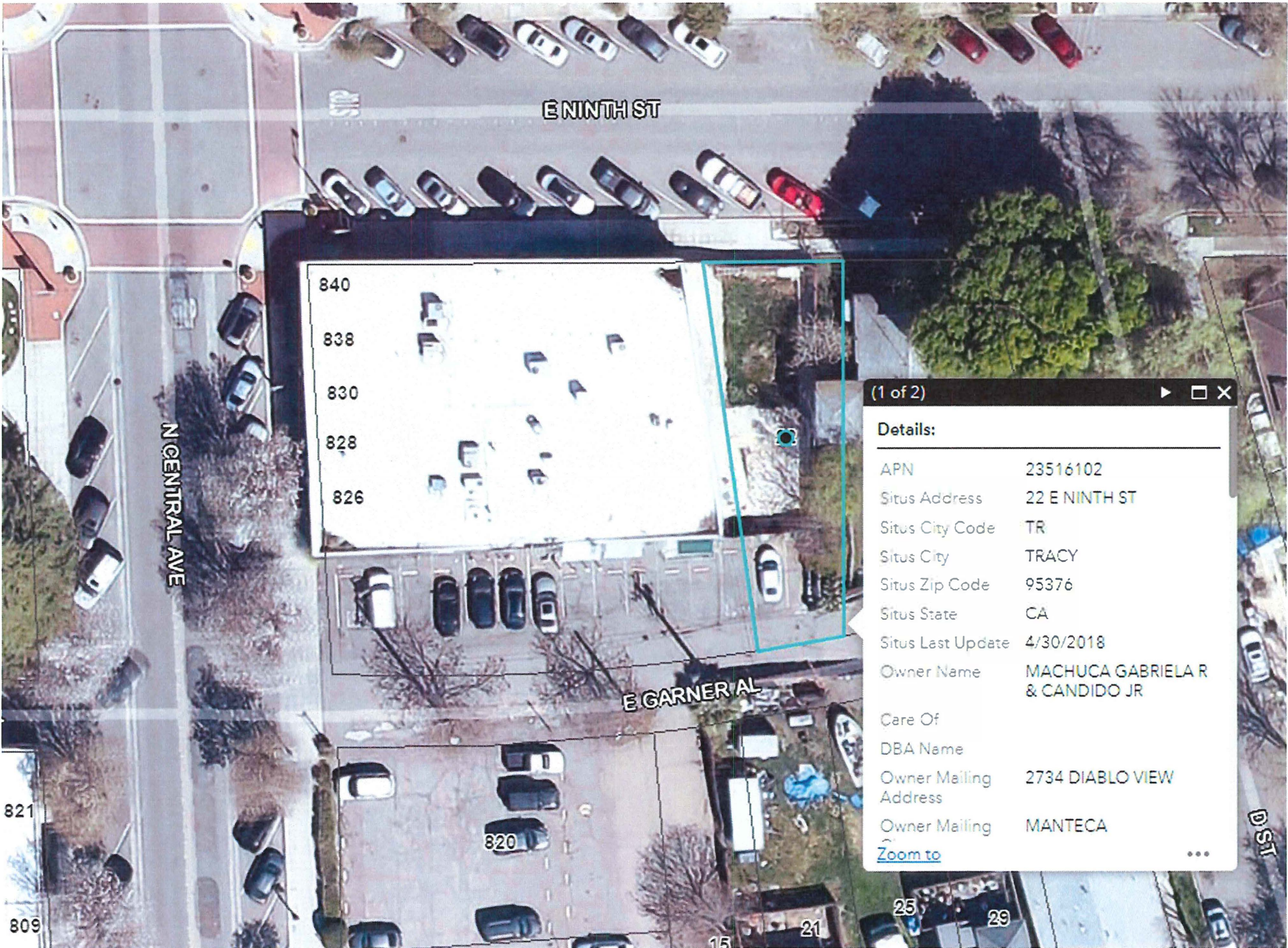
Administrative Citations

Tracy Municipal Code Chapter 1.28 provides the legal authority to issue administrative citations for municipal code violations. The fines, as indicated on the front of the citation, are:

- \$100 for the first citation;
- \$200 for the second citation;
- \$500 for the third and subsequent citations for violation(s) of the same code section within one year.

These fines are cumulative and new citations may be issued for each day the violation continues to exist. A copy of Chapter 1.28 of the Tracy Municipal Code is available upon request to the City officer or City department that issued the citation. You are hereby ordered not to continue or allow repeated occurrence of the code violation(s) described on the first page of this citation.

If you need further information about this violation notice and/or how to comply, please call the inspector/officer designated on the front of this citation at the City of Tracy Code Enforcement Division at (209) 831-6401.

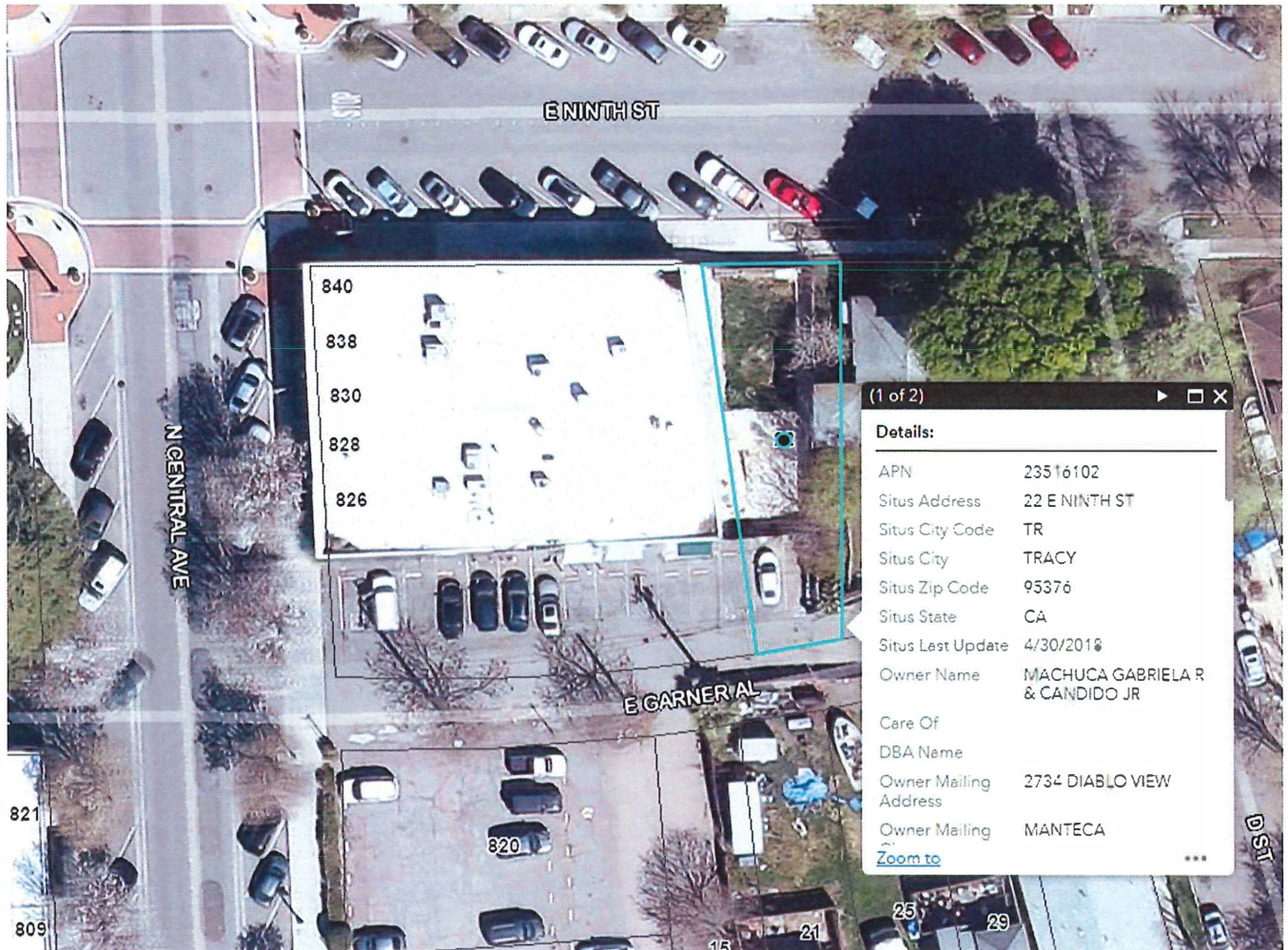


(1 of 2) ▶ □ ✕

Details:

APN	23516102
Situs Address	22 E NINTH ST
Situs City Code	TR
Situs City	TRACY
Situs Zip Code	95376
Situs State	CA
Situs Last Update	4/30/2018
Owner Name	MACHUCA GABRIELA R & CANDIDO JR
Care Of	
DBA Name	
Owner Mailing Address	2734 DIABLO VIEW
Owner Mailing	MANTECA

[Zoom to](#) ...



(1 of 2)

Details:

APN	23516102
Situs Address	22 E NINTH ST
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Care Of	
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[Zoom to](#)

Chapter 1.28 - ADMINISTRATIVE CITATIONS AND PENALTIES

1.28.010 - Applicability.

This chapter provides for administrative citations, which are in addition to all other legal remedies, criminal or civil, which the City may pursue to address a violation of this Code. Use of this chapter is at the sole discretion of the City. This chapter is authorized under Government Code sections 53069.4 and 36901.

The procedures in this chapter shall not be used to enforce a continuing violation regarding building, plumbing, electrical, or other similar structural or zoning issues, without first allowing the person in violation a reasonable time to correct the violation, consistent with the procedures set forth in section 1.28.030.

(Ord. 1040 § 2 Exh. B (part), 2002)

(Ord. No. 1316, § 1(Exh. A), 9-21-2021)

1.28.020 - Definitions.

In this chapter:

"Enforcement officer" means any City employee or agent of the City with the authority to enforce a provision of this Code.

"Hearing officer" means a person designated by the City Manager to conduct an administrative hearing. The designated hearing officer shall be an impartial person, such as (1) a City employee from a department which has no involvement in Code enforcement, or (2) someone selected randomly from a panel of law students and/or local attorneys willing to volunteer as a hearing officer, or (3) someone hired from an organization which provides hearing officers, in which case the cost will be shared equally by the City and the person cited.

(Ord. 1040 § 2 Exh. B (part), 2002)

(Ord. No. 1316, § 1(Exh. A), 9-21-2021)

1.28.030 - Continuing violations of building and zoning issues.

- (a) If a violation pertains to building, plumbing, electrical, or other structural or zoning issues that do not create an immediate danger to health or safety, the City shall provide a reasonable period of time for a person responsible for a continuing violation to correct or otherwise remedy the violation before the imposition of an administrative citation or penalty under this chapter.

Before issuing an administrative citation, the enforcement officer shall give notice to the person responsible, in accordance with section 1.28.150. The notice shall be delivered personally or by certified mail. The notice shall State: the date and location of the violation; the section(s) of the Code violated; a description of the violation(s); the actions required to correct the violation(s); the time period allowed for correcting the violation(s); a Statement that an administrative citation may be issued each day after the time for correction has passed, if correction is not completed; the amount of the fine if an administrative citation is issued; and either a copy of this chapter or an explanation of the consequences of noncompliance and a description of the hearing procedure and appeal process.

The enforcement officer shall allow at least fifteen (15) days from the date the first notice is sent for compliance with the notice. If the nature of the condition is such that compliance is very complicated or expensive, and the condition is not an immediate threat to health or safety, the enforcement officer may extend the compliance period to thirty (30), sixty (60) or ninety (90) days, depending upon the circumstances.

If the enforcement officer determines that all violations have been corrected within the time specified in the notice, no further action shall be taken.

- (b) If a violation pertains to building, plumbing, electrical or other structural or zoning issues, and the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis, the enforcement officer may issue an administrative citation or penalty as provided for in this chapter.

Prior to issuing an administrative citation under this subsection, the enforcement officer shall give notice to the person responsible, including the property owner of record, in accordance with section 1.28.150, if all of the following are true:

- (1) A tenant is in possession of the property that is subject to the administrative citation or penalty under this subsection;
- (2) The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis;
- (3) The rental property owner or agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

The notice required under this subsection shall state the information and allow for compliance with the notice in the manner provided in subsection (a) of this section.

This subsection (b) shall not apply to cannabis cultivation that is lawfully undertaken pursuant to Section 11362.1 of the Health and Safety Code.

(Ord. 1040 § 2 Exh. B (part), 2002)

(Ord. No. 1316, § 1(Exh. A), 9-21-2021)

1.28.040 - Administrative citation.

- (a) Authority. Whenever an enforcement officer charged with the enforcement of a provision of this Code determines that a violation of that provision has occurred, the enforcement officer has the authority to issue an administrative citation to the person responsible for the violation.
- (b) Contents of citation. Each administrative citation shall contain the following information:
 - (1) The date of the violation, or date the violation was observed;
 - (2) The address or a definite description of the location where the violation occurred;
 - (3) The section of this Code violated and a description of the violation;
 - (4) The amount of the fine for the Code violation;
 - (5) A description of the fine payment process, including a description of the time within which, and the place to which, the fine shall be paid;
 - (6) An order prohibiting the continuation or repeated occurrence of the Code violation described in the citation;
 - (7) A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request-for-hearing form may be obtained to contest the citation; and
 - (8) The name and signature of the citing enforcement officer.

In the case of a continuing violation involving building, plumbing, electrical, or other similar structural or zoning issues identified under section 1.28.020, the administrative citation shall also have attached a copy of the notice that had been sent to the responsible party.

- (c) Delivery of citation. The administrative citation shall either be delivered personally or sent by first class mail to the person responsible for the violation.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.050 - Amount of fines.

- (a) Maximum amount of fine. The maximum amount of the fine for each Code violation imposed under this chapter shall be established in a schedule of fines adopted by resolution of the City Council. The schedule of fines shall specify:
 - (1) Any increased fines for repeat violations of the same Code provision by the same person within a twelve (12) month period; and
 - (2) Any late payment charges imposed for the payment of a fine after its due date.
- (b) Additional amounts. Administrative costs, interest, late payment charges, costs of compliance reinspections, and collection costs are in addition to the fines.

(c) Factors in establishing fine.

- (1) Enforcement officer. When preparing the administrative citation, the enforcement officer shall set the fine at the maximum fine established by the City Council.
- (2) Hearing officer. Upon request before or at the hearing held under section 1.28.090, the hearing officer may in his or her sole discretion reduce the amount of the fine based on the following factors: (A) the duration of the violation; (B) the frequency, recurrence and number of violations, related or unrelated, by the same violator; (C) the seriousness of the violation; (D) the good faith efforts of the violator to come into compliance; (E) the impact of the violation on the community; and (F) such other factors as justice requires.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.060 - Payment of the fine.

- (a) Due date. The fine shall be paid to the City within thirty (30) days from the date of the administrative citation. The City may suspend the imposition of fines for any period of time during which the violator has filed for necessary permits, and such permits are required to achieve compliance, and the permit applications are actively pending before the appropriate governmental agency.
- (b) Refund. The City shall refund a fine paid if the hearing officer determines, after a hearing held under section 1.28.090, that the person charged in the citation was not responsible for the violation or that there was no violation as charged.
- (c) Further violations not excused. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the Code violation.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.070 - Hearing request.

A person who receives an administrative citation may contest the citation on the basis that there was no violation of the Code or that he or she is not the responsible party. To contest the citation, the person shall submit a request for hearing form to the City within thirty (30) days from the date of the administrative citation. The request form may be obtained from the department specified on the citation. The completed request must be submitted together with either an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed under section 1.28.080.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.080 - Advance deposit hardship waiver.

- (a) A person who intends to contest an administrative citation under section 1.28.070 and who is financially unable to make the required advance deposit of the fine may file a request for an advance deposit hardship waiver under this section.
- (b) An advance deposit hardship waiver shall be filed with the finance department on a form provided by that department. The application submitted shall include an affidavit, together with any supporting documents or materials, demonstrating the person's actual financial inability to deposit with the City the full amount of the fine. The waiver form shall be filed within ten (10) days of the date of the administrative citation.
- (c) The requirement of depositing the fine shall be stayed unless or until the Finance Director makes a determination not to issue the advance deposit hardship waiver.
- (d) The Finance Director may waive the requirement of an advance deposit under section 1.28.070 and issue the waiver only if the evidence submitted demonstrates to the satisfaction of the director the person's actual financial inability to deposit with the City the full amount of the fine in advance of the hearing.
- (e) The director shall issue a written determination listing the reasons for his or her determination to issue or not issue the advance deposit hardship waiver. The written determination of the director is final. The written determination shall be served upon the person who applied for the waiver.
- (f) If the director determines not to issue a waiver, the person cited shall deposit the fine with the City within ten (10) days of the date of that decision or thirty (30) days from the date of the citation, whichever is later.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.090 - Hearing procedure.

- (a) Setting the hearing. A hearing before the hearing officer shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed. The person requesting the hearing shall be notified of the time and place set for the hearing as soon as it is set, and at least ten (10) days before the hearing. If the enforcement officer submits a written report concerning the citation to the hearing officer for consideration at the hearing, then a copy of the report shall be served on the person requesting the hearing at least five (5) days before the hearing.

No hearing shall be held unless the fine has been deposited in advance, under section 1.28.070 or an advance deposit hardship waiver has been issued under section 1.28.080.

- (b) Failure to appear. The failure of the person requesting the hearing to appear at the hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.
- (c)

At the hearing. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. At the hearing, the party contesting the citation shall be given the opportunity to testify and to present evidence concerning the citation.

- (d) Continuances. The hearing officer may continue the hearing and may request additional information from the enforcement officer or the person receiving the citation before issuing the decision.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.110 - Hearing officer's decision.

- (a) Decision. After considering the testimony and evidence presented at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation. The hearing officer shall State the reasons for the decision and shall send a copy of the decision to the person requesting the hearing and to the enforcement officer. The decision of the hearing officer is final, and may not be appealed under chapter 1.12. (b) Status of fine. If the citation is upheld, then the fine amount on deposit with the City shall be retained by the City. If the fine has not been deposited because there was an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine.

If the person cited requests a reduction in the fine under section 1.28.050(c), the hearing officer's decision shall respond to that request. If the fine has been reduced, the City shall refund the difference between the amount on deposit with the City and the amount of the reduced fine.

If the citation is canceled, the City shall promptly refund the amount of any fine deposited, together with interest at the average rate earned on the City's portfolio for the period of time that the fine was held by the City.

- (c) No employment evaluation based on citations upheld. If the hearing officer is an employee of the City, the employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon or affected by the amount of administrative citation fines upheld by the hearing officer.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.120 - Late payment charges.

A person who fails to pay to the City any fine imposed under this chapter on or before the due date is liable for payment of any applicable late payment charges set forth in the schedule of fines.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.130 - Recovery of administrative citation fines and costs.

- (a) A person who fails to pay any fine or other charge owed to the City under this chapter is liable in any action brought by the City for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorneys' fees. Such collection costs are in addition to any fines, interest, and late charges.
- (b) In addition to the administrative citation fine, the City may collect its administrative costs, interest, late payment charges, costs of compliance reinspections, and collection costs.
- (c) The City may collect any past due administrative citation fine and other costs and charges by any available legal means.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.140 - Right to judicial review.

Notwithstanding section 1.20.010 of this Code, a person aggrieved by an administrative decision by a hearing officer under this chapter may obtain review of the administrative decision by filing a petition for review with the Superior Court of California, San Joaquin County, Tracy Branch, within twenty (20) days after service of the final decision, in accordance with Government Code section 53069.4.

(Ord. 1040 § 2 Exh. B (part), 2002)

1.28.150 - Notices.

- (a) Method of service. The administrative citation and all notices required to be given by this chapter shall be served on the responsible party either by personal service, by first class mail, or by certified mail, return receipt requested. (See section 1.08.100.)
- (b) Real property. When real property is involved in the violation, the original notice, the administrative citation and all notices required to be given by this chapter shall be served on the responsible party and, if different, to the property owner at the address as shown on the last equalized county assessment roll. If personal service or service by mail on the property owner is unsuccessful, a copy of each notice and the citation shall be conspicuously posted at the property which is the subject of the violation. The City may, in its discretion, also serve notice on a tenant, a mortgagor or any other person having an interest in the property.
- (c) Failure to receive notice. The failure of a person to receive a required notice shall not affect the validity of any proceedings taken under this chapter.

(Ord. 1040 § 2 Exh. B (part), 2002)

9.02.040 - Penalty provisions.

Uniform Administrative Code section 205, Violations, is amended by deleting the existing text, and replacing it with the following:

- (a) It shall be unlawful for a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, equip, use, occupy, or maintain any building, structure, building service equipment, or cause or permit the same to be done in violation of any provisions of the Building Regulations set forth in title 9 of this Code.
- (b) It shall be unlawful for a person to use any land, building, or premises for any purpose or manner without a valid permit or approval for the use where a permit or approval is required pursuant to any provision of the Building Regulations set forth in title 9 of this Code.
- (c) No application for any use permit, zone change, building permit, or other entitlement shall be accepted as complete by the City, unless the parcels for which the application is made are in compliance with the provisions of the Building Regulations set forth in title 9 of this Code.
- (d) A person who violates any provision of the Building Regulations set forth in title 9 of this Code, or who fails to comply with a requirement of this Code, is guilty of an infraction, subject to the penalty provisions set forth in chapter 1.04 of this Code.

(Ord. 996 § 2 (part), 1999)

SCOPE AND ADMINISTRATION

2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
5. Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

[A] 104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed alternative meets all of the following:

1. The alternative material, design or method of construction is satisfactory and complies with the intent of the provisions of this code,
2. The material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code as it pertains to the following:
 - 2.1. Quality.
 - 2.2. Strength.
 - 2.3. Effectiveness.
 - 2.4. Fire resistance.
 - 2.5. Durability.
 - 2.6. Safety.

Where the alternative material, design or method of construction is not approved, the building official shall respond in writing, stating the reasons why the alternative was not approved.

[DSA-SS, DSA-SS/CC & OSHPD 1, 1R, 2, 4 & 5] Alternative system shall satisfy ASCE 7 Section 1.3, unless more restrictive requirements are established by this code for an equivalent system.

[DSA-SS, DSA-SS/CC] Alternative systems shall also satisfy the California Administrative Code, Section 4-304.

[OSHPD 1, 1R, 2, 4 & 5] Alternative systems shall also satisfy the California Administrative Code, Section 7-104.

[A] 104.11.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assem-

blies not specifically provided for in this code, shall consist of valid research reports from approved sources.

[A] 104.11.2 Tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made without expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

104.11.3 Peer review. [OSHPD 1, 1R, 2, 4 & 5] When peer review is required for new or existing buildings, it shall be performed pursuant to Section 1617A.1.41.

104.11.4 Earthquake monitoring instruments. [OSHPD 1 & 4] The enforcement agency may require earthquake monitoring instruments for any building that receives approval of an alternative system for the Lateral Force Resisting System (LFRS). There shall be a sufficient number of instruments to characterize the response of the building during an earthquake and shall include at least one tri-axial free field instrument or equivalent. A proposal for instrumentation and equipment specifications shall be forwarded to the enforcement agency for review and approval.

The instruments shall be interconnected for common start and common timing. Each instrument shall be located so that access is maintained at all times and is unobstructed by room contents. A sign stating "MAINTAIN CLEAR ACCESS TO THIS INSTRUMENT" shall be posted in a conspicuous location.

The Owner of the building shall be responsible for the implementation of the instrumentation program. Maintenance and service of the instruments shall be in accordance with Appendix L, Section 1.101.3 of Part 2, Volume 2 of the California Building Code.

SECTION 105 PERMITS

[A] 105.1 Required. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit.

[A] 105.1.1 Annual permit. Instead of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly

SCOPE AND ADMINISTRATION

employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

[A] 105.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

[A] 105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided that the floor area *does not exceed* 120 square feet (11.15 m²). *It is permissible that these structures still be regulated by Section 710A, despite exemption from permit.*
2. Fences not over 7 feet (2134 mm) high.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18 925 L) and the ratio of height to diameter or width is not greater than 2:1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18 925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Swings and other playground equipment accessory to detached one- and two-family dwellings.
12. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

Electrical:

1. **Repairs and maintenance:** Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
2. **Radio and television transmitting stations:** The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.
3. **Temporary testing systems:** A *permit* shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (0.75 kW) or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided that such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

[A] 105.2.1 Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted

SCOPE AND ADMINISTRATION

within the next working business day to the building official.

[A] 105.2.2 Public service agencies. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

[A] 105.3 Application for permit. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 107.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the building official.

[A] 105.3.1 Action on application. The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.

[A] 105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated. *[OSHPD 1, 1R, 2, 4 & 5] Time limitation shall be in accordance with the California Administrative Code, Chapter 7, Section 7-129.*

[A] 105.4 Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official

from requiring the correction of errors in the construction documents and other data. The building official is authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

[A] 105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.5.1 Expiration. [BSC] On or after January 1, 2019, every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6.)

[A] 105.6 Suspension or revocation. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

[A] 105.7 Placement of permit. The building permit or copy shall be kept on the site of the work until the completion of the project.

SECTION 106 FLOOR AND ROOF DESIGN LOADS

[A] 106.1 Live loads posted. In commercial, *institutional* or industrial buildings, for each floor or portion thereof designed for live loads exceeding 50 psf (2.40 kN/m²), such design live loads shall be conspicuously posted by the owner or the owner's authorized agent in that part of each story in which they apply, using durable signs. It shall be unlawful to remove or deface such notices. *[DSA-SS, DSA-SS/CC] These posting requirements also apply to school and state-owned essential services buildings as regulated by DSA.*

106.1.1 Snow load posting. [OSHPD 1, 1R, 2, 4 & 5] Snow loads used in design shall be posted as for live loads.

106.1.2 Snow load posting. [DSA-SS, DSA-SS/CC] When design snow loads at exterior balconies, decks and other elevated walking surfaces exceed 50 psf, the design snow loads shall be posted as for live loads. When design roof (not ground) snow loads exceed 20 psf, the roof design snow loads for each roof level of the building shall similarly be conspicuously posted with signs stating the maximum design roof snow loads.

103.0 Duties and Powers of the Authority Having Jurisdiction.

103.1 General. The Authority Having Jurisdiction shall be the Authority duly appointed to enforce this code. For such purposes, the Authority Having Jurisdiction shall have the powers of a law enforcement officer. The Authority Having Jurisdiction shall have the power to render interpretations of this code and to adopt and enforce rules and regulations supplemental to this code as deemed necessary in order to clarify the application of the provisions of this code. Such interpretations, rules, and regulations shall comply with the intent and purpose of this code.

In accordance with the prescribed procedures and with the approval of the appointing authority, the Authority Having Jurisdiction shall be permitted to appoint a such number of technical officers, inspectors, and other employees as shall be authorized from time to time. The Authority Having Jurisdiction shall be permitted to deputize such inspectors or employees as necessary to carry out the functions of the code enforcement agency.

The Authority Having Jurisdiction shall be permitted to request the assistance and cooperation of other officials of this jurisdiction so far as required in the discharge of the duties in accordance with this code or other pertinent law or ordinance.

103.2 Liability. The Authority Having Jurisdiction charged with the enforcement of this code, acting in good faith and without malice in the discharge of the Authority Having Jurisdiction's duties, shall not thereby be rendered personally liable for damage that accrues to persons or property as a result of an act or by reason of an act or omission in the discharge of duties. A suit brought against the Authority Having Jurisdiction or employee because of such act or omission performed in the enforcement of provisions of this code shall be defended by legal counsel provided by this jurisdiction until final termination of such proceedings.

103.3 Applications and Permits. The Authority Having Jurisdiction shall be permitted to require the submission of plans, specifications, drawings, and such other information in accordance with the Authority Having Jurisdiction, prior to the commencement of, and at a time during the progress of, work regulated by this code.

The issuance of a permit upon construction documents shall not prevent the Authority Having Jurisdiction from thereafter requiring the correction of errors in said construction documents or from preventing construction operations being carried on thereunder where in violation of this code or of other pertinent ordinance or from revoking a certificate of approval where issued in error.

103.3.1 Licensing. Provision for licensing shall be determined by the Authority Having Jurisdiction.

103.4 Right of Entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the Authority Having Jurisdiction has reasonable cause to believe that there exists in a building or upon premises a condition or violation of this code that makes the building or premises unsafe, insanitary, dangerous, or hazardous, the Authority

Having Jurisdiction shall be permitted to enter the building or premises at reasonable times to inspect or to perform the duties imposed by the Authority Having Jurisdiction by this code, provided that where such building or premises is occupied, the Authority Having Jurisdiction shall present credentials to the occupant and request entry. Where such building or premises is unoccupied, the Authority Having Jurisdiction shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. Where entry is refused, the Authority Having Jurisdiction has recourse to every remedy provided by law to secure entry.

Where the Authority Having Jurisdiction shall have first obtained an inspection warrant or other remedy provided by law to secure entry, no owner, occupant, or person having charge, care or control of a building or premises shall fail or neglect, after a request is made as herein provided, to promptly permit entry herein by the Authority Having Jurisdiction for the purpose of inspection and examination pursuant to this code.

104.0 Permits.

104.1 Permits Required. It shall be unlawful for a person, firm, or corporation to make an installation, alteration, repair, replacement, or remodel a plumbing system regulated by this code except as permitted in Section 104.2, or to cause the same to be done without first obtaining a separate plumbing permit for each separate building or structure.

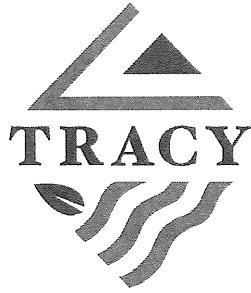
104.2 Exempt Work. A permit shall not be required for the following:

- (1) The stopping of leaks in drains, soil, waste, or vent pipe, provided, however, that a trap, drainpipe, soil, waste, or vent pipe become defective, and it becomes necessary to remove and replace the same with new material, the same shall be considered as new work and a permit shall be procured and inspection made as provided in this code.
- (2) The clearing of stoppages, including the removal and reinstallation of water closets, or the repairing of leaks in pipes, valves, or fixtures, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for work to be done in violation of the provisions of the code or other laws or ordinances of this jurisdiction.

104.3 Application for Permit. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the Authority Having Jurisdiction for that purpose. Such application shall:

- (1) Identify and describe the work to be covered by the permit for which application is made.
- (2) Describe the land upon which the proposed work is to be done by legal description, street address, or similar description that will readily identify and locate the proposed building or work.
- (3) Indicate the use or occupancy for which the proposed work is intended.



City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

DEVELOPMENT SERVICES
DEPARTMENT

MAIN 209.831.6400
FAX 209.831.6439
www.cityoftracy.org

September 15, 2022

Gabriela Rodriguez Machuca
2734 Diablo View Dr.
Manteca, CA 95537

SUBJECT: Temporary Use Permit – Food Truck
22 E. 9th St.
Application No. TUP22-0021

Dear Gabriela:

Thank you for your submittal of the above noted application. The Development Services Director has approved your application as described on the Site Plan submitted on September 12, 2022 (attached), subject to your compliance with the following conditions:

1. Application No. TUP22-0021 has been approved for the period beginning on September 15, 2022, and ending on March 14, 2023, during regular operating hours.
2. The use shall be located and set up as shown on the Site Plan received on September 12, 2022, except as modified by these conditions of approval.
3. The event, its setup, and its take down operations shall not impact adjoining properties by the excessive creation of dust, noise, light, odors, or any other objectionable characteristics.
4. The proposed use shall not obstruct circulation, loading spaces, or any drive aisles, except as shown on the approved Site Plan as the area designated for food truck.
5. No obstruction is permitted within the public right-of-way, which includes the public sidewalk, landscaping and trees, street lights, and utility poles.
6. The site, neighboring properties, and the public right-of-way shall be kept clear of garbage and debris.
7. No off-site advertising signage is permitted, nor shall any signs or banners associated with this event be placed on any public right-of-way without an encroachment permit. On-site temporary signage is permitted provided that it does not block pedestrian or vehicular circulation areas, is kept out of landscape planters, and complies with the Tracy Municipal Code requirements for temporary signs.
8. There shall be no additional exterior lighting or amplified sound permitted.

9. The applicant shall comply with the attached requirements of the South San Joaquin County Fire Authority, dated September 12th, 2022.
10. The applicant shall comply with the attached requirement of the City of Tracy Building Division, dated August 15th, 2022.
11. The applicant shall comply with all requirements of the Tracy Municipal Code and any applicable State codes to the satisfaction of the City of Tracy, its officers and agents.
12. The applicant shall comply with all requirements of the County of San Joaquin Environmental Health Department including:
 - a. A restroom must be available within 200 feet distance with warm water, soap and paper towels for the employees of the food truck.
13. All food and drink service shall comply with all applicable requirements for operation set forth in State and San Joaquin County public health orders related to COVID-19.
14. Upon termination of the approved temporary use of the property, the applicant shall remove all structures, materials, and equipment related to the use, and restore the property to its original condition.

In the event you are not satisfied with the decision of the Development Services Director, you may file an appeal to the Planning Commission within ten (10) days from the date of this letter. There is a \$326 non-refundable appeal application fee due upon submittal. This appeal must be filed in writing with the Secretary of the Planning Commission.

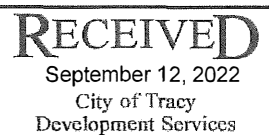
If you have any questions, please do not hesitate to contact me at (209) 831-6443 or kenneth.lipich@cityoftracy.org.

Best regards,



Kenny Lipich
Assistant Planner

Attachments



South San Joaquin County Fire Authority

Community Risk Reduction Division

835 Central Avenue
Tracy, CA 95376
PH: (209) 831-6707
FAX: (209) 831-6703
fire.plancheck@sjcfire.org

Date: 9/12/2022

Project #: TUP 22-0021
Project Description: Johnny's Diner Food Truck
Project Address: 22 E Ninth St
Jurisdiction: City of Tracy
Applicant: Gabriela Rodriguez Machuca
Contact Info: (510) 978-1657 gmachuca7@aol.com

At this time, project is conditionally approved subject to satisfying the following requirements:

1. Occupancy shall be determined by the code by the plan's designer
2. 2A:10BC type fire extinguishers shall be located at each attraction or 75 ft of travel from any point in the seating space. If food concession trailers are on site they shall have a 2A:10BC and a Type K fire extinguisher located within the trailer if grease-laden vapors are produced.
3. Concession trailers equipped with a UL300 Fire suppression system will have had to of had the system serviced with the last 6 months.
4. Tents, canopies and temporary membrane structures having an area in excess of 400 Sq. Feet are required to have an inspection and organizer shall obtain an operational permit through the fire department. Please refer to the attached outdoor assembly packet.
5. At no time shall the exit path be blocked.
6. The site plan shall be set up per the submitted drawings
7. A fire inspection must take place and invoice paid prior to inspection.

Feel free to contact our offices, should you have any questions.

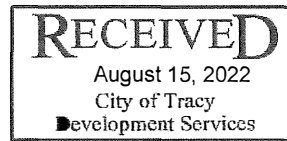
Thank you,

Pauline Keener

Fire Inspector

(209) 831-6707 main line

Pauline.Keener@sjcfire.org



CITY OF TRACY
Development Services
333 Civic Center Plaza • Tracy • CA • 95376
(209) 831-6400 • www.cityoftracy.org



Date: August 15, 2022

Project Number: TUP22-0021

Project Name: Food Trailer and Related Furniture/Equipment -Johnny's Diner

Project Address: 22 E NINTH ST

Event Dates: Monday-Sunday 8 a.m. to 10 p.m.

To: Kenny Lipich

1ST SUBMITTAL – TEMPORARY USE PERMIT APPLICATION

At this time, the project is approved with conditions. The plan review conditions for this project are listed below.

This plan review is based upon the 2019 CBC, 2019 CRC, 2019 CPC, 2019 CMC, 2019 CEC, 2019 CFC, 2019 CEnC, 2019 CA Green Building Standards Code, and applicable City of Tracy Municipal Ordinances.

When addressing the comments of revised plans, submit a written response to each comment. Using complete and clear responses will expedite the re-check and approval of the project. Identify the revisions in the revision box with a corresponding date and type of correction.

If any changes have been made to the plan documents unrelated to those items identified in the comment lists, please list the changes on a separate sheet and include in your submittal documentation.

Sheet #	Notes
	All of the items below must be provided for each of the above-mentioned event dates.
	Accessibility. Temporary as defined in California Building Code (CBC) Ch. 2, is a <u>“facility”</u> intended for use at one location for not more than one year.” A <u>“facility”</u> as defined in CBC Ch.2 is “all or any portions of pedestrian routes located on a site.” Per CBC 11B-201.3 , temporary facilities are required to meet the requirements found in CBC 11B . <u>Therefore, please provide all of the following amenities during the food trailer hours:</u>
	1. Accessible Path of Travel- According to the California Building Code (CBC) 11B-206.2 , Provide an accessible route inside the area that connects the food truck, bathrooms, accessible parking stalls, dining area, areas around any storm drains or openings greater than ½” and accessible tables. The path of travel shall be stable, firm, and slip resistant as per CBC 11B-302.1 and with a maximum cross slope of 2% in all directions.
	2. Restrooms. A minimum of two male and two female restrooms and a minimum of one of the restrooms shall be accessible. CPC 422.1 Also, a minimum of two lavatories with a minimum of one being accessible.

3. **Accessible Dining Surfaces.** Where tables are provided for the consumption of food or drink, at least 5 percent of the seating spaces and standing spaces at the dining surfaces shall comply with **CBC 11B-902**. Which requires the accessible dining surface to have a clear floor space of 48" x 30" with maximum cross slope of 2% in any direction and be positioned with a forward approach, provided with the proper knee clearances (image #1 below) and toe clearances (images #2 below), and the height of the dining surface shall be 28" minimum to 34" maximum above finish ground.

Image #1 Knee Clearance

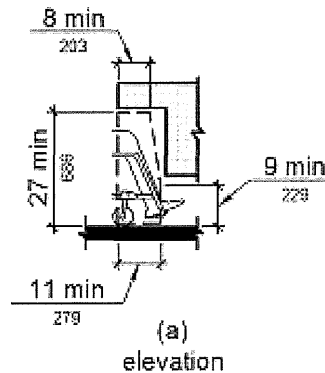
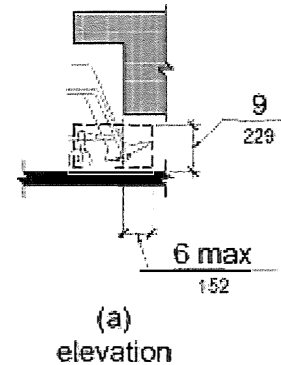


Image #2 Toe Clearance



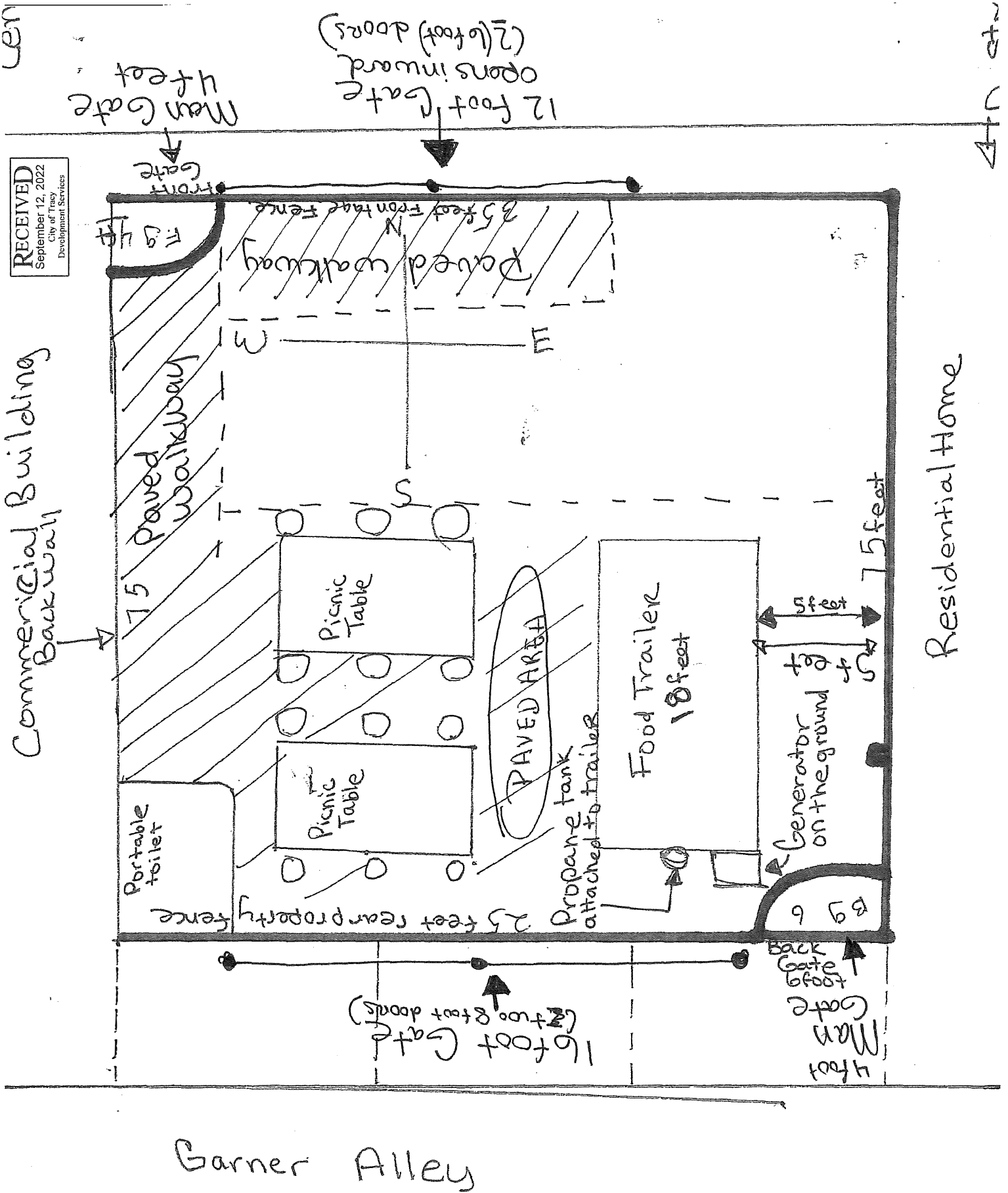
4. All gates shall swing in the direction of travel, provided with panic hardware operable parts shall meet the requirements of CBC 11B-404.2.9, CBC 1010.1.2.1 & CBC 1010.1.10
5. Flexible electrical cords or cables shall be listed for damp and wet locations, listed for hard use and shall be sunlight resistant as per article 400. The electrical cords shall also be arranged to minimize the tripping hazard and shall be permitted to be covered by non-conductive matting, provided the matting does not create a greater tripping hazard than the uncovered cables. Electrical cords shall also be properly supported where suspended
6. Applicant shall maintain required accessible parking stalls as per CBC Table 11B-208.2.
7. The service window shall meet reach ranges per CBC 11B-308 if the payment method is fixed.
8. When intended to operate for longer than 180 days plan and supporting documents shall be submitted for building permit per Title 24 requirements

Notes:

Generators 10KVA or greater require separate permits. Please submit a permit application for the 250 kw generators.

Plans Reviewed By:
Jesse Canright
(209) 831-6412
jesse.canright@cityoftracy.org

cc: permit file



RECEIVED
September 12, 2022
City of Tracy
Development Services

Commercial Building
Backway

Garner Alley

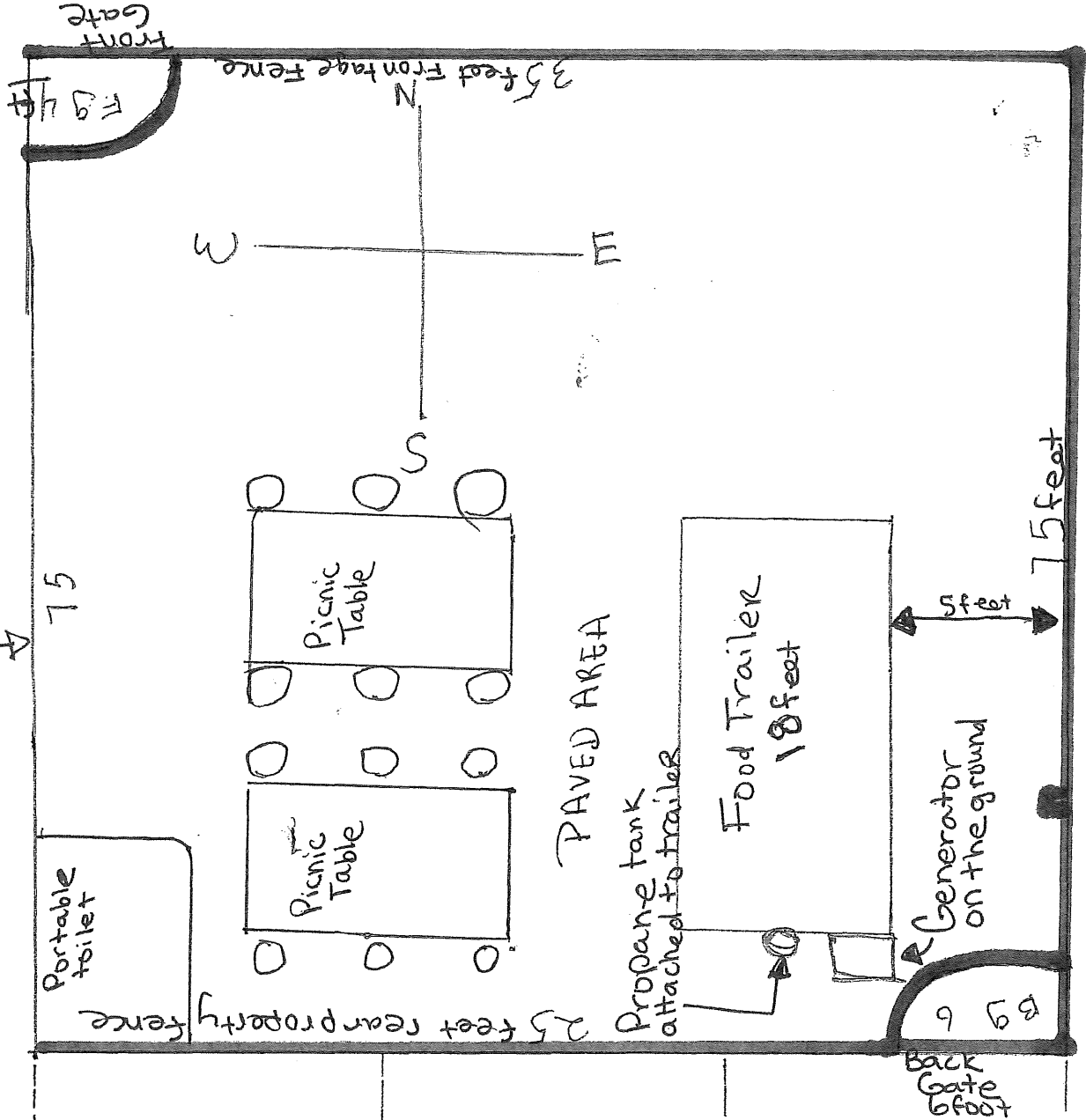
Residential Home

Central Ave

9th Street

4th Street

Commercial Building
Back wall



Residential Home

Garner Alley

Ana Contreras

From: Scott Claar
Sent: Wednesday, January 25, 2023 10:32 AM
To: gmachuca7@aol.com
Cc: Plan Check; Ana Contreras; Lacy Starling; Bobby Alcantar; Kenneth Lipich; Veronica Child; Fire.PlanCheck-sjcfire; Al Gali
Subject: RE: 22 E. 9th Street : Machuca/ Johnny's Diner
Attachments: TUP22-0021 Johnny's Diner Food Truck Approval Letter.pdf; General Submittal Requirements and Instructions.pdf

Hello Candido Machuca and Gabriela Rodriguez Machuca,

We would like to help you with your project. There are ways to move your project forward and we can assist you with understanding the requirements and process. We should start by having a meeting that brings together all relevant City staff members so that everyone is on the same page and you receive the most complete information. We will follow up with you shortly to schedule this meeting. Additionally, we are planning to bring a discussion item to the City Council on March 21st to discuss food trucks/trailers and restaurant containers. In the meantime, we encourage you to move forward with your application submittal, as described below.

As I previously explained to you, your proposed restaurant container and associated structures/site improvements require approval of a Development Review Permit prior to obtaining a building permit and locating the structures on the property. Please see below for a brief history of previous correspondence regarding your proposal, as well as information on how to submit a Development Review Permit application.

Brief History

- July 8, 2022 – I attended a Microsoft Teams meeting with Michael Nimon (City Economic Development), Gabriela Machuca and Johnny Machuca to discuss the Machuca's proposal to locate a food trailer and a restaurant container on their property at 22 E. 9th Street.
 - I explained that a food truck/trailer could only be located on the property at 22 E. 9th Street with approval of a Temporary Use Permit (TUP). I explained that the City's Zoning Ordinance states that TUPs are valid for a maximum of 30 days, but for the past few years we have been operating under local emergency orders that have allowed us to grant TUPs for up to 180 days. I also explained that the City's Zoning Ordinance would not allow a food truck/trailer to remain on the property beyond the duration of a TUP. I explained that they could propose an amendment to the City's mobile food vending ordinance to allow food trucks/trailers on a more permanent basis in the Central Business District (CBD) Zone, but I also explained that I didn't know whether City Council would be receptive to such a change, considering that the ordinance had been adopted only a few years ago and that the policy direction at the time was to keep food trucks/trailers out of the commercial zones so they wouldn't compete with brick-and-mortar establishments.
 - I explained that a restaurant container would need to get approval of a Development Review Permit before obtaining a building permit and locating it on the property. I explained that a Development Review Permit is a discretionary approval and I didn't know whether it would be approved. I explained that we might not be able to approve a Development Review Permit for a restaurant container because the architectural design would probably not be consistent with the City's Design Goals & Standards for new commercial development and the architectural character of Downtown. I mentioned that if they wanted to move forward with a proposal, they could provide me with a preliminary concept drawing that we could review and provide comments on before they submit a formal application and pay fees. I mentioned that the City's Design Goals and Standards might need to be amended in order to allow for

restaurant containers and I explained that I didn't know whether there would be support for such an amendment.

- I also mentioned that if the restaurant container was approved, it would be subject to development impact fees. I explained that a preliminary estimate of the development impact fees to construct a 2,000 square foot building on this site is approximately \$23,250, but that the fees might be less if smaller structures are proposed.
- September 2, 2022 – I met in-person with Johnny Machuca at the Development Services Department front counter to discuss his preliminary conceptual plans for a food trailer and restaurant container. Johnny provided me with rough sketch drawings, including an artistic rendering and site plan that showed a restaurant container (deli/café), food trailer, outdoor picnic tables with shade structure, and restroom unit.
 - I explained that the food trailer could only be allowed with a Temporary Use Permit (TUP). I explained that the City Council would need to approve an amendment to the City Zoning Ordinance in order to allow food trucks/trailers on a permanent basis beyond the life of a TUP. I explained that the City Council might not be supportive of amending the ordinance to allow this. Johnny said that he understood and that he would just operate it with a TUP and remove it if necessary.
 - I explained that the restaurant container could possibly be approved with a Development Review Permit if the architectural design was dressed-up enough to meet the City's Design Goals and Standards for a new commercial building. We discussed the possibility of him using faux wood siding or stucco on the exterior of the metal shipping container. We also discussed the possibility of him adding a roof to the container to further enhance the architectural design. I explained that I did not know whether the restaurant container could be approved and that it would depend on the design quality and whether we could determine that it would be consistent with the City's Design Goals and Standards and the architectural character of Downtown. I explained that in order to submit a Development Review Permit application, he would need to submit detailed plans with his application that were prepared by an architect, engineer, or designer that satisfy the application submittal requirements. He mentioned that he would be talking with Dan Schack's office to prepare the necessary plans.
- September 15, 2022 – The City's Development Services Department approved a Temporary Use Permit (Application No. TUP22-0021) to allow a food trailer with two outdoor picnic tables and a portable toilet at 22 E. 9th Street. The Temporary Use Permit was approved for 180 days and has an expiration date of March 14, 2023.
- September 16, 2022 – I attended an in-person meeting at City Hall with representatives of Schack & Company, Inc. (including Dan Schack, Scott Schendel, and Dylan Wooten) to discuss the Machuca's proposal of locating a restaurant container on the property at 22 E. 9th Street. I explained that the project would require a Development Review Permit for the restaurant container and site improvements. I explained that I did not know whether the restaurant container would be approved and that it would depend on the design quality and whether we could determine that it would be consistent with the City's Design Goals and Standards and the architectural character of Downtown. We discussed potential options for dressing up the architectural design, similar to what was discussed with Johnny on September 2nd.
- Following the meeting with Schack & Company on September 16th, I did not hear from anyone about the project until January 12, 2023, when I spoke with Gabriela Machuca on the phone regarding structures on the property without permits.

Notes:

1. The current improvements on the property are not consistent with the approved site plan for the Temporary Use Permit. Multiple structures (i.e. shipping containers) have been added to the property without approval of any permits. The Temporary Use Permit conditions state that the use shall be located and set up as shown on the site plan received on September 12, 2022. Please see attached Temporary Use Permit approval for reference.
2. I have asked Veronica Child in the City's Engineering Division to prepare an estimate of the development impact fees for your project, based on the specific details of your proposal. Veronica will need to know the square footage of all proposed structures and the acreage of the site. We will provide Veronica with the details submitted on your plans and she may follow up with you if she has questions. Veronica can be reached at

phone (209) 831-6487 or email veronica.child@cityoftracy.org if you'd like to contact her. Development impacts fees are due at the time of building permit issuance.

Development Review Permit Application – General Submittal Requirements and Instructions

Attached is a copy of our General Submittal Requirements and Instructions for submitting a Development Review Permit application, which contains detailed information about the submittal process and what documents are required.

Electronic submittal is required. Once you are ready, please send your submittal documents to PlanningAdmin@CityofTracy.org. Our email file size limit is 25 megabytes. If you anticipate your submittal may exceed this limit, we can send you a link the City's FTP site so that you can upload your documents there.

The amount of the Development Review Permit application fees are as follows:

FEE DESCRIPTION	AMOUNT
Development Review Permit (Class B)	3,605.00
Environmental Assessment	130.00
TOTAL	\$3,735.00 *

* Please note that the fees listed above do not include fees for review of the application by the South San Joaquin County Fire Authority. Please visit the South San Joaquin County Fire Authority's website to view the [Fee Schedule](#). You may also contact the Fire Authority at (209) 831-6707 or Fire.PlanCheck@SJCfire.org for additional information. The Fire Authority's fees are not charged at the time of initial application submittal but, rather, after the review process is underway.

The Development Review Permit and Environmental Assessment fees listed above will not get assessed until the City confirms we have all of the documents needed for review; at that point, we will provide you with fee payment instructions and an application number to reference in your fee payment. After the fees are paid, the City's review will be initiated. Please do not attempt to pay the fees until you are provided with an application number to reference in your fee payment.

For general information about the Development Review process, you can visit our Development Review Permit page: [Development Review | City of Tracy, CA](#)

Please let me know if you have any questions.

Thank you,

Scott Claar
Senior Planner
Development Services Department
City of Tracy
(209) 831-6429

From: Plan Check <PlanCheck@cityoftracy.org>

Sent: Monday, January 23, 2023 12:11 PM

To: 'gmachuca7@aol.com' <gmachuca7@aol.com>

Cc: Michael Rogers <michael.rogers@cityoftracy.org>; Bobby Alcantar <Bobby.Alcantar@TracyPD.com>; Fire.PlanCheck-sjcfire <Fire.PlanCheck@sjcfire.org>; Scott Claar <Scott.Claar@cityoftracy.org>; Kenneth Lipich <kenneth.lipich@cityoftracy.org>

Subject: RE: 22 E. 9th Street : Machuca/ Johnny's Diner

Good Afternoon,

We received your email requesting a permit for the placement of 2 Connex boxes and associated utilities.

Unfortunately, we are unable to accept your submittal as proposed. Since this is a Commercial property, detailed plans will need to be drawn up by a licensed design professional. The plans will need to include all details associated with the project: site details, foundation for the containers (boxes), accessibility, electrical, mechanical and plumbing.

I am attaching our Electronical Submittal Requirements to this email which will detail out how the plans and documents must be formatted and submitted. In addition, for your convenience, I am also attaching all other documents that will be required with your submittal.

Please be advised that this proposed project will require a Development Review. This means that by submitting this project, prior to the Development Review being approved, this will be considered an at-risk permit. This can result in additional reviews and fees due if further changes are required once the Development Review is approved. Scott and Kenny will discuss the process with you pertaining to the Development Review.

If you have any questions, please feel free to email us back or call us at 209/831-6400.

Thank you,

Meagan Washburn

Bldg Permit Technician II
City of Tracy – Development Services
Building Safety Division
209/831-6400
plancheck@cityoftracy.org

From: gmachuca7@aol.com <gmachuca7@aol.com>

Sent: Sunday, January 22, 2023 9:53 PM

To: Plan Check <PlanCheck@cityoftracy.org>; Fire.PlanCheck-sjcfire <Fire.PlanCheck@sjcfire.org>

Cc: Michael Rogers <michael.rogers@cityoftracy.org>; Bobby Alcantar <Bobby.Alcantar@TracyPD.com>; gmachuca7@aol.com

Subject: 22 E. 9th Street : Machuca/ Johnny's Diner

Good Morning City of Tracy:

In response to voicemail from 1/17/2023 (time 3:21 pm) and follow up email on Friday 1/20/2023 from Code Enforcement B. Alcantar

We are submitting paperwork that was indicated.
Total of 9 Pages

We have included two sets of Property Owner Package: one dated 6/22/2022 and second one dated 1/21/2023. We also included a site plan that SJ Fire Indicated would be required.

We have copied City Manager ; Michael Rogers as well as SSJC Fire.

I have included SJ Fire because In August 2022 when processing TUP there was a long delay that was blamed on Fire Department **which was not true:**

SJ Fire had not been forwarded all appropriate documents that HAD been submitted.

Candido Machuca & Gabriela Rodriguez Machuca

22 E. 9th Street

Ana Contreras

From: Jaylen French
Sent: Thursday, March 2, 2023 1:52 PM
To: Ana Contreras
Subject: FW: 22 E. 9th Street

From: Jaylen French
Sent: Monday, February 20, 2023 8:39 PM
To: gmachuca7@aol.com
Cc: Midori Lichtwardt <Midori.Lichtwardt@cityoftracy.org>
Subject: 22 E. 9th Street

Good evening Ms. Machuca,

It was great to meet you on Wednesday and to discuss your business. We appreciate your time walking us through the history, and detailing the steps that have led to where we are now. We look forward to working with you through the remainder of the process.

As we discussed on Wednesday, under the approved Temporary Use Permit, which was issued on September 15, 2022, the food truck and two portable toilets are allowed for a period of six months from the approval date. Your current permit is set to expire on Marcy 14, 2023 after which, use of the mobile food truck at this location will be in violation of the City's Municipal Code. Please note, the City is currently reviewing its codes related to mobile food trucks in non-industrial areas. However, these proposed amendments, if approved, would not be in place prior to your permit expiration date.

As an alternative to use of the food truck, you stated that you would like to know what steps would need to be taken to allow you to serve food out of the two new structures currently located on the property. At the time of our discussion, it was my understanding that you have not applied for permit prior to establishing these two structures on the property. The addition of new, more permanent structures including electrical and plumbing require an approval that is called a Development Review Permit (DRP). The DRP is required per the Tracy Municipal Code, Section 10.08.3920. To bring your business into compliance with City codes, you will need to obtain approval through the Development Review Permit process. As Ms. Lichtwardt and I mentioned at the close of our meeting, we stand ready to assist you through the process as expediently as possible.

For your reference, I am providing a general description of the Development Review process. The process includes the review of a project's design, including, if applicable, the site plan, landscape plan, building elevations, grading plan, and utility plan. The purpose of Development Review is to ensure that a project is compatible with the surrounding environment and consistent with the City's goals and policies. New buildings (commercial, industrial, and residential of three units or greater) and substantial modifications to the exterior of existing buildings require Development Review.

Please see below a chart of the steps and typical timeline associated with a Development Review. Also, below is a link to the application form and submittal requirements.

Submit Application		
Step 1	Development application forms, general submittal requirements and instructions, electronic submittal instructions, and the fee schedule are available on the City's website.	
City Review		
Step 2	City review includes routing application materials to multiple City departments and other agencies for comments. The comments are compiled into a comprehensive letter to the applicant, which details incomplete items, applicable requirements and staff recommendations. Once the application is deemed complete and all requirements are met, City staff will prepare the project for public hearing (step 4).	30 days
Applicant Response		
Step 3	Some projects require additional information or clarification by the applicant and/or revisions to the plans. This step is the applicant's response to those requirements. The applicant's response will be reviewed by the City and steps 2 and 3 may be repeated if necessary.	30 days (typical)
Public Hearing		
Step 4	Public hearings before the Development Services Director or the Planning Commission are required for all Development Review applications. A public notice of the hearing will be sent to all property owners within 300 feet of the subject property and posted in a local newspaper.	30 days (typical)*
Estimated Total Timeframe		90 days (typical)**

Application form:

[Development Application](#)

[Submittal Requirements & Instructions](#)

The application should include:

- Completed application form (above), written project description, and fee (\$3,605)
- Supplemental Forms—APCD Compliance Questionnaire and SJCOG SJMSPC form (links found in the Submittal Requirement form above)
- Location map, aerial photo, site photographs
- Preliminary Title Report
- Site Plan
- Building Elevations
- Floor Plans
- Signs

Please note, per the Tracy Municipal Code, this permit will be reviewed by Planning staff and will be taken to the Tracy Planning Commission for consideration of approval. As we discussed during the meeting on Wednesday, we are happy to meet with you prior to the submittal of an application to walk through the steps and the details outlined above. We are available to meet with you as early as tomorrow, Tuesday, February 21, 2023, schedules permitting. Please let me when you would like to schedule that meeting. In the meantime, should you have any questions or need anything further, please do not hesitate to contact me.

Kind regards,

JAYLEN FRENCH

Director of Development Services

City of Tracy

333 Civic Center Plaza | Tracy, CA 95376

Cell (209) 831.0963 | jaylen.french@cityoftracy.org

SJC FIRE AUTHORITY
ADMINISTRATION BLDG.

CENTRAL AVE.

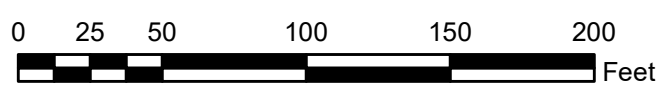
9TH STREET

Subject
Property

8TH STREET



Think Inside the Triangle™

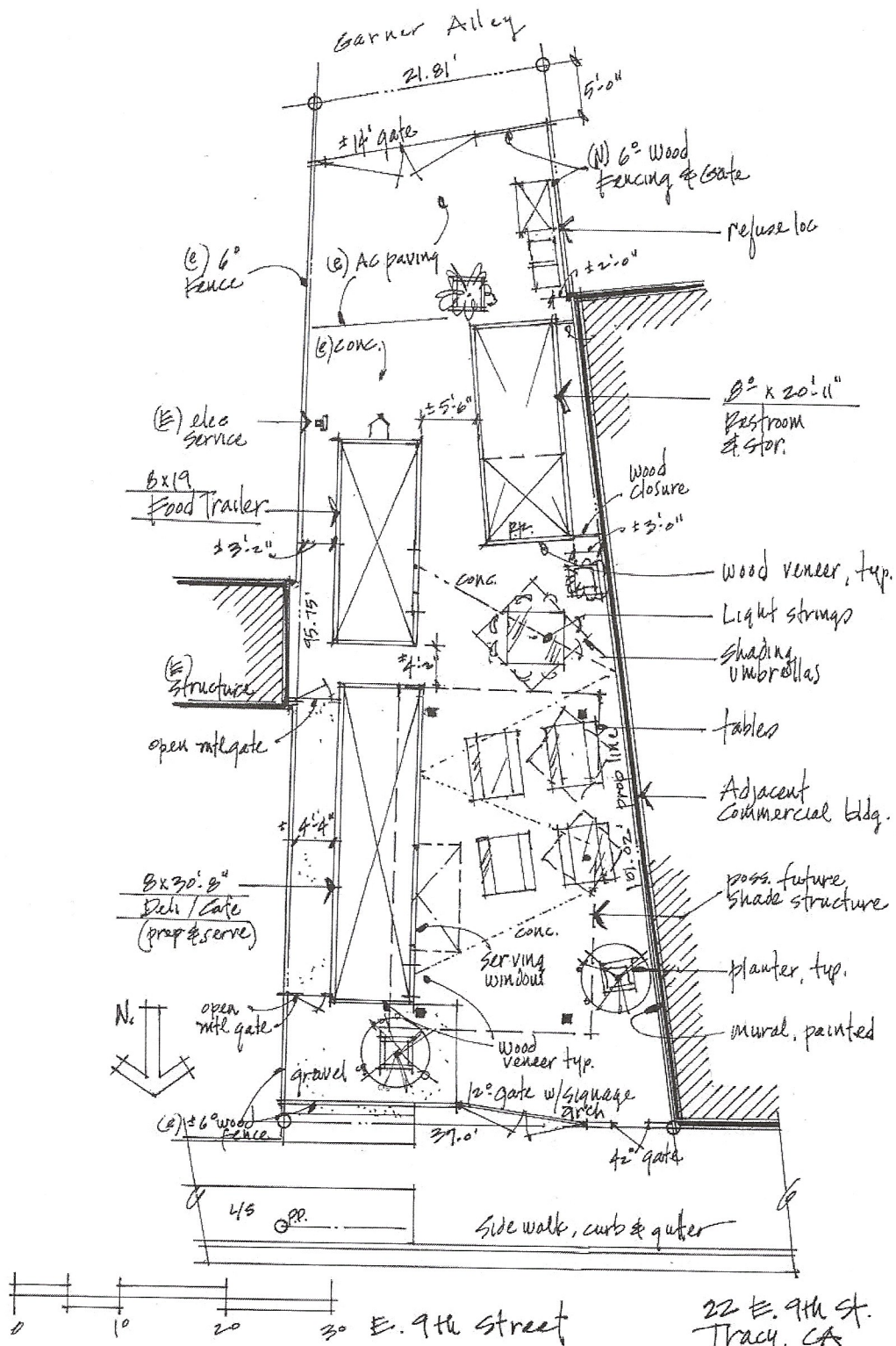


RECEIVED

March 21, 2023

City of Tracy
Development Services





22 E. 9th Street Tracy, Ca.

RECEIVED

April 24, 2023

City of Tracy
Development Services

Floor Plan for Deli/Cafe

Space is 8 feet by 30 feet (height is 94 inches)

Main Door is 36 inches wide, opens outward with a right swing, 72 inch height

Serving window is 118 inches long by 36 inch height, swings outward

Small serving window 36 inch by 36 inch

Wall 1

#2 Undercounter Refrigerator 72 in x 29 1/4 depth x 35 1/2 h

#4 Hand washing sink 16 in wide x 12 in depth

#5 Dipping well/sink 4 inch x 4 inch

#6 Veggie sink 1 compartment with 1 drainboard 36in wide x 23 1/2

#7 Sink 3 compartment with 2 drainboards 48in L x 20 in depth

#8 Stainless steel work table 48in Wide x 24 in depth

Wall 2

#10 Wall Mounted tankless water heater 18.5 x 14.5 x 3.5

#11 Stainless steel work table 48 in wide x 24 in depth

#12 Wire Rack Dry Storage 48in X 24in w x 72 in h

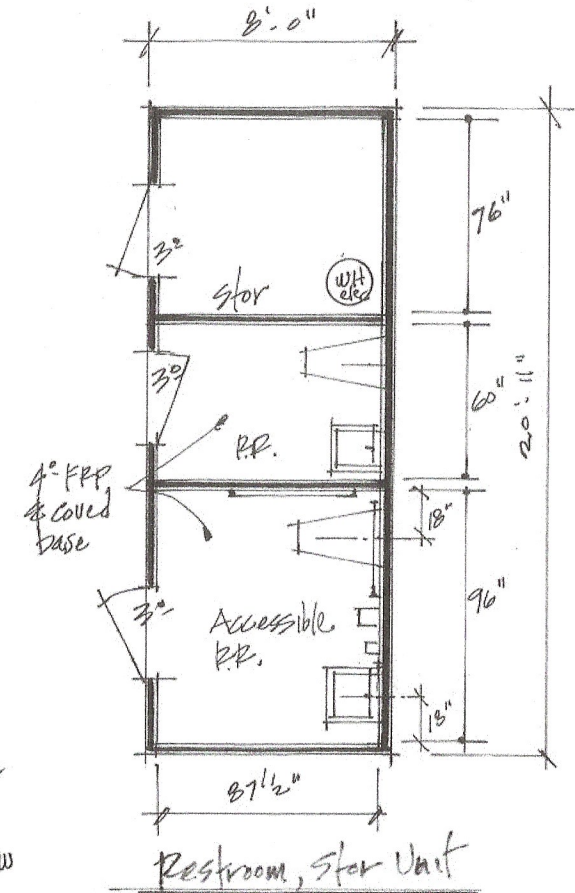
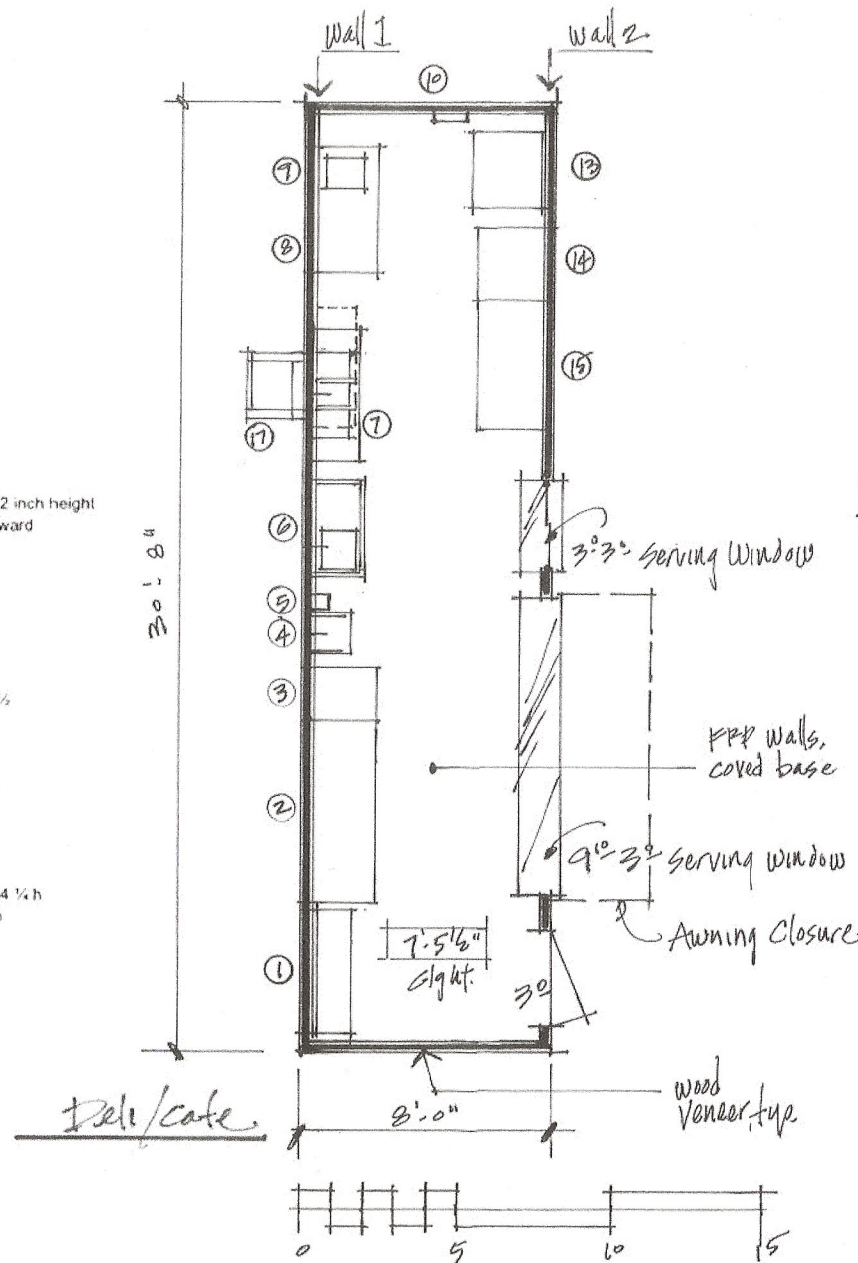
#13 Upright 1 door reach in refrigerator 28 in. w x 33 1/4 depth x 84 1/4 h

#14 1 door refrigerated sandwich prep table 28 in w x 31in. Depth

#15 Undercounter Refrigerator 48in w x 29 1/4 depth x 35 1/2 h

#16 Service Window 118 in x 36 in. Opens outward

#17 Small window 36in X 36in



Schematic
Floor Plans

22 E. 9th Street
Tracy, CA

Deli Cafe:
30'-0"W x 8'-0"D x 8'-0"H

RECEIVED
March 21, 2023
City of Tracy
Development Services



Deli Cafe:
30'-0"W x 8'-0"D x 8'-0"H



Deli Cafe:
30'-0"W x 8'-0"D x 8'-0"H



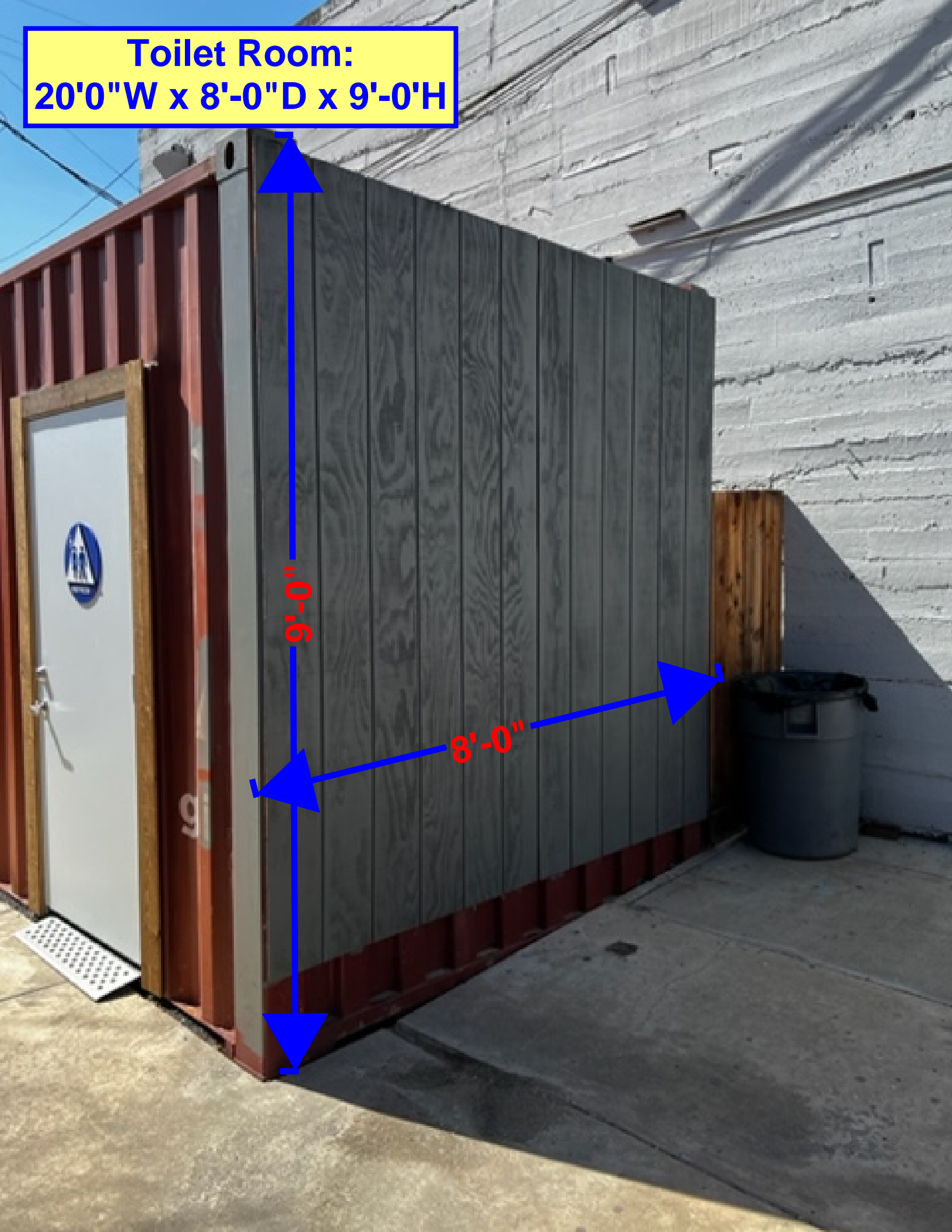
Deli Cafe:
30'-0"W x 8'-0"D x 8'-0"H



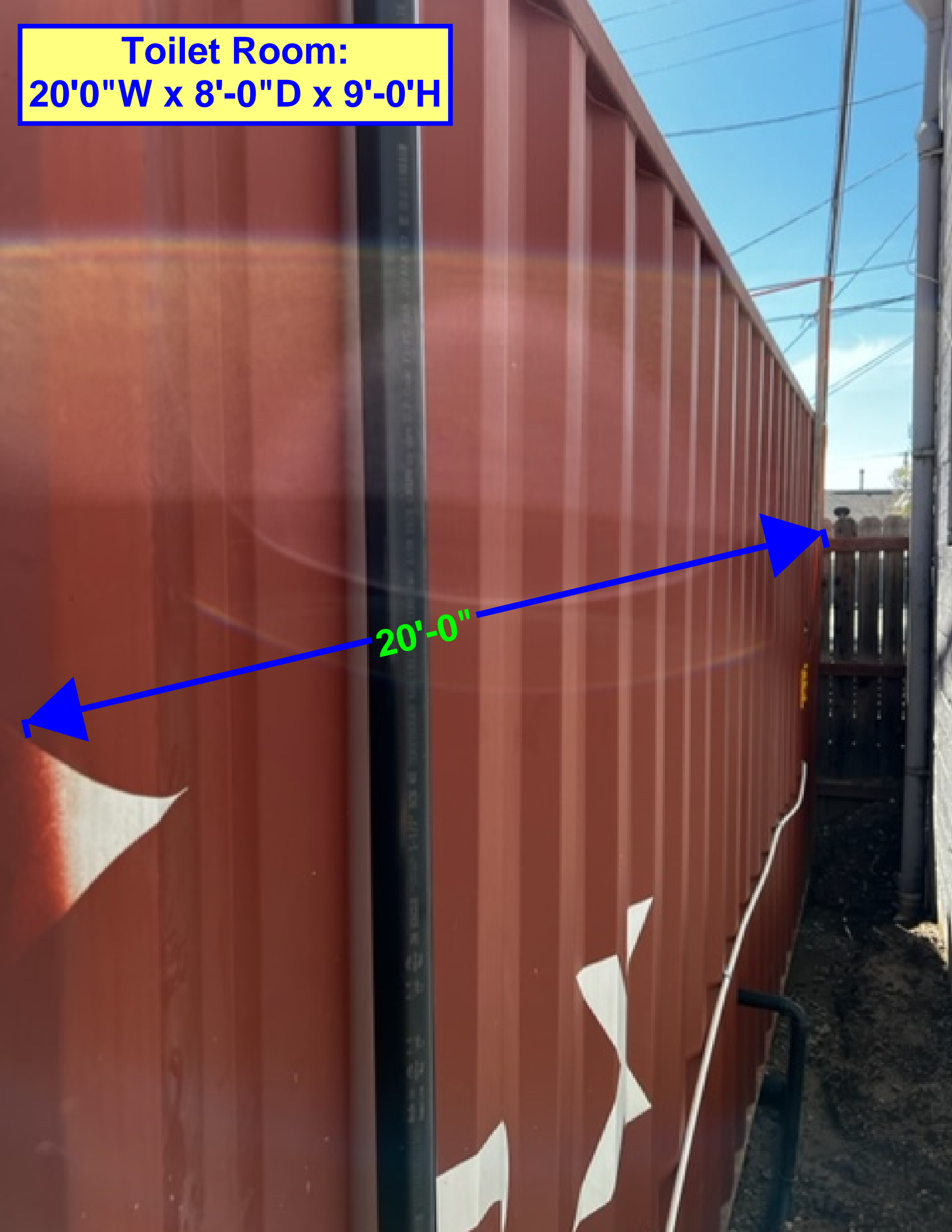
Toilet Room:
20'0"W x 8'-0"D x 9'-0"H



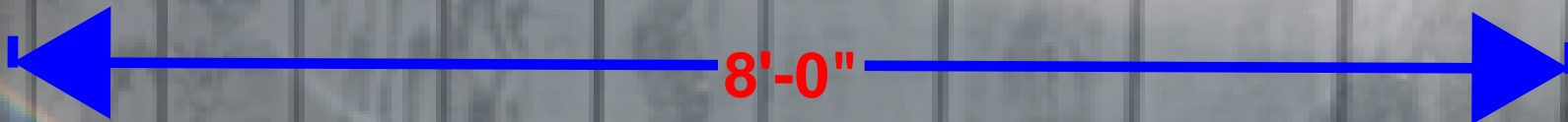
Toilet Room:
20'0"W x 8'-0"D x 9'-0"H



Toilet Room:
20'0"W x 8'-0"D x 9'-0"H



Toilet Room:
20'0"W x 8'-0"D x 9'-0"H



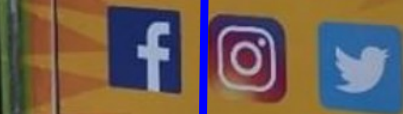


• GARLIC FRIES • CARNE ASADA FRIES •



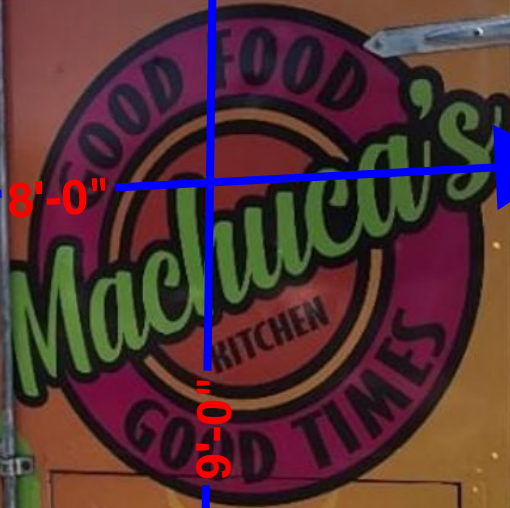
8'-0"

10'-6"



@MachucasKitchen

209-833-0800





APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION 2023-_____

- 1. APPROVING A DEVELOPMENT REVIEW PERMIT (D23-0003) TO ALLOW A NEW OUTDOOR EATING AND DRINKING ESTABLISHMENT CONSISTING OF THREE STRUCTURES AT 22 E. 9TH STREET, INCLUDING REQUISITE CONDITIONS OF APPROVAL NECESSARY TO CURE EXISTING DEFICIENCIES AND MAKE SUCH STRUCTURES CODE-COMPLIANT; AND**
- 2. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15303 WHICH PERTAINS TO CONSTRUCTION OF LIMITED NUMBER OF NEW, SMALL FACILITIES OR SIMILAR STRUCTURES NOT INVOLVING THE USE OF SIGNIFICANT AMOUNTS OF HAZARDOUS SUBSTANCES, AND NOT EXCEEDING 2,500 SQUARE FEET IN FLOOR AREA.**

WHEREAS, On March 3, 2023, the City's Code Enforcement Division issued a Notice and Order identifying two shipping containers ("Connex boxes"), plumbing, and electrical services installed at 22 E. 9th Street without required City permits; and

WHEREAS, a development review permit application for a new outdoor eating and drinking establishment consisting of three structures was submitted on March 21, 2023; and

WHEREAS, the site has a General Plan land use designation of Downtown and a zoning designation of Central Business District (CBD) Zone, wherein such uses are principally permitted; and

WHEREAS, In addition to other violations, the current use at the site violates the Zoning Ordinance as one of the structures is the mobile food trailer, which is not permitted in the CBD Zone and none of the structures are code compliant; and

WHEREAS, staff has included requisite Conditions of Approval (see Exhibit 2) to make the proposed project compliant with all Code requirements, including conditions requiring the applicant to "immobilize" the trailer; and

WHEREAS, the Planning Commission can approve a Development Review Permit on the basis of the application and evidence submitted, subject to making all of the requisite findings set forth in TMC Section 10.08.3920, which findings are set forth in Exhibit 1; and

WHEREAS, the project is categorically exempt from CEQA based on Guidelines Section 15303, which pertains to construction of limited numbers of new, small facilities or structures like a restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area, no further environmental assessment is necessary, and

WHEREAS, the Planning Commission conducted a public hearing to review and consider the applications on June 28, 2023; now, therefore, be it

RESOLVED: That the Planning Commission of the City of Tracy hereby determines, based on the evidence in the record and its own independent judgment, that the proposed project is categorically exempt from the California Environmental Quality Act pursuant to Guidelines Section 15303 (New Small Structures); and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the findings set forth in Exhibit 1, supporting the approval of Development Review Permit D23-0003 for a new outdoor eating and drinking establishment consisting of three structures; and be it

FURTHER RESOLVED: That the Planning Commission, based on the CEQA determination of exemption and the adoption of requisite findings, hereby approves Development Review Permit D23-0003 for the outdoor eating and drinking establishment on an approximately 3,043 sq. ft. site located at 22 E. 9th Street, subject to the Conditions of Approval contained in Exhibit 2; and

FURTHER RESOLVED: Should the applicant fail to satisfy the Conditions of Approval, the Development Review Permit would not be issued and further enforcement actions would be taken as the applicant is currently operating at the site without compliance

The foregoing Resolution 2023-_____ was adopted by the Planning Commission on the 28th of June 2023, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTENTION:	COMMISSION MEMBERS:

CHAIR

ATTEST:

STAFF LIAISON

Exhibit 1 – Project Findings
Exhibit 2 – Project Conditions of Approval

**City of Tracy
Development Review Permit Findings
Application Number D23-0003**

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed project would develop an existing site that is surrounded by commercial development. The proposed shipping containers will be covered in wood cladding meeting the City's objectives for quality design. The market lighting, picnic tables, planter boxes, and umbrellas will create a sense of arrival to the outdoor eatery plaza. The outdoor eatery plaza will create a pedestrian accessed gathering space featuring enhanced lighting. The lower portion of the proposed pad-mounted food trailer will be hidden behind a screen or skirt, be located to the rear of the property, and not readily visible from public right of way.
2. The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, because the proposed development will comply with all applicable City and State Regulations for building design and construction and zoning development standards. Compliance with the project Conditions of Approval will remedy the outstanding City code violations identified in the March 3, 2023 Notice and Order for the site, Case Number CD23-0014 and should the applicant fail to satisfy the Conditions of Approval, the Development Review Permit would not be issued and further enforcement actions may be taken.

City of Tracy
Conditions of Approval
Outdoor Eating & Drinking Establishment
Application Number D23-0003

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: A new outdoor eating and drinking establishment consisting of three structures.

The Property: An approximately 3,043 sq. ft. site located at 22 E. 9th St.

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, defined as a "Developer."
- b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
- c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project, Application Number D23-0003. The Conditions of Approval shall specifically include all conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

A.3. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the plans received by the Development Services Department on April 24, 2023, which include the site plan, floor plan, photos, and color and material details.

A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.

- A.5. Compliance with laws. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
 - California State Title 24 and Title 19
- A.6. Compliance with City regulations. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City regulations, including, but not limited to, the Tracy Municipal Code (TMC), Standard Plans, and Design Goals and Standards.
- A.7. Protest of fees, dedications, reservations, or other exactions. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

B. Development Services Department, Planning Division Conditions

Contact: Kenny Lipich (209) 831-6443 kenneth.lipich@cityoftracy.org

- B.1. The wooden cladding siding shall be wrapped around all visible portions of the 240 sq. ft. shipping container this would include wrapping around the corner and stopping just before the exterior equipment to the satisfaction of the Development Services Director.
- B.2. A wooden gate or similar high quality solid material shall be installed on the south side of the 240 sq. ft. shipping container extending from the corner of the shipping container to the corner of the pad-mounted trailer to hide views of the south side of the shipping container and installed on the north side of shipping container extending from the corner of the shipping container to the property line to the satisfaction of the Development Services Director.
- B.3. The wooden cladding siding shall be installed on all visible portions of the 160 sq. ft. restroom/storage shipping container to the satisfaction of the Development Services Director.
- B.4. The food trailer shall be permanent, pad-mounted, wheels removed, and the lower portion of the pad-mounted food trailer shall be hidden behind a screen or skirt, designed of a material and color that will complement appearance of the pad-mounted food trailer to the satisfaction of the Development Services Department.

B.5. Screening utilities and equipment. Before the approval of a building permit, the applicant shall submit detailed plans that demonstrate the following:

B.5.1. No roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, shall be readily visible from any public right-of-way. The plans shall demonstrate that such equipment is fully screened from view by shipping container parapets designed to be equal to or higher than the height of the mounted equipment to the satisfaction of the Development Services Director.

B.5.2. All vents, gutters, downspouts, flashing, plumbing lines, fire risers, and electrical conduits shall be internal to the structures and other ground-mounted, wall-mounted or building-attached utilities, including bollards, shall be painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.

B.5.3. All PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or substantially screened from view behind structures or landscaping, to the satisfaction of the Development Services Director.

B.6. Signs. No business identification signs are approved with this permit. Prior to the installation of any signs requiring a sign permit, the applicant shall obtain applicable sign and building permits in accordance with the Tracy Municipal Code.

B.7. Applicant shall comply with all requirements of the San Joaquin County Environmental Health Department prior to final inspection.

B.8. For the above ground yellow grease container "Fat-Vat" it will need to be placed in a spot not readily visible from the public right of way or patrons, have secondary containment, lid for closure, and be serviced regularly per City of Tracy Utilities and Operations Department standards.

B.9. The site will be required to have a minimum of one ADA accessible restroom, ADA accessible outdoor seating, and path of travel with a maximum of 2% grade. Drawings will need to be submitted with Building Permit that demonstrate ADA compliance.

B.10. The Conex boxes must be sited on a foundation system designed in accordance with the California Building Code. A licensed engineer or other qualified design professional will be required to submit a design for engineering for foundation systems that Conex containers will be sitting on. City Inspectors will need to see any improvement done prior. In order to do inspections, digging up of past foundation/electrical/plumbing may be required.

B.11. The deli/café, restroom, and food trailer will be required to connect to City water and sewer in accordance with City standards and the conditions set forth in Section C below.

C. Engineering Division Conditions of Approval

C.1. Encroachment Permits

All construction activity involving public improvements will require an encroachment permit. Any construction activity involving public improvements without an encroachment permit is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer and City Design Documents. Prior to releasing an encroachment permit, the Developer shall provide all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.1.1. Off-site and/or Public Infrastructure Improvement Plans prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:

- C.1.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.
- C.1.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers such as benchmarks.
- C.1.1.c. Storm Water - The Project's on-site storm water drainage connection to the City's storm water system shall be approved by the City Engineer. Drainage calculations for the sizing of the on-site storm drainage system. Improvement Plans to be submitted with the hydrology and storm water.

Storm drainage release point is a location at the boundary of the Project adjacent public right-of-way where storm water leaves the Property, in a storm event and that the Property's on-site storm drainage system fails to function or it is clogged. Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an adjacent public right-of-way with

a functional storm drainage system and the existing storm drainage line has adequate capacity to drain storm water from the Property. The storm drainage release point is recommended to be at least 0.70-feet lower than the building finish floor elevation and shall be designed and improved to the satisfaction of the City Engineer.

The Project's permanent storm drainage connection(s) shall be designed and constructed in accordance with City Regulations. The design of the permanent storm drainage connection shall be shown on the Grading and Drainage Plans with calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable requirements of the City's storm water regulations adopted by the City Council in 2012 and any subsequent amendments.

Developer and its heirs shall be responsible for repairing and maintaining the on-site storm water system and treatment basin [low impact development] at the Developer's (and heirs') sole cost and expense.

C.1.1.d. Sanitary Sewer - It is the Developer's responsibility to design and construct the Project's permanent on-site sanitary sewer (sewer) improvements including the Project's sewer connection in accordance with the City's Design Standards, City Regulations and Standard Specifications. Sewer improvements shall include but not limited to, replacing asphalt concrete pavement, reconstructing curb, gutter and sidewalk, restoring pavement marking and striping, and other improvements that are disturbed as a result of installing the Project's permanent sewer connection. Developer shall submit improvement plans that include the design of the sewer line from the Property to the point of connection. Developer shall also construct the recommended mitigations from the sanitary sewer technical memorandum.

C.1.1.e. Water Distribution - Developer shall design and construct domestic and irrigation water service that comply with the City Regulations. Water line sizing, layout and looping requirements for this Project shall comply with City Regulations. During the construction of the Project, the Developer is responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshal.

Interruption to the water supply to the existing businesses and other users will not be allowed to facilitate construction of improvements related to the Project. Developer shall be responsible for notifying business owner(s) and users, regarding construction work. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least seventy-two (72) hours before start of work. Prior to starting the work described in this section, the Developer shall

submit a Work Plan acceptable to the City that demonstrates no interruptions to the water supply, and Traffic Control Plan to be used during the installation of the off-site water mains and connections.

The Project's water service connections shall use a remote-read (radio-read) master water meter (the water meter to be located within City's right-of-way) and a Reduced Pressure Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection(s) must be completed before the inspection of the building. The location of the meters shall be approved by the City Engineer.

After improvement acceptance, repair and maintenance of the water service from the water meter to the point of connection with the water distribution main in the street shall be the responsibility of the City. Water service repairs after the water meter is the responsibility of the Developer or individual lot owner(s).

Prior to improvement acceptance, repair and maintenance of all on-site water lines, laterals, sub-water meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer or the individual lot owner(s).

All costs associated with the installation of the Project's water connection(s) including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street or parking area(s) that may be disturbed with the installation of the permanent water connection(s), or domestic water service, and other improvements shall be paid by the Developer.

C.1.1.f. Streets – The Developer shall have frontage improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City.

C.1.2. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the fee rate adopted by the City Council on September 2, 2014, per Resolution

2014-141 and on May 16, 2017, per Resolution 2017-098. Developer shall submit payment in the form of a check for the aforementioned fees.

- C.1.3. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

Access and Traffic Circulation to Existing Businesses/Residents - Developer shall take all steps necessary to plan and construct site improvements such that construction operations do not impact safety and access (including emergency vehicles) to the existing businesses and residents throughout the duration of construction. Developer shall coordinate with the owners and cooperate to minimize impacts on existing businesses. All costs of measures needed to provide safe and functional access shall be borne by the Developer.

- C.1.4. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.
- C.1.5. If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.
- C.1.6. Improvement Security - Developer shall provide improvement security for all public facilities, as required by the encroachment permit. The form of the improvement security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

Insurance – Developer shall provide written evidence of insurance coverage that meets the terms of the encroachment permit.

C.2. Building Permit

Prior to the release of a building permit within Project boundaries, the Developer shall demonstrate, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

- C.2.1. Developer shall submit a separate building permit for the demolition of any existing structures.
- C.2.2. Developer shall pay all development impact fees.

C.3 Acceptance of Public Improvements

Prior to the consideration of City Council's acceptance of public improvements, the Developer shall demonstrate to the reasonable satisfaction of the City Engineer, completion of the following:

- C.3.1. Developer has satisfied all the requirements set forth in these Conditions of Approval.
- C.3.2. Developer has satisfactory completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.3.3. Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.
- C.3.4. Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.3.5. Survey Monuments – Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.4 Special Conditions

- C.4.1. When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.
- C.4.2. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.
- C.4.3. Prior to the release of the Building Permit, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.
- C.4.4. Prior to acceptance of the public improvements, Developer shall cause its design professional to provide to the City in both AutoCAD format, and Shape (GIS) File format (both in versions approved by the City) the public improvements associated with this Project.

D. Development Services Department, Building & Fire Safety Conditions

Contact: Chris Morgan (209) 831-6415 chris.morgan@cityoftracy.org

- D.1. Prior to commencement of construction, applicant shall submit a building permit application to the Building Safety division along with, providing architecturally designed construction drawings by a California licensed designer for the entire proposed scope of work. This scope of work will include detailed drawings for the altered shipping containers and foundations for the containers, all underground utility connections and those utilities that were installed without permits will need to be exposed at the connection points during the inspection process. Provide drawing details for an ADA compliant restroom, seating, and path of travel requirements on the site. Provide details for all mechanical exhaust, plumbing and electrical components on site as well as in the containers. These items will be required to conform to the current Title 24 California Code of regulations and Tracy Municipal Code at time of submittal.

- D.2. Prior to the construction of onsite improvement including but not limited to walks, sidewalks, utilities, signs, lights, retaining walls, sound walls, underground vaults, transformer, trellis, trash enclosures, etc., applicant shall submit to the Building Safety Division construction drawings that clearly show all underground utility connection locations from the point of city connection to the three separate structures on site. Each structure will be required to hook up to water, sewer, and electrical services. All services will be clearly shown on the site plan to include proper sizing of pipe, conduit, electrical wiring, and trench depth details. These items will be required to conform to the current Title 24 California Code of Regulations and Tracy Municipal Code at time of application submittal.
- D.3. Prior to commencement of construction, applicant shall submit to the Building Safety division construction drawings that include an accessible route to all the site accessible areas. The established path of travel shall be a hard packed surface and not to exceed a 2% cross slope at any point along the established path. The accessible path route includes but is not limited to point of sale (food trailer and shipping container serving food), outdoor seating for dining, (5% of total seating shall be ADA compliant), toilet facilities (provide at least one ADA compliant Unisex restroom) within site arrival points per CBC 11B-206.
- D.4. Prior to commencement of construction, applicant shall submit to the Building Safety division construction plans that demonstrate appropriate fire resistive barrier between proposed structures and lot lines per CBC 705.5.
- D.5. Prior to commencement of construction, applicant shall submit to the Building Safety division construction plans that demonstrate compliance with CMC 502.2.3 for kitchen exhaust terminations.

E. South San Joaquin County Fire Authority Conditions

Contact: Daniel Stowe (209) 831-6707 daniel.stowe@sjcfire.org

- E.1 Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.
 - E.1.1. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.
- E.2. Include the following on a site plan during the application of construction permits:
 - E.2.1. One 2A-10BC fire extinguisher shall be placed in the courtyard.
 - E.2.2. One Class K fire extinguisher shall be located in Food Trailer.
 - E.2.3. Provide semiannual certification of hood suppression system for Food Trailer
 - E.2.4. Provide one 2A-10BC fire extinguisher in Deli Container.

F. Utilities and Operations Conditions

Contact: Stephanie Hiestand (209) 831-6333 Stephanie.Hiestand@cityoftracy.org

- F.1 The applicant shall comply with all permitting and operational requirements regarding waste disposal and discharges of fats, oils, and grease of Tracy Municipal Code Chapters 5.24 and 5.26 to the satisfaction of the Operations and Utilities Director.

G. The following conditions provide the applicant with options for funding required Citywide services.

Contact: Guadalupe Pena 209.831.6834 Guadalupe.pena@cityoftracy.org

G.1. Streets and Streetlights

Before issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure"), by doing one of the following, subject to the approval of the City's Finance Director:

- a. Community Facilities District (CFD). Developer shall enter into an agreement with the City, to be signed by the Finance Director, which shall be recorded against the Property, which requires that prior to the final inspection, Developer shall complete the annexation of the Property to City of Tracy Community Facilities District in compliance with the requirements of the Mello – Roos Community Facilities Act of 1982 (Gov. Code § 53311 et seq.) including, without limitation, affirmative votes, and the recordation of a Notice of Special Tax Lien. Developer shall be responsible for all costs associated with the CFD proceedings.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, Developer must do the following:
- 1) Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");
 - 2) Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) of the POA to ensure the on-going costs of the

operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");

- 3) Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of operation, maintenance and replacement for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure"). The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

- c. Direct funding. Developer shall enter into an agreement with the City, which shall be recorded against the Property, which requires that prior to approval of final inspection, Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure").

If the provisions for adequate funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure") are met prior to issuance of the building permit for the Property, subject to the Finance Director's review and approval, the terms of this condition shall be considered to have been met and this condition shall become null and void.

G.2. Landscaping Maintenance

Prior to issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of operation, maintenance and replacement for public landscaping for the Property at a high-quality service level as determined by the Parks Director by doing one of the following, subject to the approval of the City's Finance Director:

- a. CFD or other funding mechanism. The Developer shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates the

following: (1) prior to issuance of a building permit, the Developer shall form or annex into a Community Facilities District (CFD) for funding the on-going costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan; (2) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems; masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails; (3) formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien; (4) upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment; (5) prior to issuance of a building permit, the Developer shall deposit an amount equal to the first year's taxes; and (6) the Developer shall be responsible for all costs associated with formation or annexation of the CFD.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, the Developer must do the following:
1. Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going maintenance of all public landscaping areas that will serve the Property;
 2. Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) to ensure the long-term maintenance by the POA of all public landscape areas that will serve the Property;
 3. Make and submit to the City, in a form reasonably acceptable to the City, an irrevocable offer of dedication of all public landscape areas that will serve the Property;
 4. Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of public landscape maintenance. The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

- c. Direct funding. The Developer shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates that prior to issuance of a building permit, the Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails.

Agenda Item 1.C

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

- 1) APPROVING A DEVELOPMENT REVIEW PERMIT FOR THE TRIANGLE PLAZA COMMERCIAL DEVELOPMENT ON A 1.91-ACRE SITE LOCATED AT 3788 N. TRACY BLVD., APN 212-250-01 & 02;**
- 2) APPROVING A 20% OFF-STREET PARKING SPACE REDUCTION PURSUANT TO TRACY MUNICIPAL CODE SECTION 10.08.3740(E); AND**
- 3) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PER SECTION 15332.**

THE APPLICANT IS TECTA ASSOCIATES AND THE PROPERTY OWNER IS 3788 TRACY LLC, APPLICATION NUMBER D21-0006.

EXECUTIVE SUMMARY

Through this item, staff recommends that the Planning Commission approve a Development Review Permit for the development of three drive-through restaurants and a gasoline fueling station and convenience store located at 3788 N. Tracy Blvd (the southeast corner of Tracy Blvd. and Larch Rd).

BACKGROUND

On February 2, 2021, the City received a development review permit application for a commercial development at 3788 N. Tracy Boulevard (Attachment A). The site is located at the southeast corner of Tracy Boulevard and Larch Road and is comprised of two lots totaling 1.91 acres. The project site is currently undeveloped and surrounded by commercial development, including a motel immediately adjacent to the east and an eating and drinking establishment (restaurant) to the south. The project proposal includes a 2,670 square-foot restaurant with drive-through and a 2,900 square-foot restaurant with drive-through on the northern 1.2-acre lot. Proposed on the southern 0.71-acre lot is a gasoline service station with eight pumps under a 2,701-square foot fueling canopy and a building comprised of a 2,400 square foot restaurant with drive-through and a 4,400 square foot retail convenience store. Associated parking and landscaping are proposed throughout the project site, and the applicant has requested a 20% off-street parking space reduction in accordance with Tracy Municipal Code (TMC) Section 10.08.3470(e).

Development review is regulated by TMC Title 10 Article 30. Because the project site is located within 500 feet of a freeway, the subject Development Review Permit is a Tier 2 application subject to Planning Commission review in accordance with TMC Section 10.08.3950.

ANALYSIS

Architecture

As shown in Attachment A, the proposed buildings are designed with modern architecture consisting of beige and white stucco and light gray stone walls, metal accents, and storefront glazing. The fueling canopy columns will be comprised of matching stucco with a stone base. The buildings utilize recesses and pop-outs, varied wall heights, significant cornice caps, and horizontal bands protruding from the wall. Some walls will be decorated with climbing vines. The use of these design elements, combined with the use of colorful accent colors and score lines provide visual interest in a manner that achieves the City's goals for high quality architecture.

Circulation and Parking

The site will be served by two driveways; one on Tracy Boulevard and one on Larch Road. There is an existing 35-foot-wide access easement from the driveway on Tracy Boulevard to the adjacent motel, which will also serve as a drive aisle for the project. Through-circulation is provided throughout the parking areas as required by the TMC, and a varied landscape palette comprised of a combination of trees, shrubs, and groundcover, including an evergreen hedge screening the drive-through lanes from Tracy Boulevard and Larch Road, is proposed with this project.

In accordance with City zoning regulations, the project requires a minimum of 92 parking spaces, and the project proposes to provide 74 spaces, which is 80% of the amount of spaces required by TMC Title 10 Article 26. However, TMC Section 10.08.3470(e) allows the Planning Commission to make a determination regarding an off-street parking space reduction of up to 20% if a parking study or other written documentation to the satisfaction of the Development Services Director was submitted that documents such off-street parking spaces will not be necessary to mitigate parking demands for the project. The TMC also states that in making a determination regarding an off-street parking space reduction, the following shall be taken into account: the parking study; the availability of nearby on- or off-street parking; accessibility to nearby public transit; the City site planning design goals; and other relevant information.

The applicant submitted a parking demand memorandum which cites the Institute of Transportation Engineers (ITE) *Parking Generation Manual, 5th Edition* (Attachment B) to the satisfaction of the Development Services Director as required by the TMC. While the applicant did not perform any parking surveys of similar projects, the memorandum documents parking demands that ITE surveyed at numerous retail and restaurants with drive-throughs, concluding that when combined with the drive-through queue lanes and gasoline pump stations, typical parking demand of a project of this size is approximately 70 parking stalls. While drive-through queuing and pump stations do not qualify as off-street parking, it is reasonable to acknowledge that there is overlap between customers shopping at the convenience store while pumping fuel. Therefore, staff is in agreement with the conclusion of the memorandum. There is no availability of on-street parking on Tracy Boulevard or Larch Roads, but the project provides 74 off-street parking spaces onsite. There are also bus stops less than a ¼-mile from the site, which is a walkable distance. Furthermore, it is also reasonable to expect that should patrons come to the site and not be able to find parking, the in-and-out nature of the fast-food restaurants and convenience stores is likely to result in quick turnover of parking becoming available. At peak mealtimes when turnover may not be as quick, patrons would simply be likely to leave and go elsewhere. Therefore, the development is expected to work with fewer off-street parking spaces

than is typically required by the TMC. Based on these considerations, staff recommends that the Planning Commission grant the project a twenty percent off-street parking space reduction.

The project will be built across two lots, where the northerly lot contains two drive-through restaurant buildings and 48 parking spaces, and the southerly lot contains the drive-through restaurant/convenience store building, gasoline fueling station, and 26 parking spaces. Based on the off-street parking requirements for these uses, and assuming the requested 20% reduction in parking is granted, the uses on the northern lot would require 44 spaces and the uses in the southern lot would require 30. Because some of the parking needed to serve the uses on the southern lot will be provided on the northern lot, a covenant shall be recorded that allows for shared parking and access between the lots and requires the maintenance of the parking area in accordance with TMC Section 10.08.3460.

Consistency with General Plan Policies and City Standards

The project site is designated Commercial in the Tracy General Plan and zoned Highway Service (HS). Eating and drinking establishments and auto services are permitted uses in this land use designation and zone district.

As evidenced in the analysis above, this proposed design meets the City's objectives for high quality design as required by the Tracy General Plan and the City of Tracy Design Goals and Standards, including the following:

General Plan Community Character Element

Goal CC-1 *Superior design quality throughout Tracy.*

Objective CC-1.1 *Preserve and enhance Tracy's unique character and "hometown feel" through high-quality urban design.*

Policy P3. *All new development and redevelopment shall adhere to the basic principles of high-quality urban design, architecture and landscape architecture including, but not limited to, human-scaled design, pedestrian-orientation, interconnectivity of street layout, siting buildings to hold corners, entryways, focal points and landmarks.*

Goal CC-7 *High quality architecture, site planning and landscaping in the I-205 Regional Commercial Area.*

Objective CC-7.1 *Ensure that future development in the I-205 Regional Commercial Area enhances its attractiveness and provides multi-modal access.*

Policy P4. *Building architecture in the I-205 Regional Commercial Area shall be of the highest quality.*

Design Goals and Standards

Site Planning & Design

GOAL 1. *To integrate automobile, pedestrian, and alternative travel methods into site planning for optimal results for both the consumer and the business owner.*

Architecture

GOAL 1. *To promote well-designed structures through attention to rich architectural details.*

GOAL 2. *To meet or exceed the highest quality design offered by projects having corporate identity.*

Landscape

GOAL 2. *To maximize and balance landscape areas throughout each site.*

Findings

Development Review Permits must meet the requirements set forth in TMC Section 10.08.3920. Before approving a Development Review Permit, the Planning Commission must make the following findings:

- (a) That the proposal increases the quality of the project site, and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy; and
- (b) That the proposal conforms to this chapter, the general plan, any applicable specific plan, the Design Goals and Standards, any applicable Infrastructure Master Plans, and other City regulations.

Staff recommends that the Planning Commission make the requisite findings for this project based on the evidence in the record, including, without limitation, the following:

- (a) The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed project would develop an existing vacant site that is surrounded by commercial development. The proposed building and landscaped parking area meet the City's objectives for high quality design. The proposed buildings and fueling canopy are architecturally interesting in that they utilize building materials such as stone, metal accents, and storefront glazing and design elements including recesses and pop-outs, varied wall heights, significant cornice caps, and horizontal bands protruding from the wall, colorful accent colors, and score lines in the stucco. The architectural themes are present on all sides of the buildings, and rooftop equipment will be hidden from view behind building parapets. Through-circulation is provided throughout the site, and the parking area will serve all onsite buildings as well as provide vehicular access from the street to an adjacent existing development. In furtherance of the City's landscaping goals, a significant amount of landscaping, including a variety of canopy and accent trees, is proposed throughout the parking area, on the site's perimeter, and around the buildings, including an evergreen hedge to screen the drive-through lanes from views from the streets.
- (b) The proposal, as conditioned, conforms to the Tracy Municipal Code (TMC), the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, because the proposed development will comply with all applicable City and state regulations for building design and construction, off-street parking and circulation, and landscaping.
- (c) The proposed number of off-street parking spaces is 20 percent fewer than the number otherwise required in TMC Section 10.08.3480. The number of off-street parking spaces proposed will be sufficient for the project and is approved in accordance with TMC Section 10.08.3470(e), off-street parking space reduction. In accordance with TMC Section 10.08.3470(e), the applicant submitted a Parking Demand Study Technical Memo, prepared by TJKM Transportation Consultants, using Institute of Traffic Engineers research data to support the conclusion that 74 off-street parking spaces is sufficient to mitigate the parking demands of this project.

The project includes multiple uses and users (restaurants, automobile service station, and a retail convenience store) which will all share the off-street parking spaces. Parking demands from customers and employees will be spread between the peak parking times of the various businesses. Although the automobile service station fueling locations do not count as off-street parking spaces, some customers will utilize the retail convenience store while their vehicle is fueling or otherwise located in a fueling spot, thereby not using a formally designated parking space for retail store visits. The restaurants have sufficiently long drive-thru lanes to provide for significant queuing of vehicles. Some vehicles' passengers may utilize restrooms or other on-site retail or restaurant uses while their vehicle is in a drive-thru lane, thereby reducing parking demand. On-street parking is not allowed on either of the two fronting public rights-of-way: Tracy Boulevard and Larch Road. And therefore, if parking demand were to exceed the on-site supply, vehicles would not overflow onto the right-of-way, and instead would seek commodities or service elsewhere or at a different time and not adversely impact on-street parking. Public bus stops, furthermore, are within one-quarter mile of the project site, thereby enabling employees or customers to access the site via public transportation and additionally reduce the demand for off-street parking spaces.

PUBLIC OUTREACH/ INTEREST

A public hearing notice for the project was mailed to all property owners within a 300-foot radius of the project site, posted on the City website, and also published in the Tracy Press, and the Planning Commission agenda packet was posted on the City website, City Hall, and the Tracy Branch Library.

COORDINATION

This development application was reviewed by multiple City Departments, the South San Joaquin County Fire Authority, Tracy Delta Disposal, PG&E, San Joaquin Council of Governments, San Joaquin County Environmental Health, and the Air Pollution Control District as part of the City's normal application review process. This staff report was prepared by the Development Services Planning Division.

CEQA DETERMINATION

The proposed project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15332, which pertains to certain in-fill development projects. Because the project is consistent with the General Plan and Zoning, occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, has no value as habitat for endangered, rare or threatened species, would not result in any significant effects relating to traffic, noise, air quality, or water quality, and can be adequately served by all required utilities and public services, no further environmental assessment is necessary.

ACTION REQUESTED OF THE PLANNING COMMISSION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

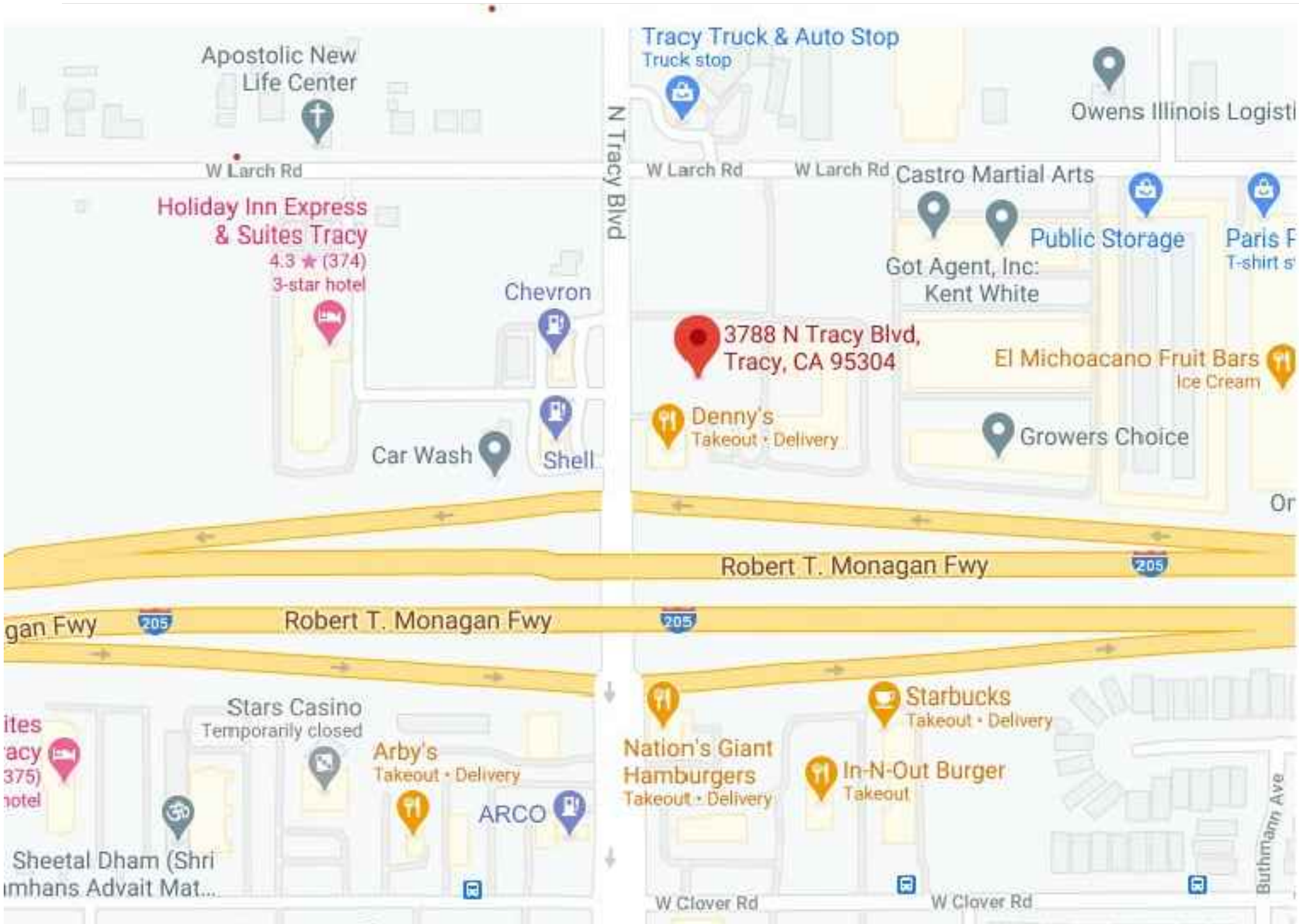
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Prepared by: Kimberly Matlock, Associate Planner
Reviewed by: Alan Bell, Senior Planner
Bill Dean, Assistant Development Services Director
Approved by: Karin Schnaider, Assistant City Manager

Attachments:

Attachment A – Vicinity map, renderings, and site, floor, elevation, section, civil, and landscape plans received on May 31, 2023
Attachment B – Parking Reduction Study received on March 28, 2023
Attachment C – Planning Commission Resolution
Exhibit 1 – Findings
Attachment 1 – Conditions of Approval

QUICK SERVE RESTAURANTS & GAS STATION
TRIANGLE PLAZA
3788 TRACY BLVD, TRACY.



DIRECTORY

ARCHITECT

TECTA ASSOCIATES
2747 19TH STREET
SAN FRANCISCO, CA 94110

CONTACT: AHMAD MOHAZAB
TEL: 415.362.5857
FAX: 415.362.5044
EMAIL: Ahmad@tecta.com

CIVIL ENGINEER

NORTH STAR
ENGINEERING GROUP INC.
620 12TH ST.
MODESTO, CA 95354

CONTACT: JOHN ELLIS
TEL: (209) 524 35 25
EMAIL: Jellis@nseng.net

PARKING CONSULTANT

TJKM
4305 HACIENDA DRIVE, STE 550
PLEASANTON, CA 94588

CONTACT: CHRIS KINZEL
TEL: (925) 264 5006
EMAIL: CKINZEL@tjkm.com

OWNER

3788 TRACY LLC
2620 OLD FIRST STREET
LIVERMORE, CA 94550

CONTACT: HAMID AMINI
TEL: 925.819.2340
EMAIL: HAMINI10@GMAIL.COM

LANDSCAPE ARCHITECT

SAM HARNED LANDSCAPE
ARCHITECTURE
P.O. BOX 2275
OAKDALE, CA 95361

CONTACT: SAM HARNED
TEL: (209) 380 7376
EMAIL: sam@harnedla.com

PROJECT DATA

SITE ADDRESS: 3788 TRACY BLVD.
TRACY, CA 95376

APN: 212-250-01
LOT 1
APN: 212-250-02
LOT 2

LOT 1
AREA: 52,272 SQ.FT. (1.2 ACRE)
LOT 2
AREA: 30,927.6 SQ.FT. (0.71 ACRE)

ORIGINAL TOTAL SITE AREA:
CURRENT ZONING: HS (HIGHWAY SERVICE)
OCCUPANCY:

PARKING PROVIDED

LOT 1	
PARKING PROVIDED (FULL SIZE):	32
PARKING COMPACT:	16
TOTAL PARKING ON LOT 1	48
H/C PARKING:	2
ELECTRIC VEHICLE(10 % TOTAL 32):	2
H/C ELECTRIC VEHICLE:	1
BICYCLE :	4

LOT 2	
PARKING PROVIDED (FULL SIZE):	22
PARKING COMPACT:	4
TOTAL PARKING:	26
H/C PARKING:	2

DRAWING INDEX

ARCHITECTURAL DRAWINGS

- A0.0 COVER SHEET
A0.1 TABULATION OF AREAS
A0.2 CONTEXT MAP
A0.3 RENDERINGS
- A1.0 PROPOSED SITE PLAN
- A2.1 PROPOSED QSR1 PLAN
A2.2 PROPOSED QSR2 PLAN
A2.3 PROPOSED CONVENIENCE STORE & QSR PLAN

- A3.1 PROPOSED QSR1 EXTERIOR ELEVATIONS
A3.2 PROPOSED QSR2 EXTERIOR ELEVATIONS
A3.3 PROPOSED CONVENIENCE STORE & QSR EXTERIOR ELEVATIONS
A3.4 PROPOSED CONVENIENCE STORE & QSR EXTERIOR ELEVATIONS
A3.5 PROPOSED TRASH ENCLOSURE EXTERIOR ELEVATIONS

- A4.0 TRANSVERSE SITE SECTIONS
A4.1 LONGITUDINAL SITE SECTIONS

CIVIL DRAWINGS

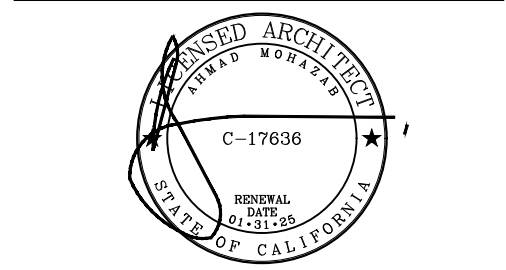
- C1.1 COVER SHEET
C2.1 TOPOGRAPHIC AND DEMOLITION PLAN
C3.1 DIMENSION AND PAVING PLAN
C4.1 GRADING AND DRAINAGE PLAN
C5.1 VEHICLE TRACKING PLAN
C6.1 COMPOSITE UTILITY PLAN

LANDSCAPE DRAWINGS

- CONCEPTUAL SITE PLAN
PARKING CALCULATION EXHIBIT

TECTA ASSOCIATES
2747 19th Street
San Francisco, CA 94110
Tel: 415.362.5857
Fax: 415.362.5044
www.tecta.com

8727 Venice Blvd. .
Suite 200
Los Angeles, CA 90034
PH: 213.335.2747



ARCHITECTURAL PROJECT NO.:

QUICK SERVE RESTAURANTS & GAS STATION
TRIANGLE PLAZA
3788 TRACY BLVD, TRACY.

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COVER SHEET

DRAWING NUMBER:

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AERIAL MAP



CORNER OF TRACY BLVD & LARCH ROAD



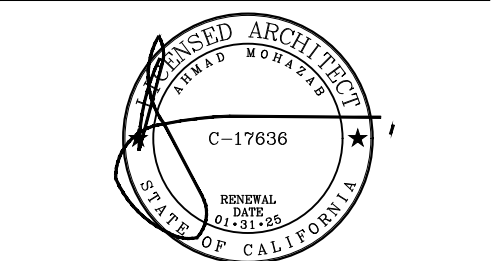
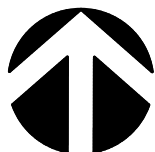
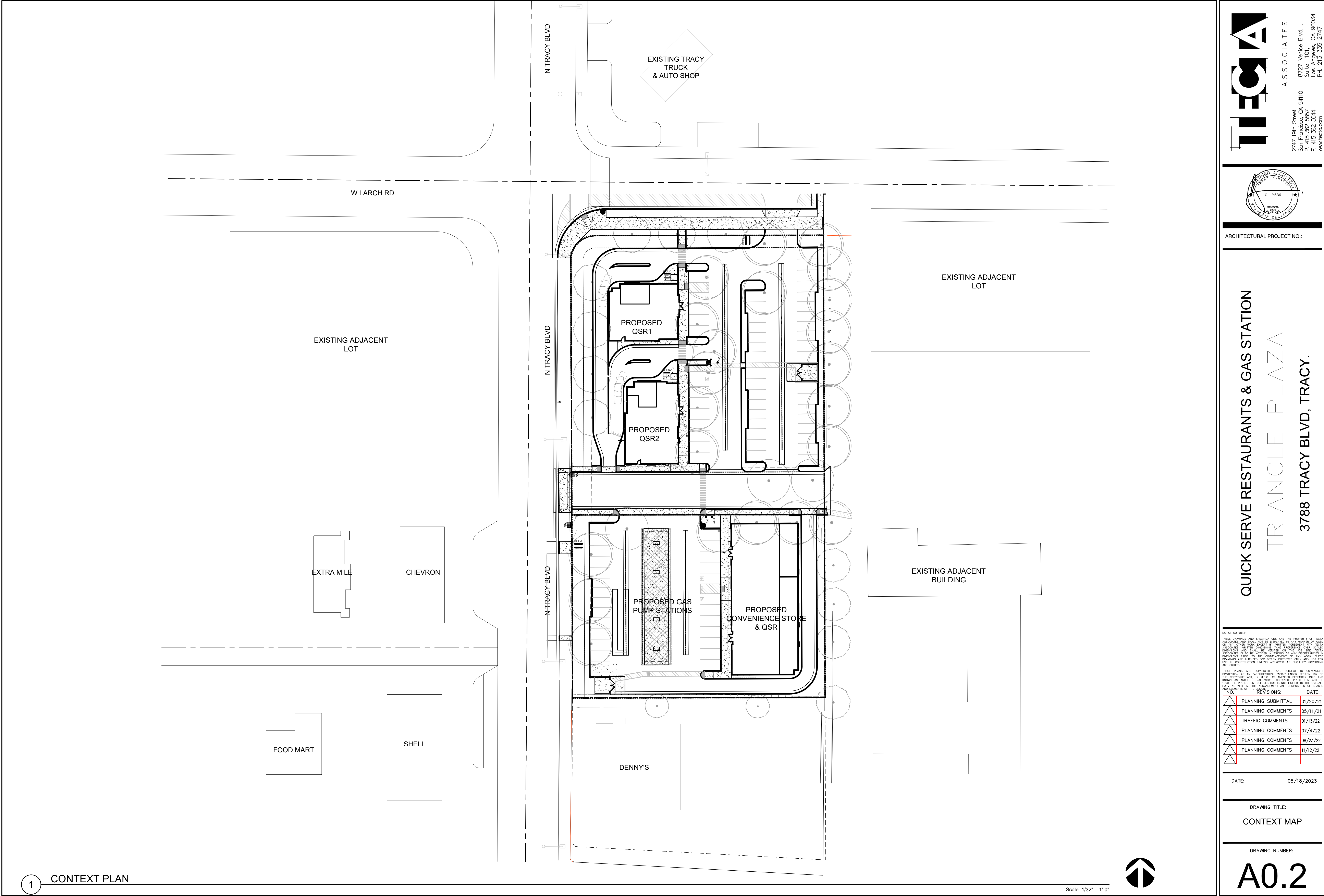
TRACY BLVD

LOT COVERAGE AREA

	LOT 1 (52,272 SQ. FT.)	LOT 2 (30,927 SQ. FT.)
QSR 1	2,670 SQ. FT.	--
QSR 2	2,900 SQ. FT.	--
QSR 3	--	2,400 SF. FT
CONVENIENCE STORE	--	4,400 SQ. FT.
TRASH ENCLOSURE 1	192 SQ. FT.	
TRASH ENCLOSURE 2	--	192 SQ. FT.
PARKING LOT (PAVEMENT & PEDESTRIAN PATHS)	17,285 SQ. FT.	12,153 SQ. FT.
DRIVE THROUGH QUEUING AISLE	5,971 SQ. FT.	3,330 SQ. FT.
GAS STATION CANOPY AREA	--	2,701 SQ. FT.
LANDSCAPE AREA	SEE CONCEPTUAL LANDSCAPE PLAN	

PATH OF TRAVEL DISTANCE TO TRASH ENCLOSURE

BUILDING	TRASH ENCLOSURE 1 (14'-5" W x 13'-4" D)	TRASH ENCLOSURE 2 (14'-5" W x 13'-4" D)
QSR 1	149'-8"	--
QSR 2	132'-6"	--
CONVENIENCE STORE	--	138'-8"
QSR	--	200'-0"



QUICK SERVE RESTAURANTS & GAS STATION
TRIANGLE PLAZA
3788 TRACY BLVD, TRACY.

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CONTEXT MAP

DRAWING NUMBER:

A0.2



QSR 1 & CONVENIENCE STORE VIEW FROM TRACY BLVD



CONVENIENCE STORE VIEW FROM DENNY'S PARKING LOT



QSR 1 & 2 FRONT VIEWS - PARKING LOT



QSR 1 & 2 FRONT VIEWS - FROM TRACY BLVD



QSR 3 - VIEW FROM MOTEL 6



QSR 1 & 2 FRONT VIEWS - FROM MOTEL 6 SIDE

QUICK SERVE RESTAURANTS & GAS STATION
TRIANGLE PLAZA
3788 TRACY BLVD, TRACY.

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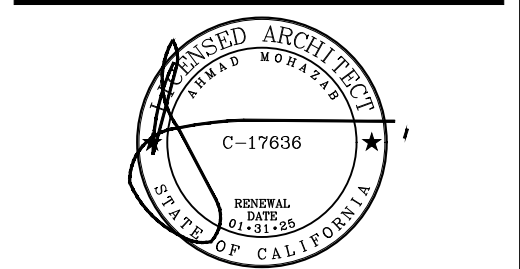
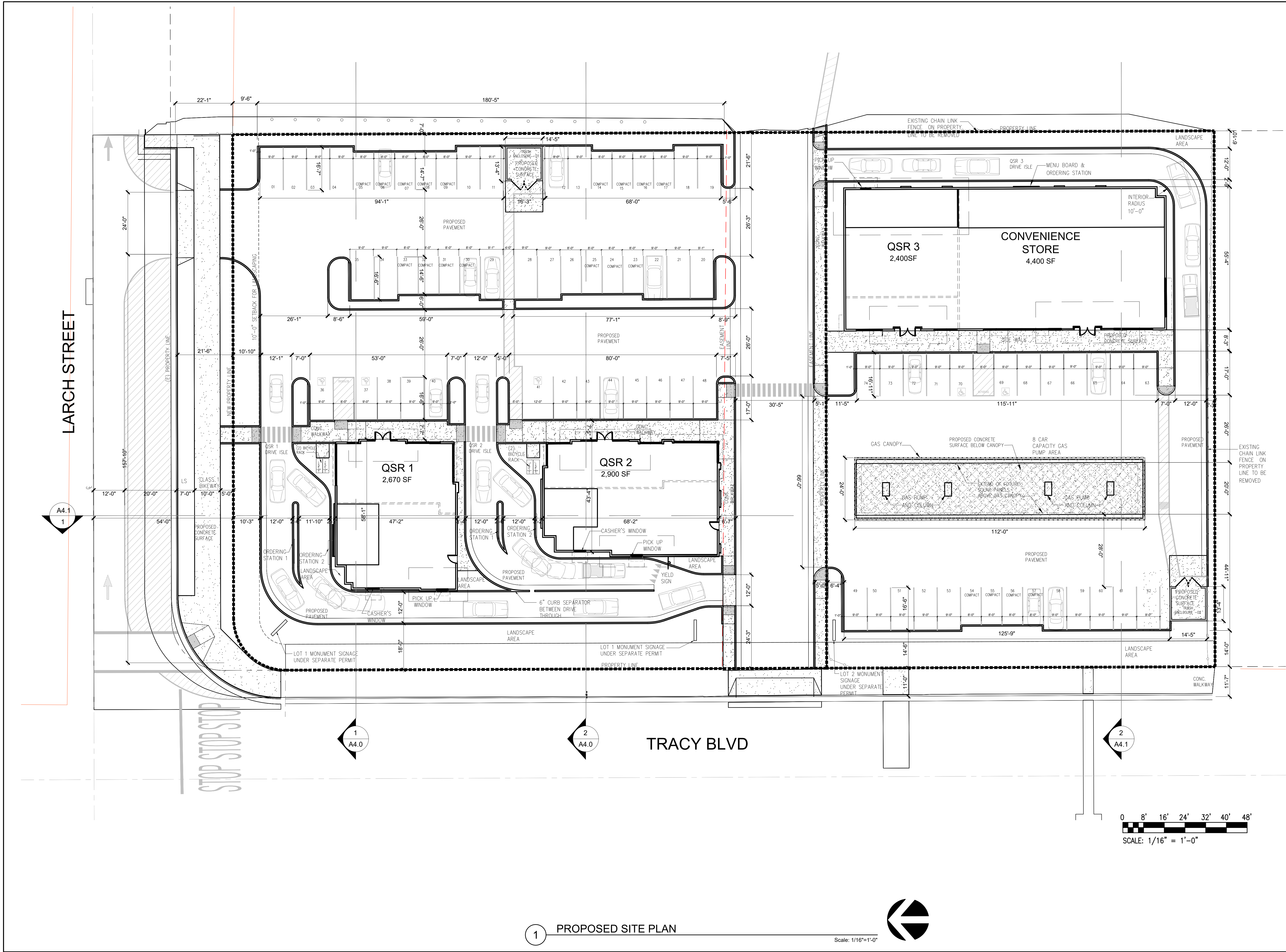
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RENDERINGS

DRAWING NUMBER:

A0.3



ARCHITECTURAL PROJECT NO.: 17638

QUICK SERVE RESTAURANTS & GAS STATION
TRIANGLE PLAZA
3788 TRACY BLVD, TRACY.

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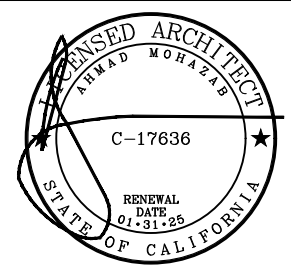
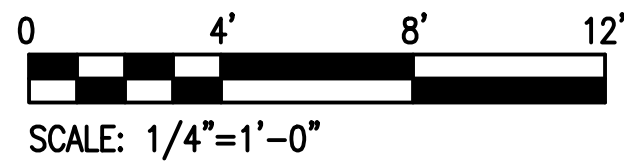
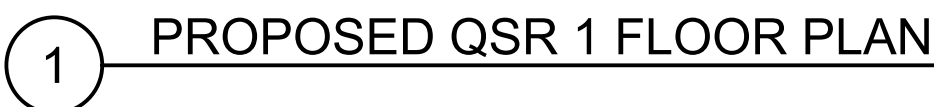
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DATE: 05/18/2023

DRAWING TITLE:
PROPOSED SITE PLAN

DRAWING NUMBER:

A1.0



ARCHITECTURAL PROJECT NO.:

QUICK SERVE RESTAURANTS & GAS STATION

TRIANGLE PLAZA

3788 TRACY BLVD, TRACY.

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<input type="checkbox"/>	PLANNING COMMENTS	05/11/21
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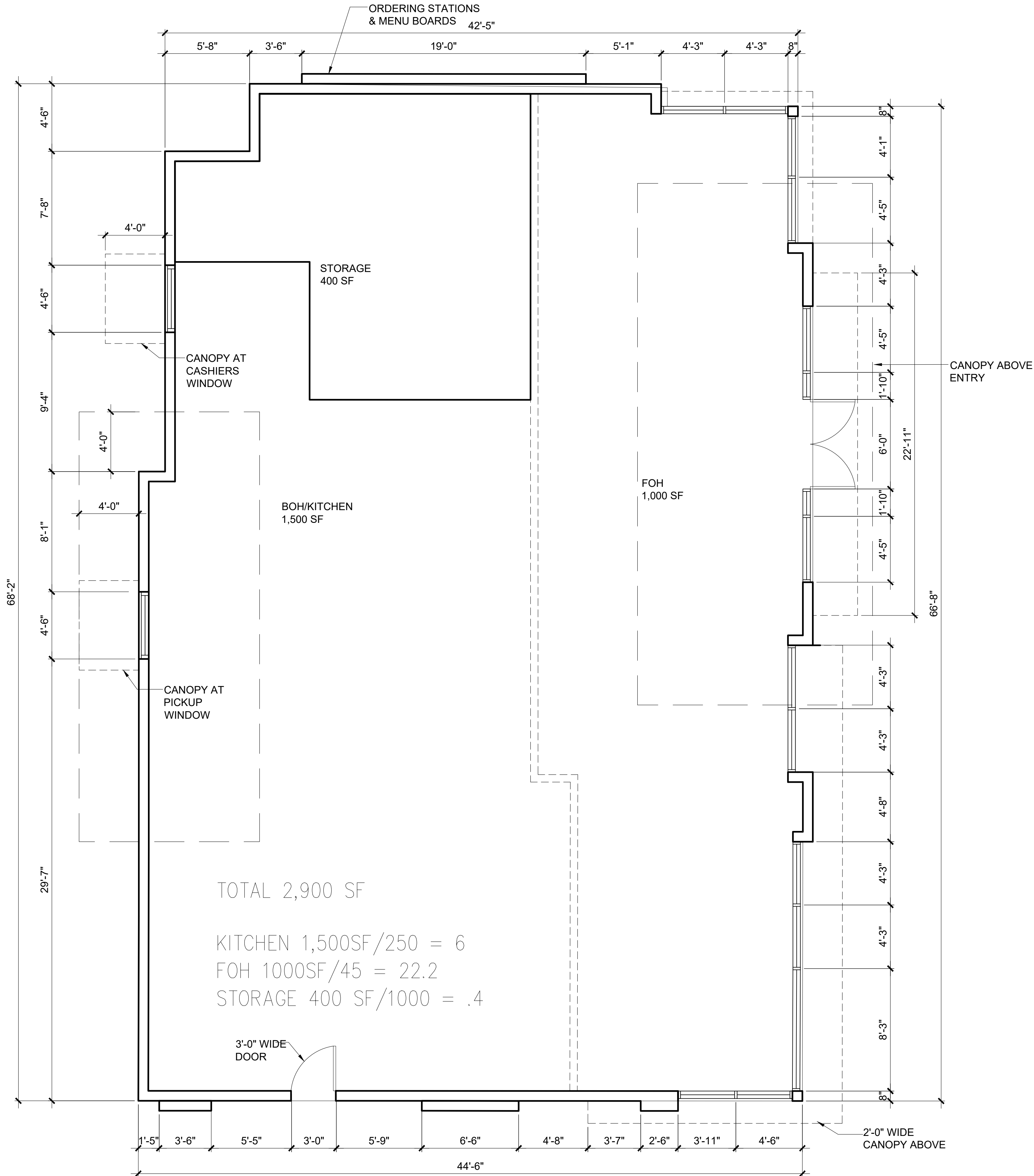
DATE: 05/18/2023

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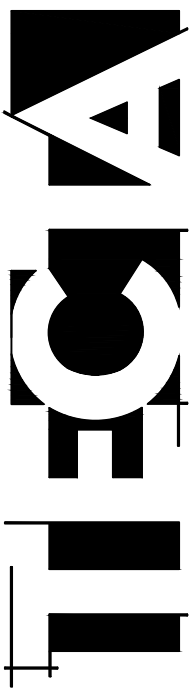
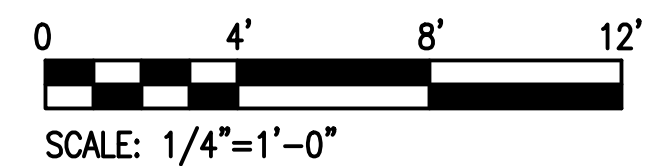
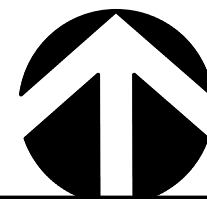
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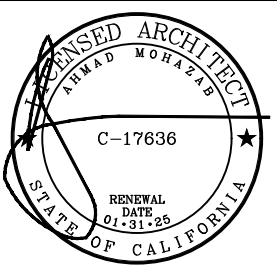
1 PROPOSED QSR 2 FLOOR PLAN

Scale: 1/4"=1'-0"



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San Francisco, CA 94110
F: 415 362 5044
www.teca.com

8727 Venice Blvd.,
Suite 100
Los Angeles, CA 90034
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ARCHITECTURAL PROJECT NO.:

QUICK SERVE RESTAURANTS & GAS STATION

TRIANGLE PLAZA

3788 TRACY BLVD, TRACY.

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6	PLANNING COMMENTS	11/12/22

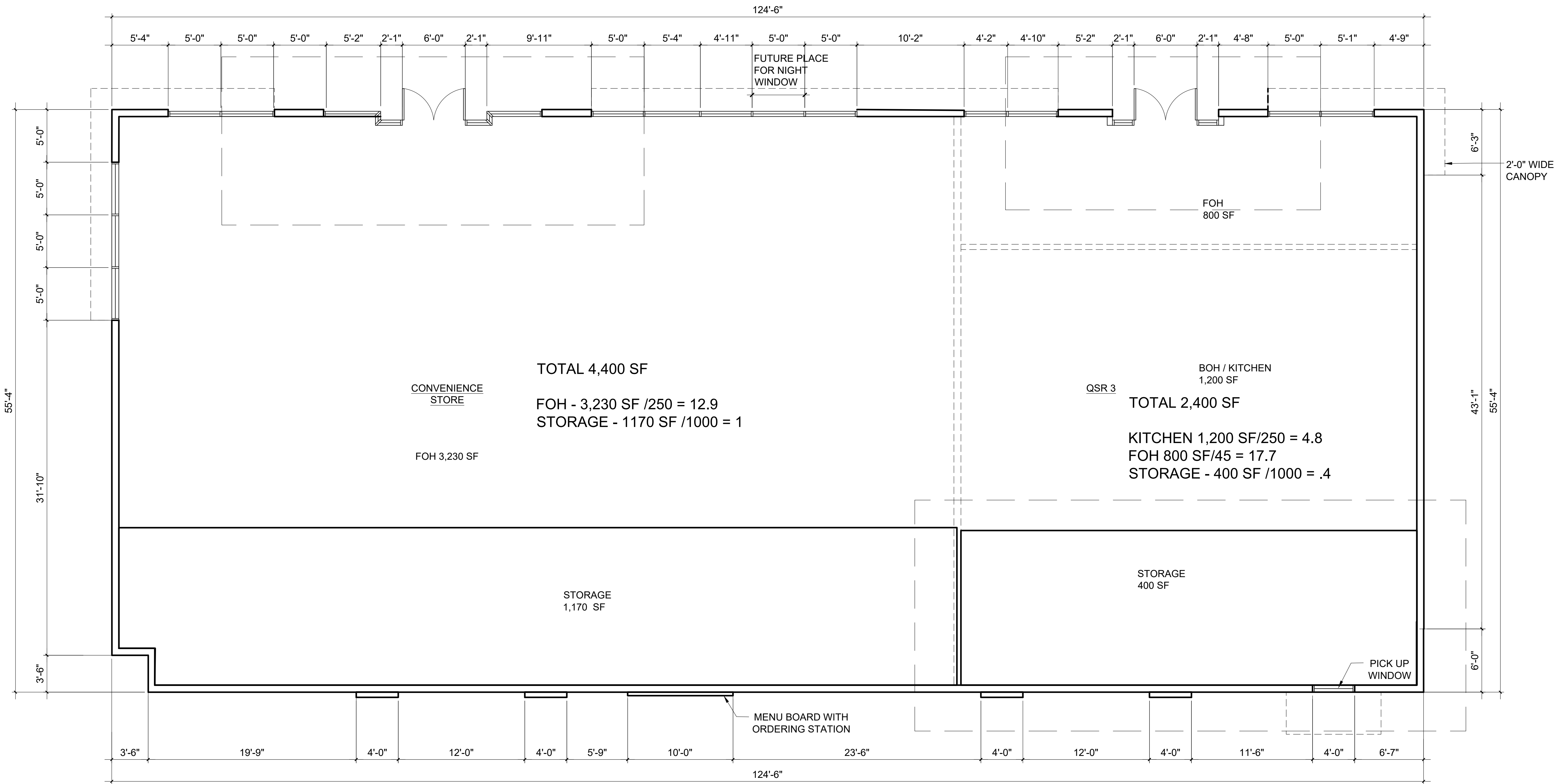
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DRAWING TITLE:

PROPOSED QSR 2
PLAN

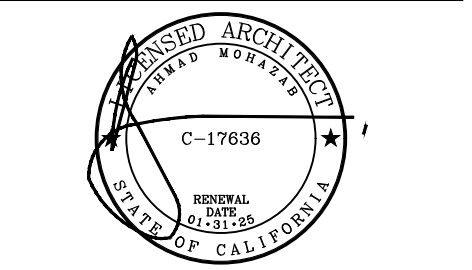
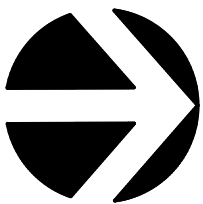
DRAWING NUMBER:

A2.2



1 PROPOSED CONVENIENCE STORE & QSR 3 FLOOR PLAN

Scale: 3/16"=1'-0"



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TRIANGLE PLAZA
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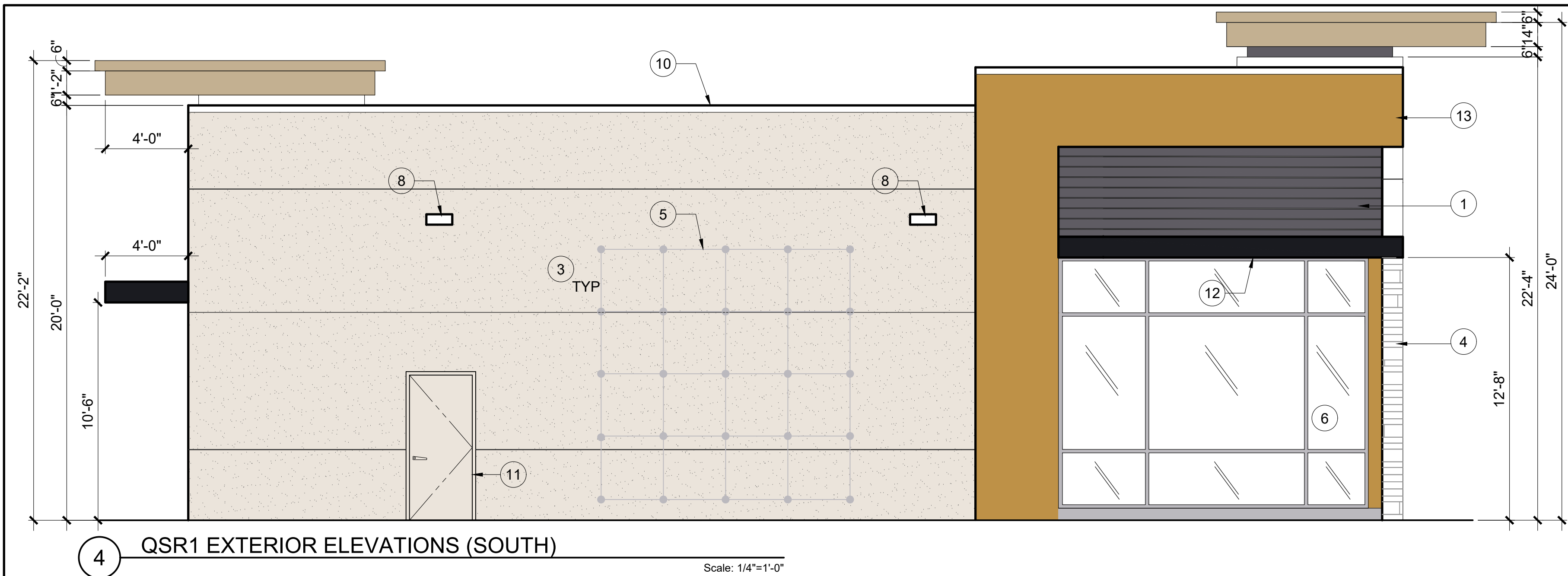
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DATE: 05/18/2023

DRAWING TITLE:
PROPOSED
CONVENIENCE STORE
& QSR 3 PLAN

DRAWING NUMBER:

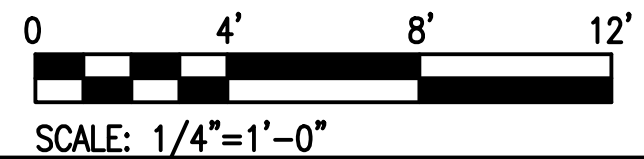
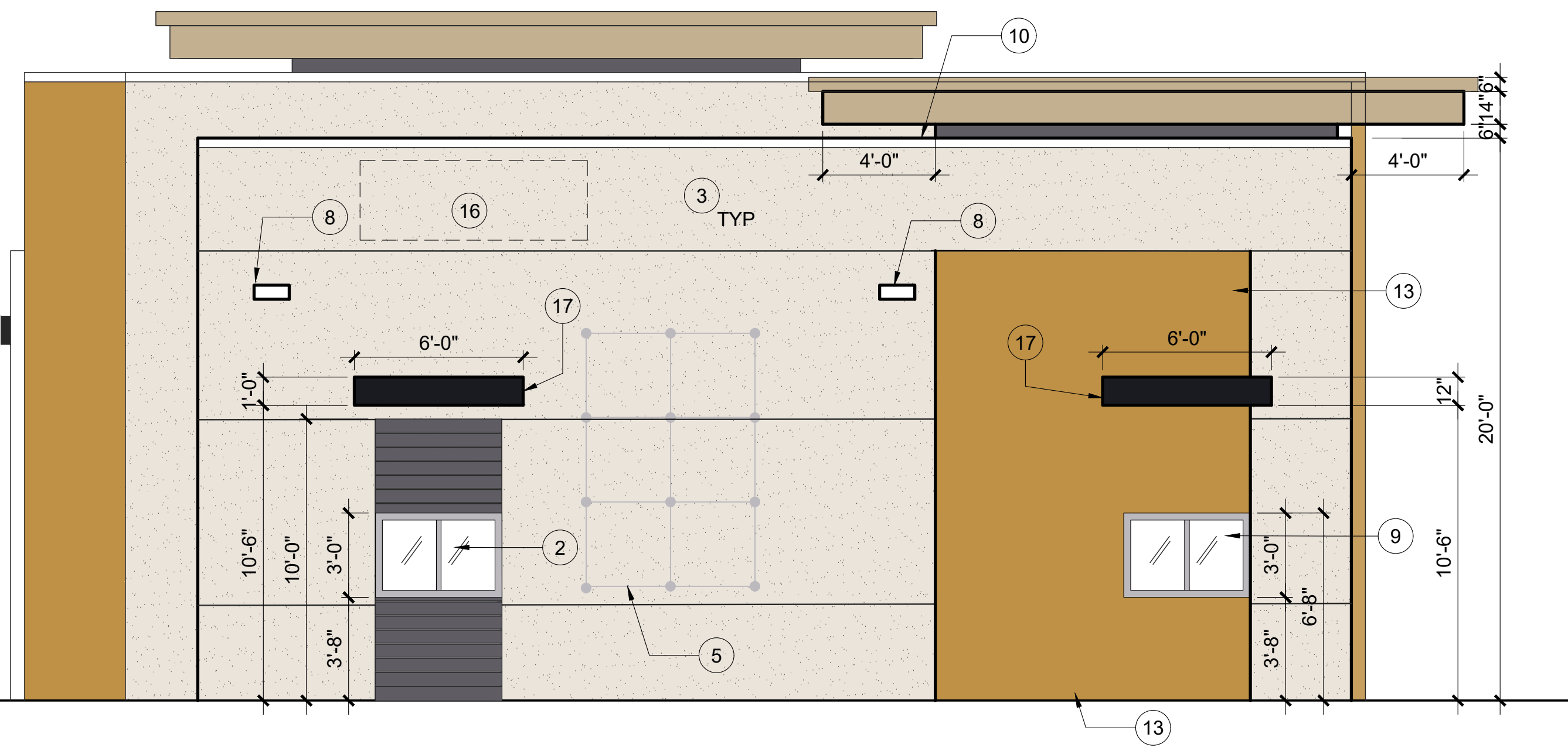
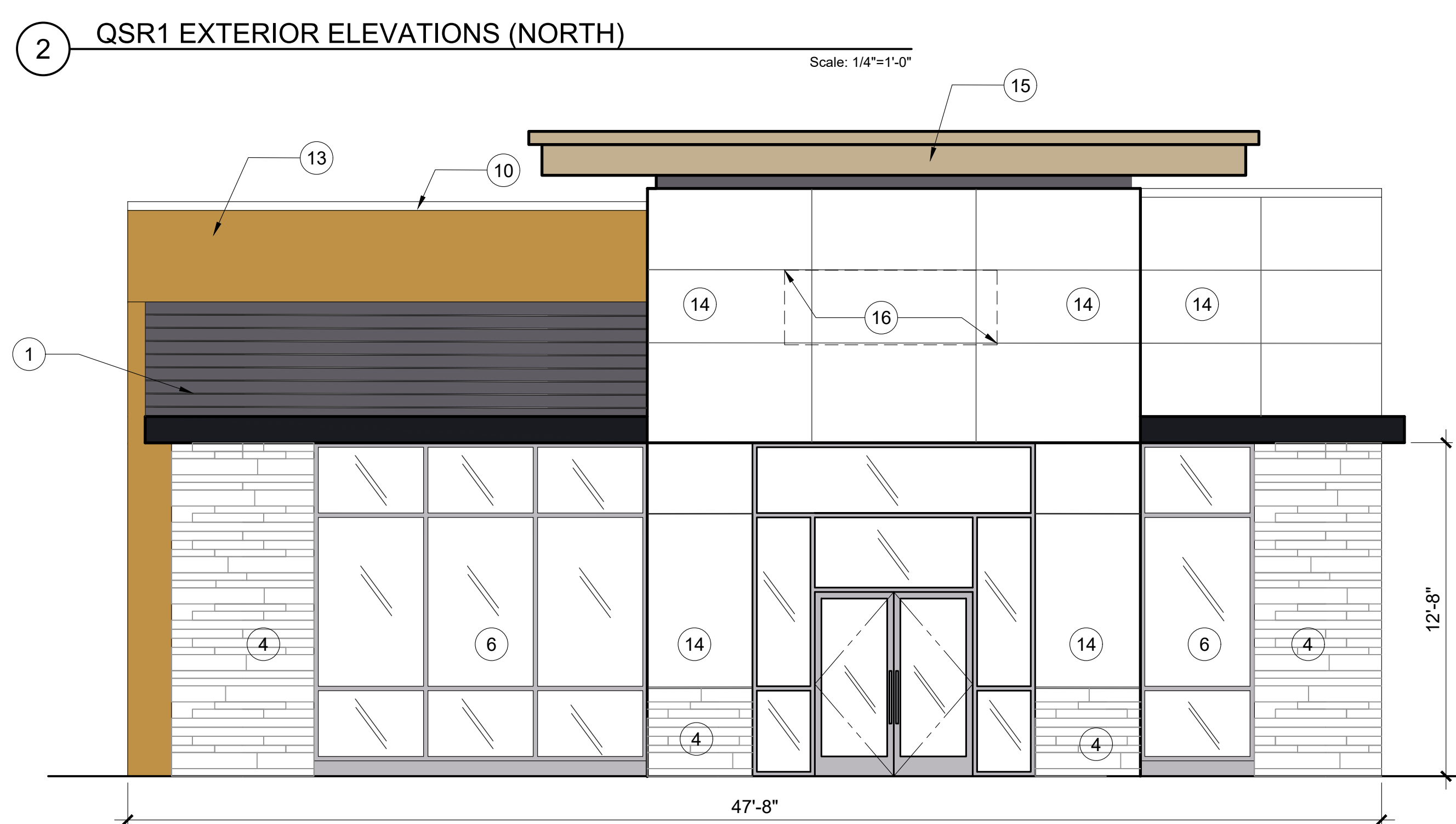
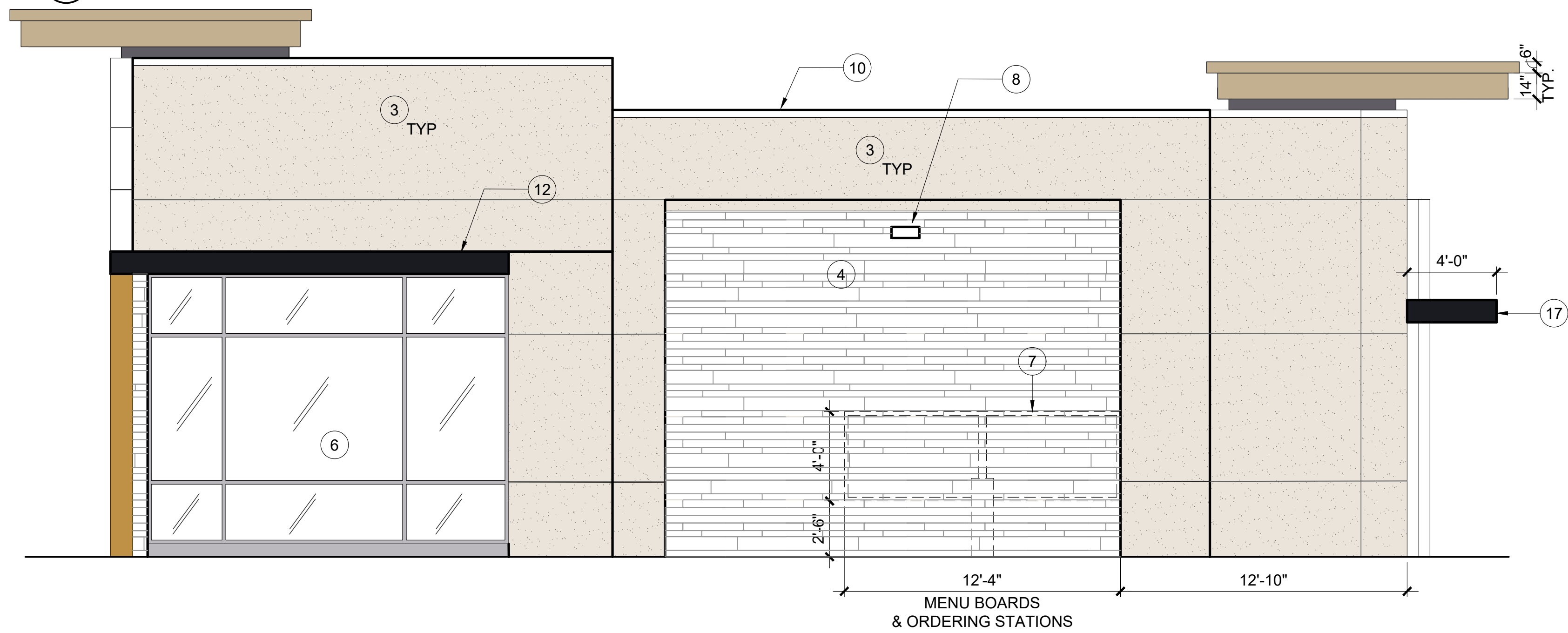
A2.3



LEGEND :

- STUCCO WALL, COLOR: BEIGE
- STUCCO WALL- ACCENT COLOR: MUSTARD
- HORIZONTAL CORRUGATED METAL PANEL SIDING, COLOR: GREY
- STUCCO WALL- ACCENT COLOR: WHITE
- STACKED STONE- COLOR: NORSTONE SILVER GREY QUARTZ PLANC

- KEY NOTES :**
- HORIZONTAL CORRUGATED METAL PANELS- COLOR GREY
 - DRIVE THROUGH CASHIER'S WINDOW
 - STUCCO WALL COLOR: BEIGE WITH 1/4" REVEALS
 - STACKED STONE- COLOR: NORSTONE SILVER GREY QUARTZ PLANC
 - STAINLESS STEEL CABLES ON STAND OFFS WITH VINES
 - 10'-0" HIGH STOREFRONT
 - MENU BOARDS AT ORDERING STATIONS
 - PROPOSED LOCATIONS FOR THE WALL MOUNTED LIGHT FIXTURES.
 - DRIVE THROUGH PICK UP WINDOW
 - 6" STAINLESS STEEL PARAPET BAND
 - 3' WIDE DOOR, COLOR: BEIGE.
 - 12" DEEP BAND ABOVE STORE FRONT
 - STUCCO WALL, COLOR: MUSTARD
 - STUCCO WALL, COLOR: WHITE
 - ENTRY CANOPY PROJECTED 4'-0" FROM WALL
 - FUTURE SIGNAGE AREA, SHOWN FOR VISUAL ONLY. EXACT AREA TO BE UNDER SIGNAGE APPROVAL.
 - 4'-0" DEEP CANOPY AT PICK UP & CASHIERS WINDOWS.



TECNA ASSOCIATES

8727 Venice Blvd. . 94110
San Francisco, CA
Suite 200
Los Angeles, CA 90034
F. 415 383 5047
PH. 213 335 2747
www.tecna.com

ARCHITECTURAL PROJECT NO.:

QUICK SERVE RESTAURANTS & GAS STATION

TRIANGLE PLAZA

3788 TRACY BLVD, TRACY.

A3.1

PROPOSED QSR1 EXTERIOR ELEVATIONS

DRAWING NUMBER:

DATE: 05/18/2023

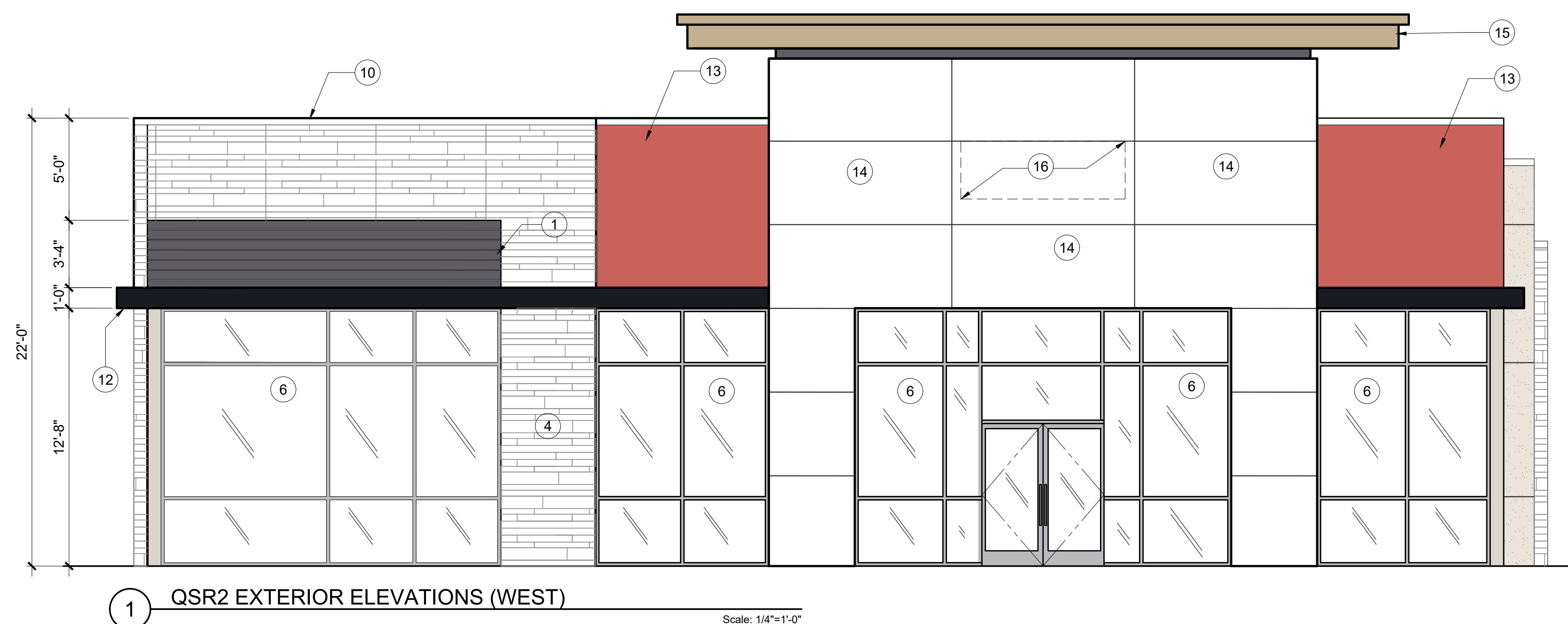
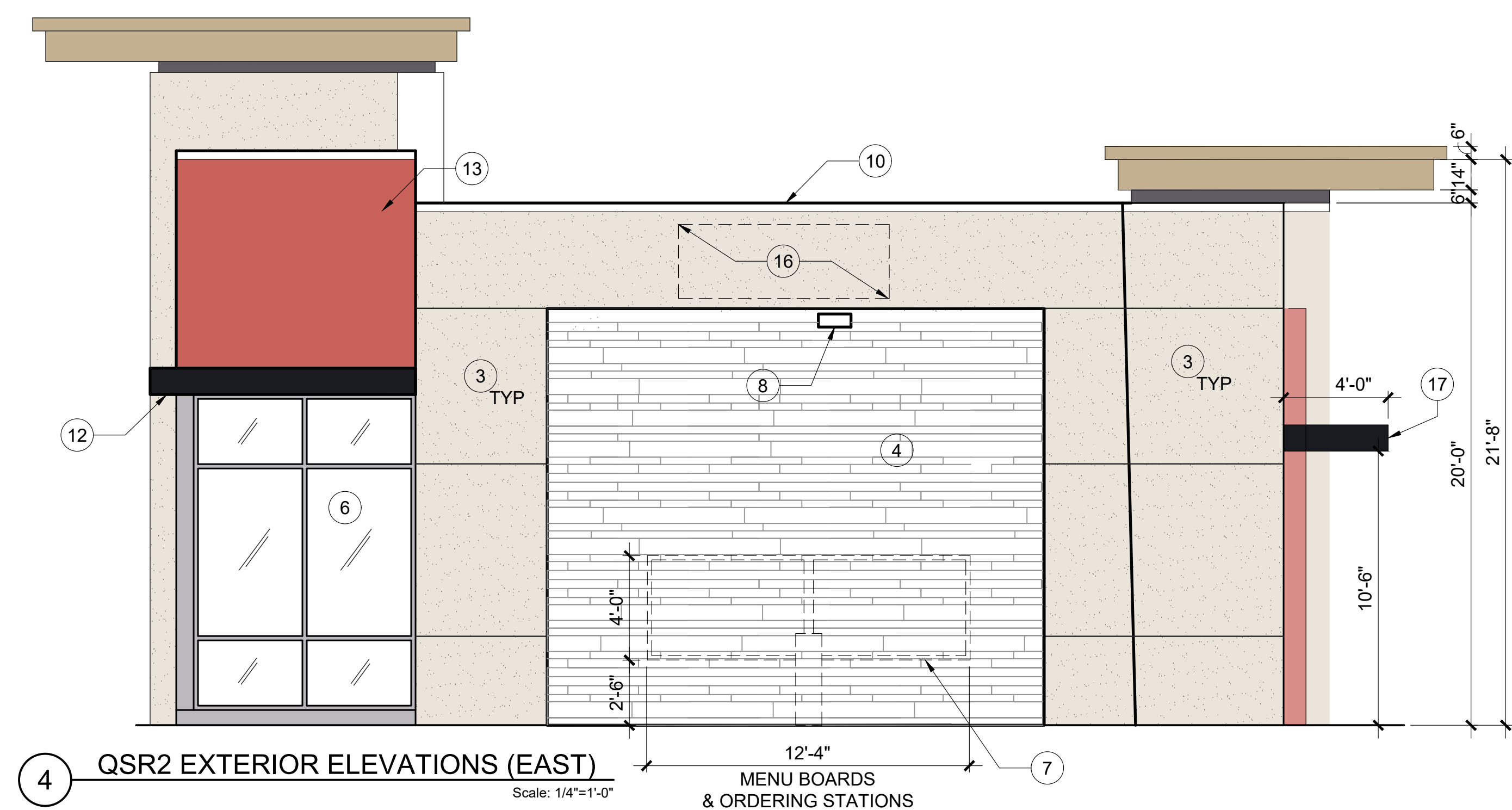
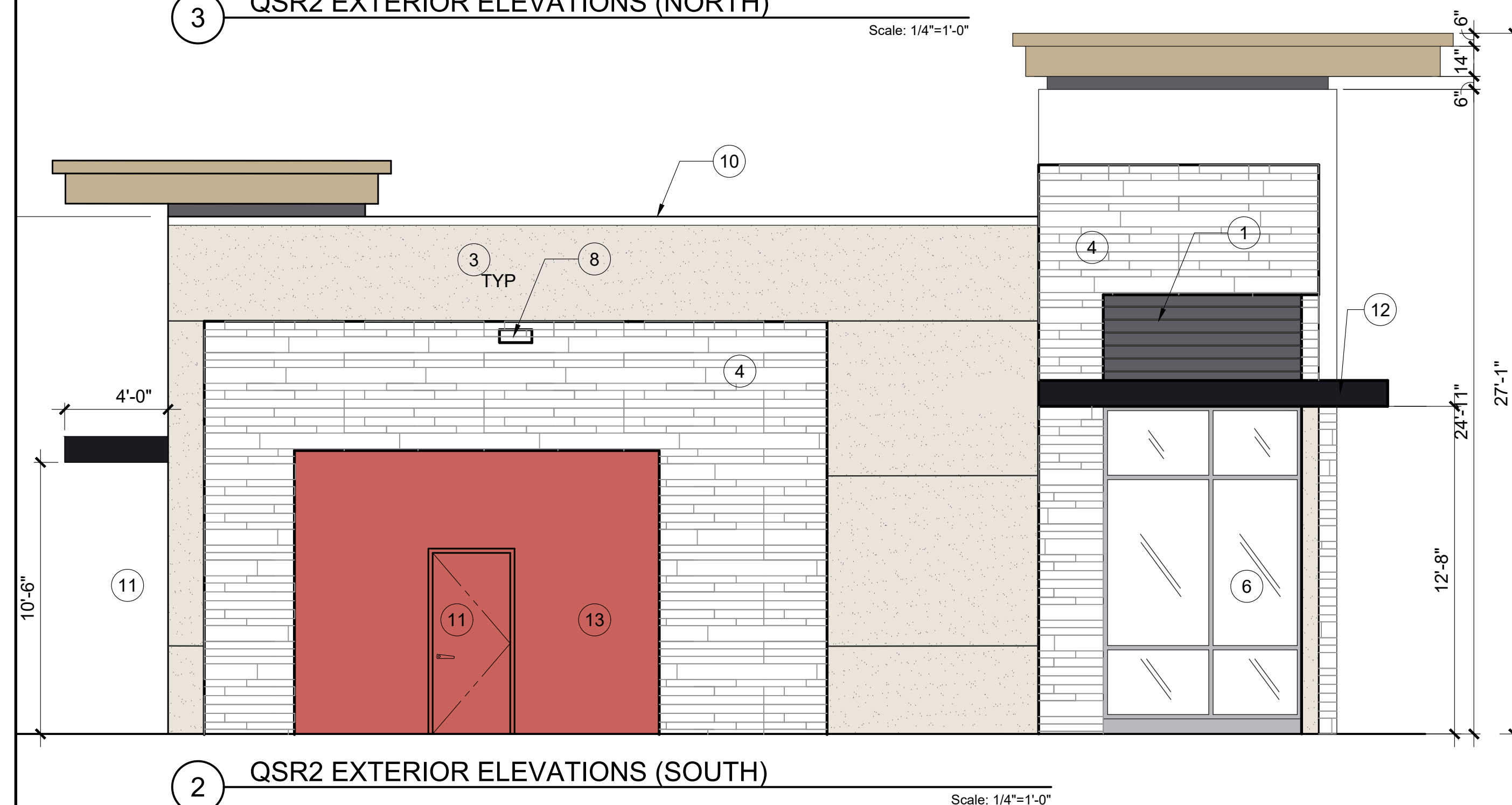
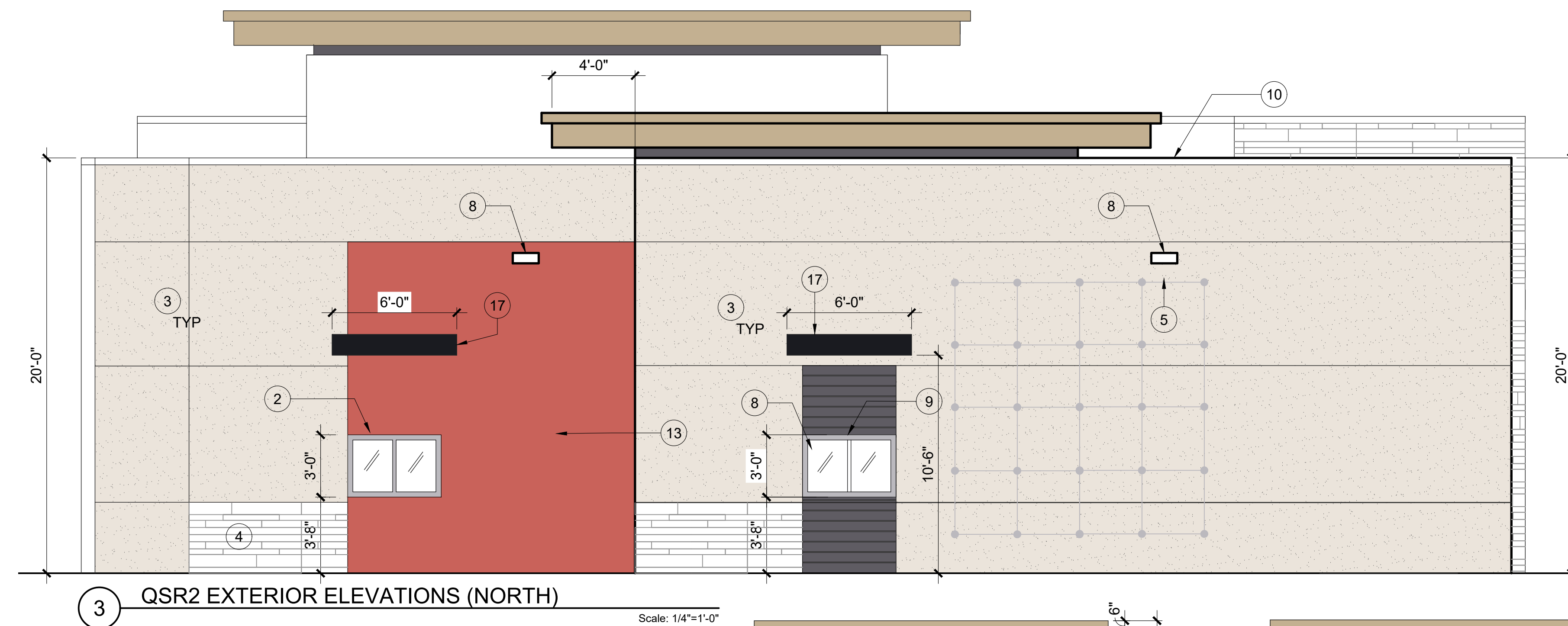
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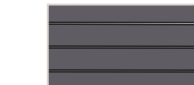


- LEGEND :

STUCCO WALL, COLOR: BEIGE



STUCCO WALL-ACCENT COLOR: RED



HORIZONTAL CORRUGATED METAL PANEL SIDING,
COLOR: GREY

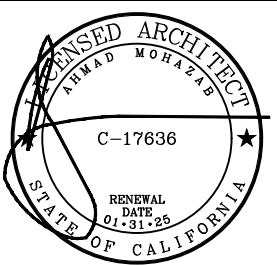
STUCCO WALL- COLOR: WHITE



STACKED STONE- COLOR: NORSTONE SILVER
GREY QUARTZ PLANC

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2747 19th Street
San Francisco, CA 94110
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TRIANGLE PLAZA
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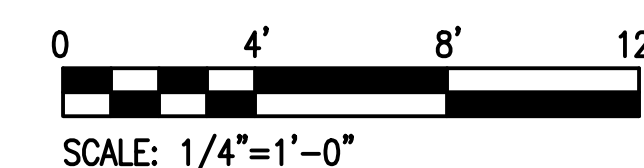
PROPOSED QSR2
EXTERIOR ELEVATIONS

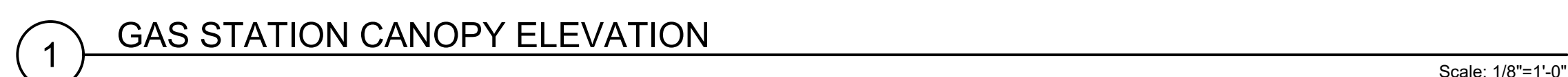
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A3.2

KEY NOTES :

- ① HORIZONTAL CORRUGATED METAL PANELS- COLOR GREY
- ② DRIVE THROUGH CASHIER'S WINDOW
- ③ STUCCO WALL COLOR: BEIGE WITH 1/4" REVEALS
- ④ STACKED STONE- COLOR: NORSTONE SILVER GREY QUARTZ PLANC
- ⑤ STAINLESS STEEL CABLES ON STAND OFFS WITH VINES
- ⑥ 10'-0" HIGH STOREFRONT
- ⑦ MENU BOARDS AT ORDERING STATIONS
- ⑧ PROPOSED LOCATIONS FOR THE WALL MOUNTED LIGHT FIXTURES.
- ⑨ DRIVE THROUGH PICK UP WINDOW
- ⑩ 6" STAINLESS STEEL PARAPET BAND
- ⑪ 3' WIDE DOOR, COLOR: RED
- ⑫ 12" DEEP BAND ABOVE STORE FRONT
- ⑬ STUCCO WALL, COLOR: RED
- ⑭ STUCCO WALL, COLOR: WHITE
- ⑮ ENTRY CANOPY PROJECTED 4'-0" FROM WALL
- ⑯ FUTURE SIGNAGE AREA, SHOWN FOR VISUAL ONLY. EXACT AREA TO BE UNDER SIGNAGE APPROVAL.
- ⑰ 4'-0" DEEP CANOPY AT PICK UP AND CASHIERS WINDOWS.





- | | |
|---|--|
|  | STUCCO WALL, COLOR: BEIGE |
|  | STUCCO WALL- ACCENT COLOR 2: GREEN |
|  | HORIZONTAL CORRUGATED METAL PANEL SIDING,
COLOR: GREY |
|  | CANOPY FASCIA SYSTEM SILVER ACM WITH LED
ORANGE DOWN LIGHTING |
|  | STUCCO WALL- ACCENT COLOR: WHITE |
|  | STACKED STONE- COLOR: NORSTONE SILVER
GREY QUARTZ PLANC |

- 1 FUTURE SIGNALING AREA, SHOWN FOR VISUAL ONLY. EXACT AREA TO BE UNDER SIGNALING APPROVAL.
- 2 PROPOSED LOCATION FOR NIGHT WINDOW
- 3 2'-0" WIDE METAL CANOPY, COLOR: BLACK
- 4 STACKED STONE- COLOR: NORSTONE SILVER GREY QUARTZ PLANO
- 5 STOREFRONT WINDOWS @ CONVENIENCE STORE
- 6 10'-0" HIGH STOREFRONT
- 7 GAS CANOPY
- 8 PROPOSED LOCATIONS FOR THE WALL MOUNTED LIGHT FIXTURES.
- 9 6" STAINLESS STEEL PARAPET BAND
- 10 STUCCO WALL, COLOR: BEIGE WITH 1/4" REVEALS
- 11 STUCCO WALL, COLOR: GREEN

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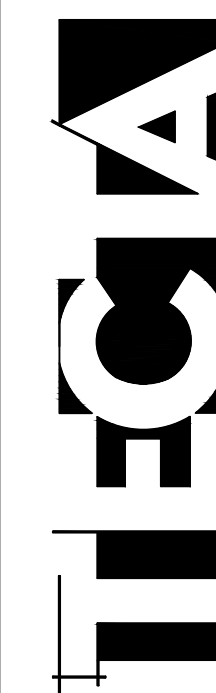
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DATE: 05/18/2023

DRAWING TITLE:
**PROPOSED
CONVENIENCE STORE
EXTERIOR ELEVATIONS**

DRAWING NUMBER:

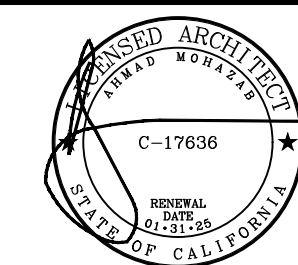
A3.3



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Dulles, VA 20133

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San Francisco, CA 94110
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F: 415 362 5044
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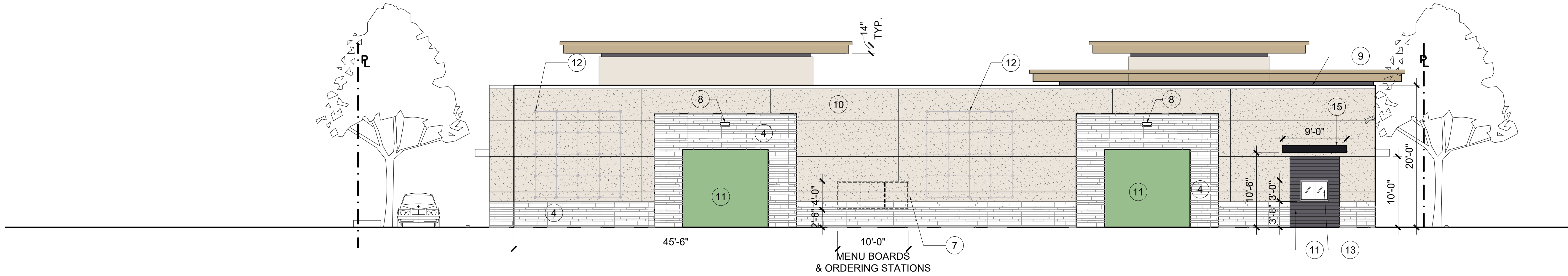


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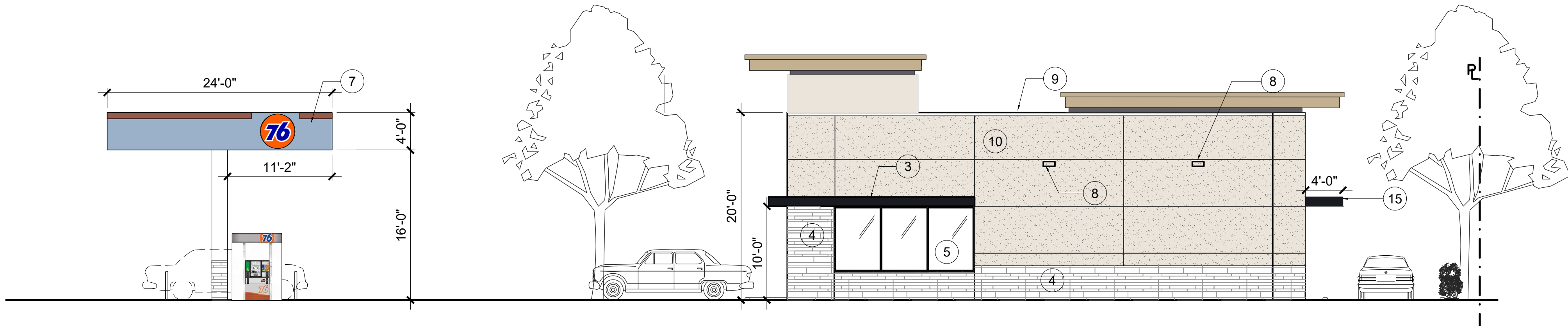
QUICK SERVE RESTAURANTS & GAS STATION

TRIANGLE PLAZA

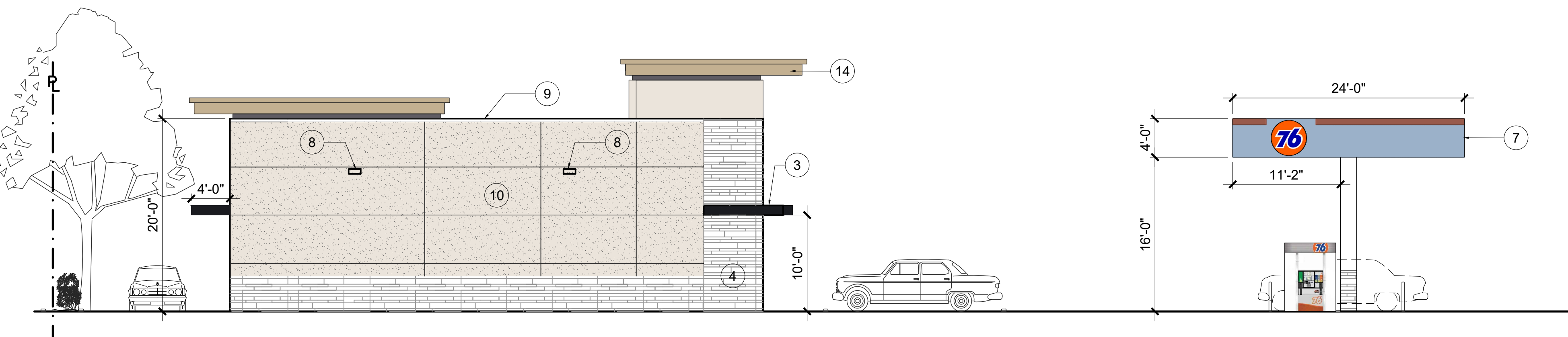
3788 TRACY BLVD, TRACY.



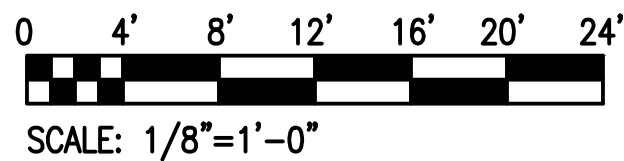
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2 CONVENIENCE & QSR EXTERIOR ELEVATIONS (SOUTH)
Scale: 1/8"=1'-0"



1 CONVENIENCE & QSR EXTERIOR ELEVATIONS (NORTH)
Scale: 1/8"=1'-0"

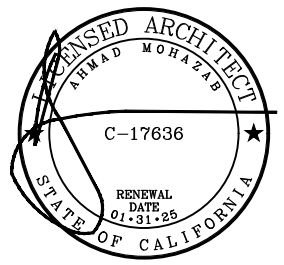


LEGEND :

- STUCCO WALL, COLOR: BEIGE
- STUCCO WALL- ACCENT COLOR 2: GREEN
- HORIZONTAL CORRUGATED METAL PANEL SIDING, COLOR: GREY
- CANOPY FASCIA SYSTEM SILVER ACM WITH LED ORANGE DOWN LIGHTING
- STUCCO WALL- ACCENT COLOR: WHITE
- STACKED STONE- COLOR: NORSTONE SILVER GREY QUARTZ PLANC

KEY NOTES :

- FUTURE SIGNAGE AREA, SHOWN FOR VISUAL ONLY. EXACT AREA TO BE UNDER SIGNAGE APPROVAL.
- PROPOSED LOCATION FOR NIGHT WINDOW
- 2'-0" WIDE METAL CANOPY, COLOR: BLACK
- STACKED STONE- COLOR: NORSTONE SILVER GREY QUARTZ PLANC
- STOREFRONT WINDOWS @ CONVENIENCE STORE
- 10'-0" HIGH STOREFRONT
- GAS CANOPY
- PROPOSED LOCATIONS FOR THE WALL MOUNTED LIGHT FIXTURES.
- 6" STAINLESS STEEL PARAPET BAND
- STUCCO WALL, COLOR: BEIGE WITH 1/4" REVEALS
- HORIZONTAL CORRUGATED METAL PANEL - COLOR GREY
- STAINLESS STEEL CABLES ON STAND OFF WITH VINES
- DRIVE THROUGH CASHIERS & PICKUP WINDOW.
- ENTRY CANOPY PROJECTED 4'-0" FROM ALL
- 4'-0" DEEP CANOPY AT CASHIER & PICK UP WINDOW



ARCHITECTURAL PROJECT NO.:

QUICK SERVE RESTAURANTS & GAS STATION TRIANGLE PLAZA 3788 TRACY BLVD, TRACY.

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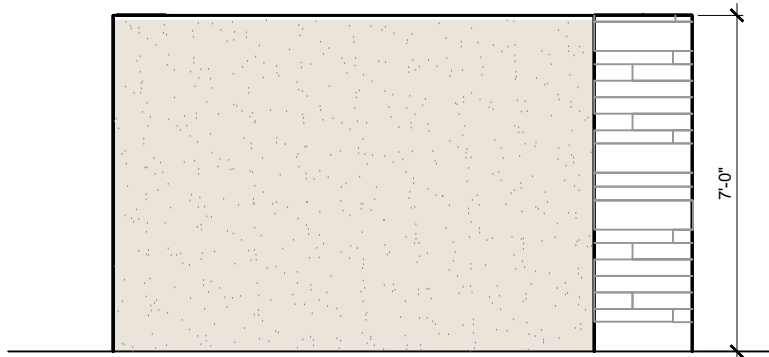
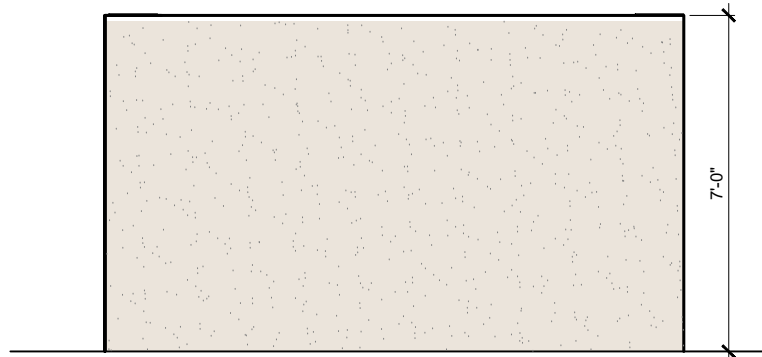
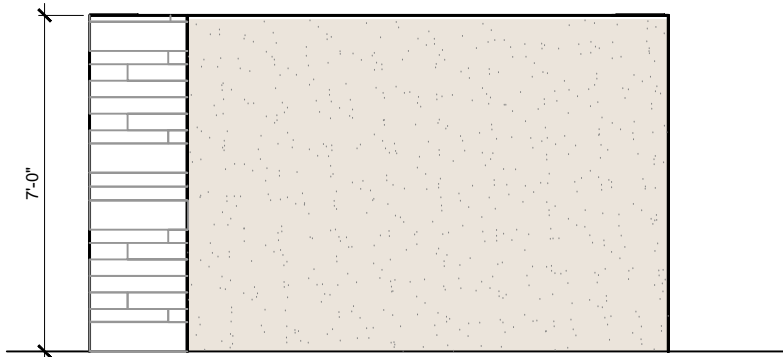
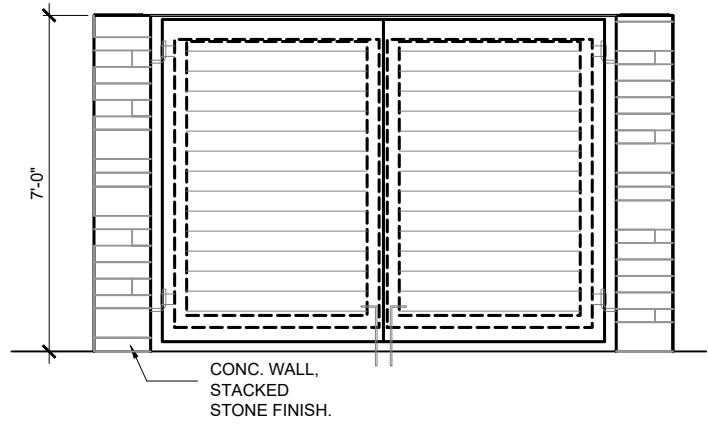
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6	PLANNING COMMENTS	11/12/22

DATE: 05/18/2023

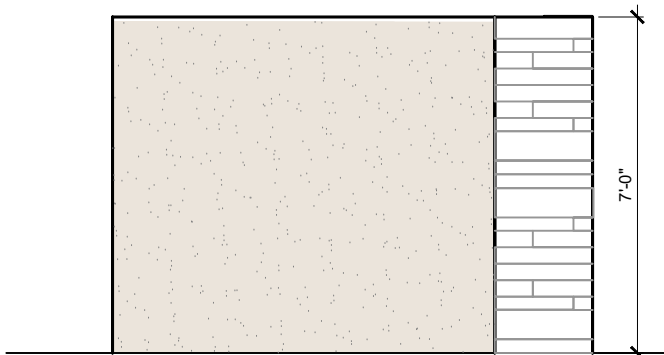
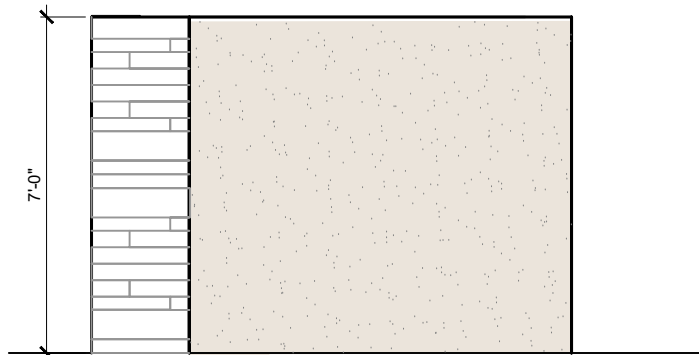
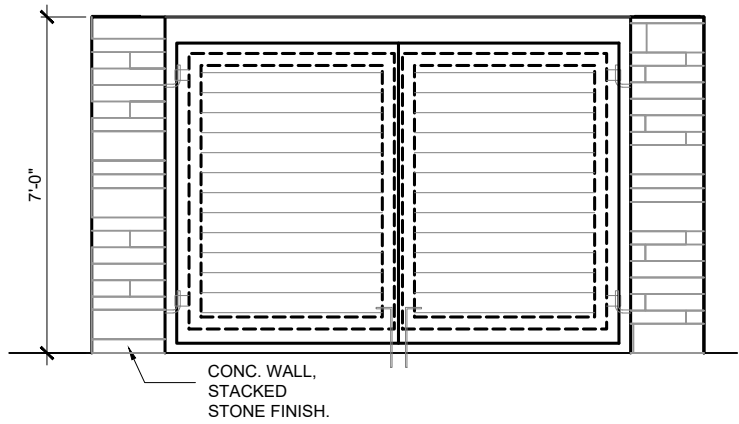
DRAWING TITLE:
**PROPOSED CONVENIENCE
STORE & QSR
EXTERIOR ELEVATIONS**

DRAWING NUMBER:

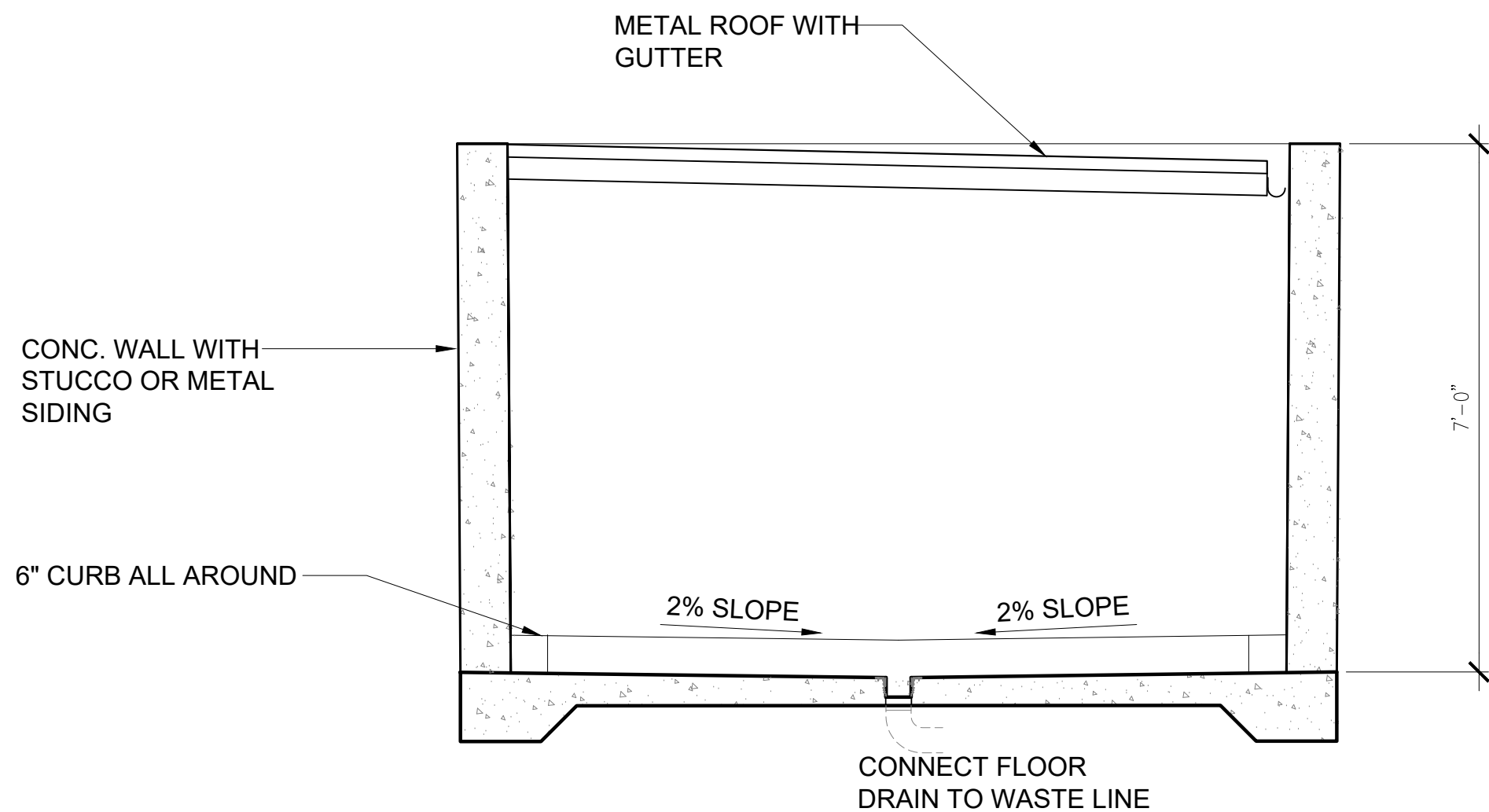
A3.4



1 EXTERIOR ELEVATIONS TRASH ENCLOSURE LOT 1
Scale: 1/4"=1'-0"



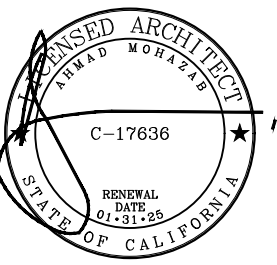
2 EXTERIOR ELEVATIONS TRASH ENCLOSURE LOT 2
Scale: 1/4"=1'-0"



3 TYPICAL SECTION
Scale: 1/4"=1'-0"

LEGEND :

- STUCCO WALL, COLOR: BEIGE
- STACKED STONE- COLOR: GREY/WHITE



ARCHITECTURAL PROJECT NO.:

QUICK SERVE RESTAURANTS & GAS STATION
TRIANGLE PLAZA
3788 TRACY BLVD, TRACY.

NOTICE: COPYRIGHT
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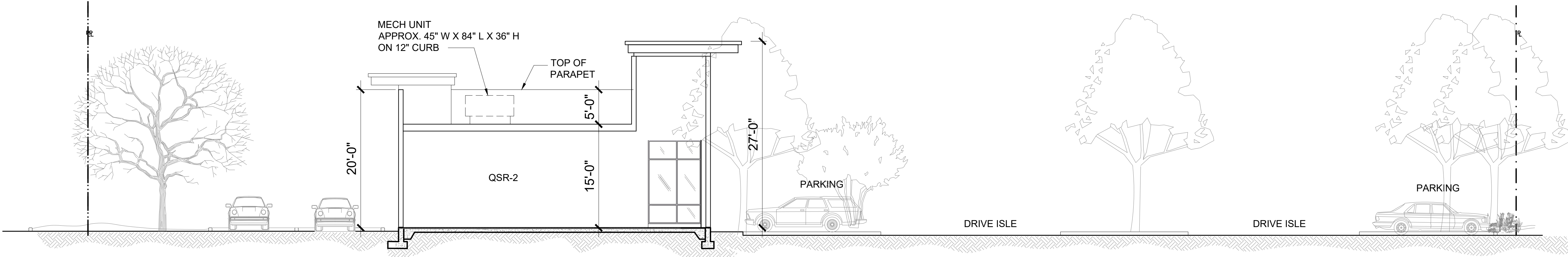
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2	PLANNING COMMENTS	05/11/21
3	TRAFFIC COMMENTS	01/13/22
4	PLANNING COMMENTS	07/4/22
5	PLANNING COMMENTS	08/23/22
6	PLANNING COMMENTS	11/12/22

DATE: 05/18/2023

DRAWING TITLE:
PROPOSED TRASH
ENCLOSURE EXTERIOR
ELEVATIONS

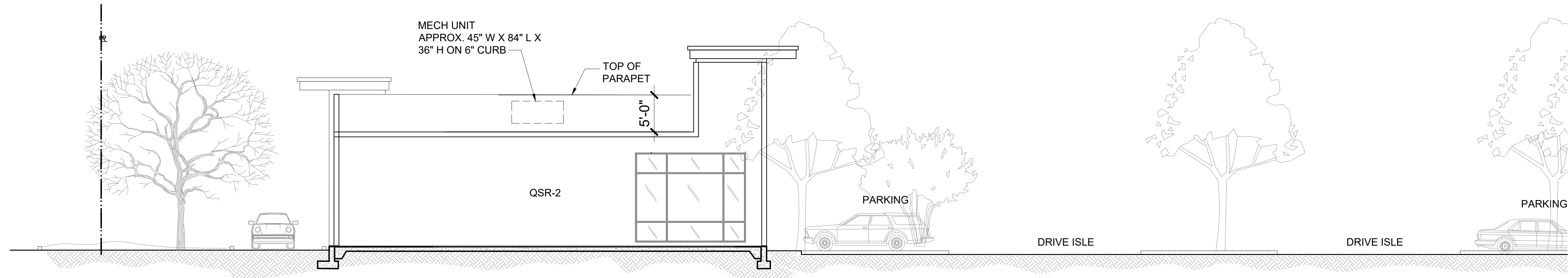
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A3.5



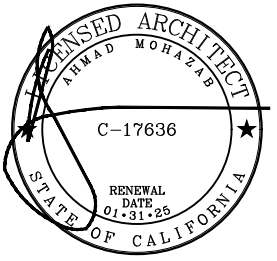
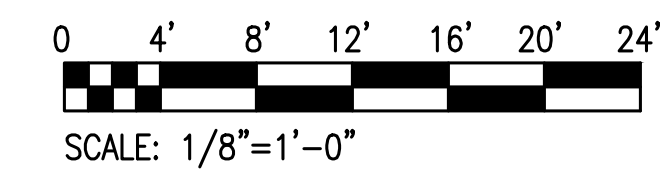
2 PROPOSED SITE SECTION @ QSR-2

Scale: 1/8"=1'-0"



1 PROPOSED SITE SECTION @ QSR-1

Scale: 1/8"=1'-0"



ARCHITECTURAL PROJECT NO.:

QUICK SERVE RESTAURANTS & GAS STATION
TRIANGLE PLAZA
3788 TRACY BLVD, TRACY.

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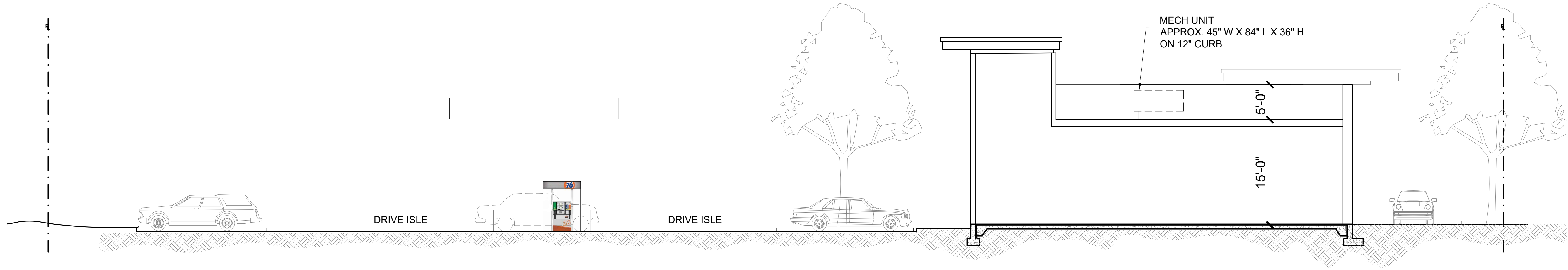
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2	PLANNING COMMENTS	05/11/21
3	TRAFFIC COMMENTS	01/13/22
4	PLANNING COMMENTS	07/4/22
5	PLANNING COMMENTS	08/23/22
6	PLANNING COMMENTS	11/12/22

DATE: 05/18/2023

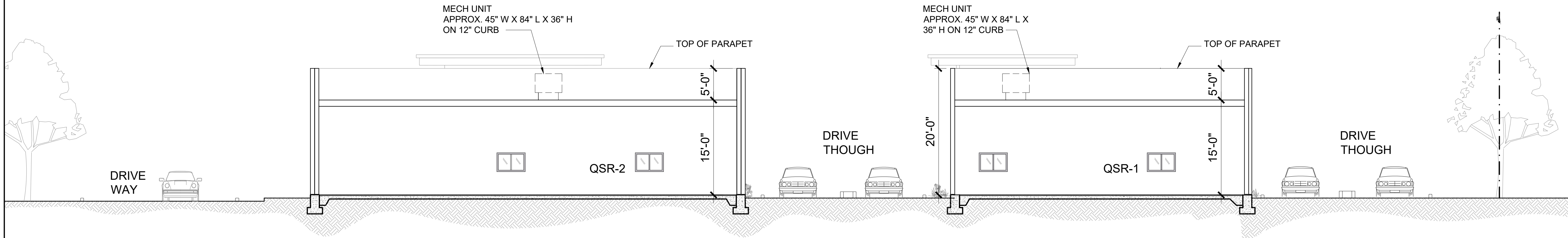
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TRANSVERSE
SECTIONS

DRAWING NUMBER:

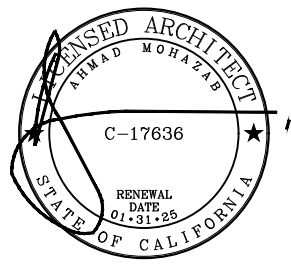
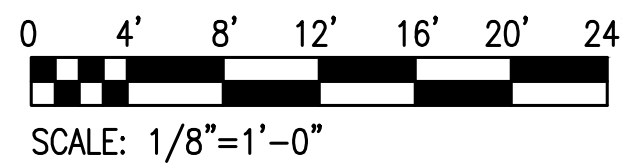
A4.0



2 PROPOSED SITE SECTION @ GAS STATION CONVENIENCE STORE
Scale: 1/8"=1'-0"



1 PROPOSED SITE SECTION @ QSR-1 & QSR-2
Scale: 1/8"=1'-0"



ARCHITECTURAL PROJECT NO.:

QUICK SERVE RESTAURANTS & GAS STATION
TRIANGLE PLAZA
3788 TRACY BLVD, TRACY.

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NO.	REVISIONS:	DATE:
1	PLANNING SUBMITTAL	01/20/21
2	PLANNING COMMENTS	05/11/21
3	TRAFFIC COMMENTS	01/13/22
4	PLANNING COMMENTS	07/4/22
5	PLANNING COMMENTS	08/23/22
6	PLANNING COMMENTS	11/12/22

DATE: 05/18/2023

DRAWING TITLE:
SECTIONS

DRAWING NUMBER:

A4.1



TECHNICAL MEMORANDUM

March 24, 2023

To: Ahmad Mohazab
Anjeeta Maharaj

From: Chris D. Kinzel

Subject: Parking Demand Study for Triangle Plaza in Tracy

TJKM has updated a parking demand analysis for the proposed Triangle Plaza to be located at 3788 Tracy Boulevard in Tracy. The development consists of three quick serve restaurants (2,900 square feet [sf], 2,670 sf, and 2,400 sf) and one 4,400 sf convenience market with eight fueling positions.

The purpose of this memorandum is to compare a realistic parking demand for the land uses proposed on this site with the number of stalls that the applicant is proposing. One approach to determining the parking demand for a proposed use is to measure the actual utilization of similar land uses and compare the observed utilization with the land use in question. In order to have a reliable examination, it is desirable to survey multiple locations. For unusual land uses such as Dialysis Center, it is necessary to find such uses and conduct surveys, sometimes as few as three or four locations. However, for more common uses such as those proposed in this development, the results of published information allows for much larger survey samples.

To calculate the demand for the Triangle Plaza, TJKM utilized the Institute of Transportation Engineers (ITE) publication *Parking Generation Manual, 5th Edition*, which presents the results of parking surveys of various land uses at dozens of locations with generation rates tabulated on weekdays and Saturdays. The table on the following page shows the results. As can be seen, the results of the parking demand represent surveys ranging in size from 26 to 58 locations. The table totals summarize the conditions if all four land uses within Triangle Plaza reach their peaks simultaneously, which is highly unlikely. The ITE worksheets are in the appendix.

The Triangle Project proposes to install 74 parking stalls in the main parking areas. This does not include a total of 26 stalls in the three drive through lanes for the restaurants. As noted in a Kimley Horn May 25, 2022 Technical Memorandum, in addition to the 26 drive through stalls there is space for 15 additional drive through vehicles. Kimley Horn and TJKM both indicate that drive through storage capacity is adequate and will result in no spilling onto City streets. In addition to the 74 parking stalls available in the main parking areas, there are eight stalls for the eight fueling positions. It is very common for many of the customers of a convenience store with gas pumps to shop at the convenience store during or

immediately after fueling their cars while parked at the gas pumps, not even utilizing the nearby separate stalls. Likewise, not counting the stalls in the drive through lanes of the restaurants represents a very conservative approach. Finally, there is practically no likelihood that all four businesses would reach their peak parking demand simultaneously.

The table shows that the summation of the weekday parking demands for all four land uses is 78 stalls on a weekday and 87 stalls on a Saturday. TJKM is of the opinion that the 74 parking lot stalls along with the 26 stalls in the drive through lanes and the eight fueling position stalls (A total of $26 + 8 + 74 = 108$ parking stalls on site) represent a parking supply that is very adequate for the total demands likely to be created by this development. TJKM estimates that given this analysis, it is unlikely that the total site parking demand would exceed about 70 stalls, or 80 percent of its total 74 stall parking capacity at its busiest times even ignoring the extra 34 stalls. This is based on the likelihood that the four retail establishments would not experience their individual peak parking demand simultaneously. This conclusion is based on the experience of the report author.

Please contact me if there are questions.

Table 1: Parking Demand Calculations

Land Use	Weekday Peak Parking Demand	Saturday Peak Parking Demand
1. 2,900 sq. ft. quick serve restaurant with drive-through (ITE # 934)	25 stalls (39 Surveys)	27 stalls (26 surveys)
2. 2,670 sq. ft. quick serve restaurant with drive-through (ITE # 934)	23 stalls (39 Surveys)	25 stalls (26 surveys)
3. 2,400 sq. ft. quick serve restaurant with drive-through (ITE # 934)	21 stalls (39 Surveys)	22 stalls (26 surveys)
4. 4,400 sq. ft. convenience mkt. with eight gasoline fuel positions (ITE # 820)	9 stalls (46 surveys)	13 stalls (58 surveys)
Totals	78 stalls	87 stalls

Source: Institute of Transportation Engineers (ITE) *Parking Generation Manual*, 5th Edition, January, 2019

Shopping Center - Non-December

(820)

Peak Period Parking Demand vs: 1000 Sq. Ft. GLA

On a: Saturday

Setting/Location: General Urban/Suburban

Peak Period of Parking Demand: 11:00 a.m. - 5:00 p.m.

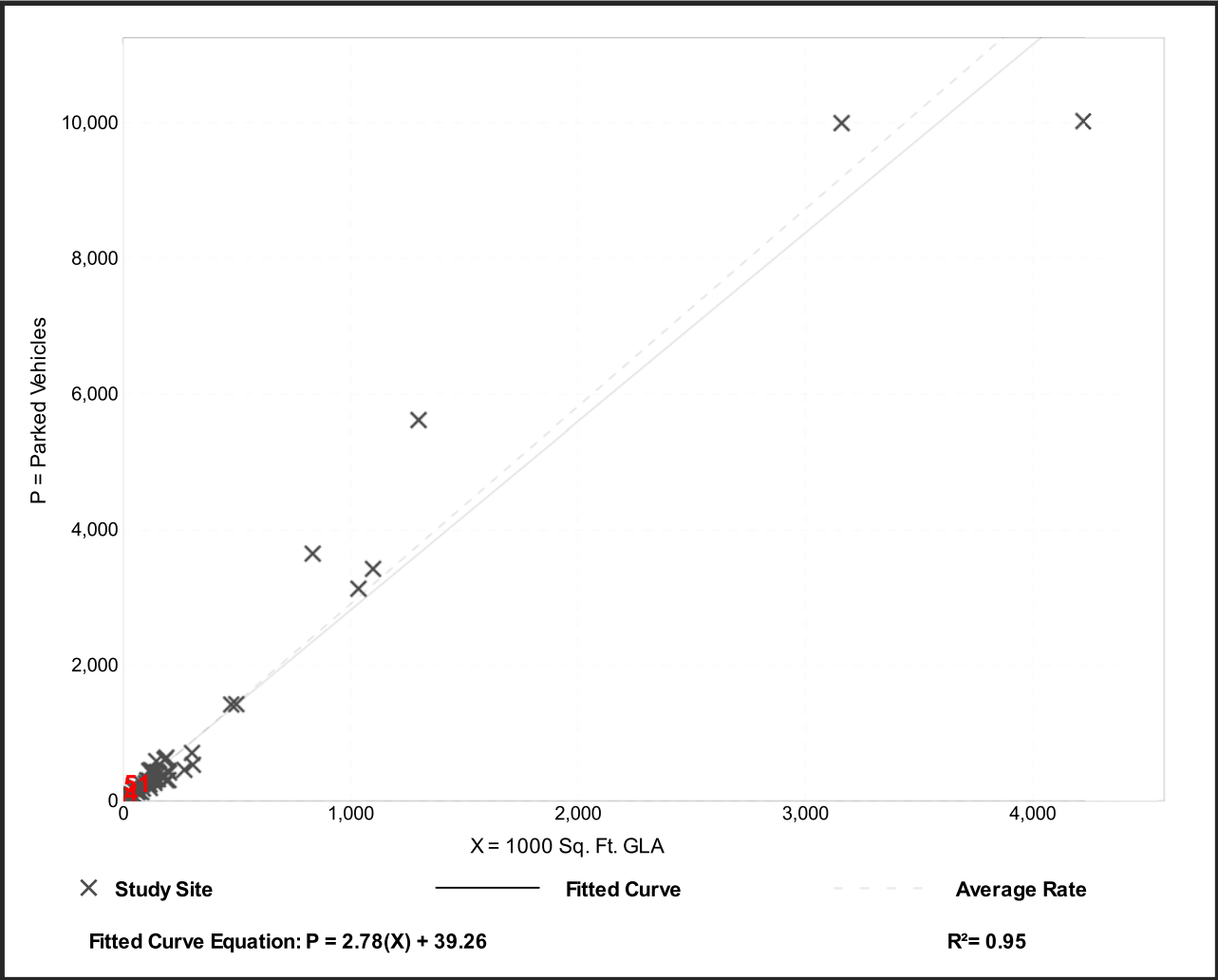
Number of Studies: 58

Avg. 1000 Sq. Ft. GLA: 313

Peak Period Parking Demand per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
2.91	1.15 - 4.72	2.27 / 3.74	2.72 - 3.10	0.74 (25%)

Data Plot and Equation



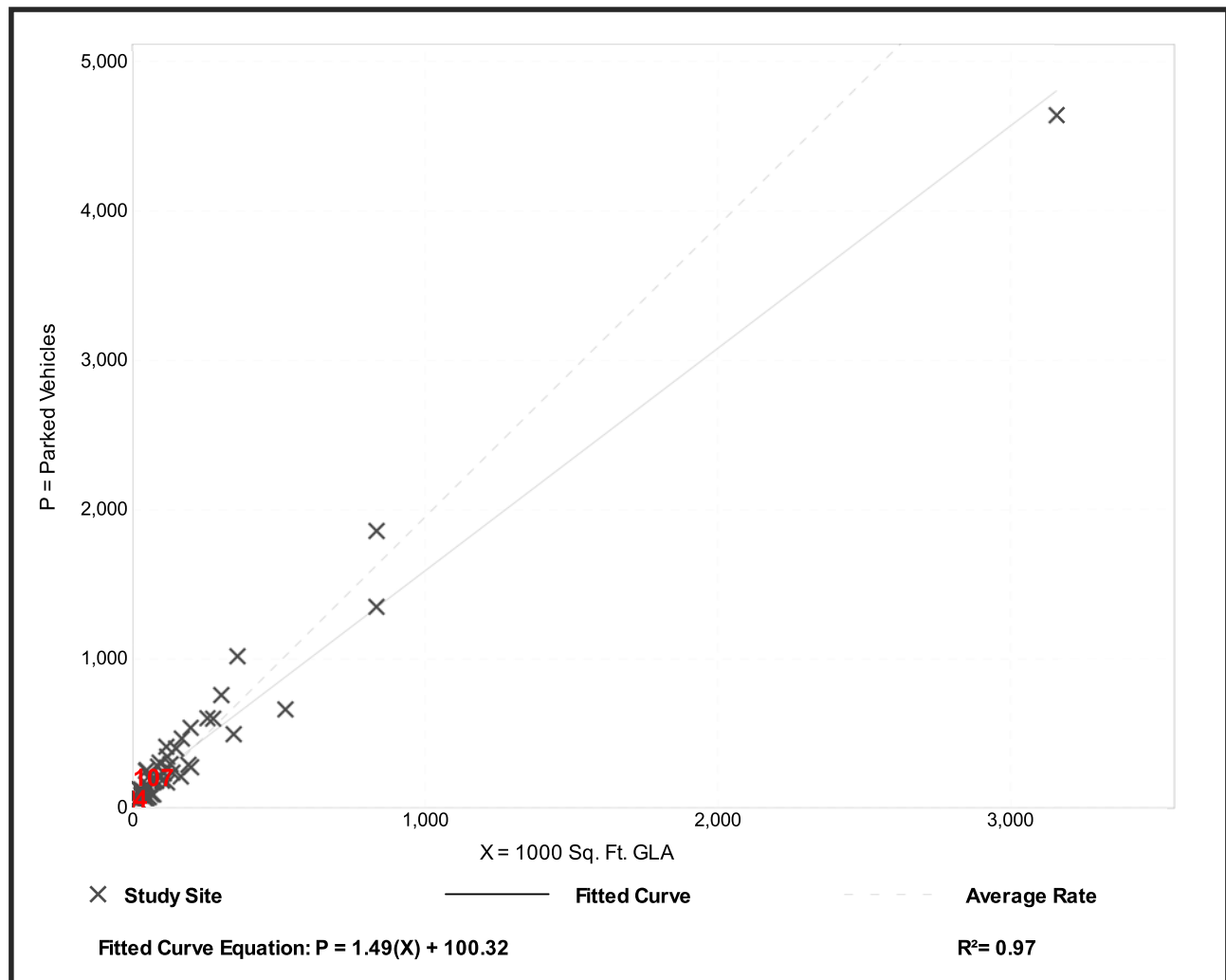
Shopping Center - Non-December (820)

Peak Period Parking Demand vs: 1000 Sq. Ft. GLA
 On a: Weekday (Monday - Thursday)
 Setting/Location: General Urban/Suburban
 Peak Period of Parking Demand: 12:00 - 6:00 p.m.
 Number of Studies: 46
 Avg. 1000 Sq. Ft. GLA: 218

Peak Period Parking Demand per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
1.95	1.27 - 7.98	1.99 / 3.68	1.73 - 2.17	0.75 (38%)

Data Plot and Equation



Parking Generation Manual, 5th Edition • Institute of Transportation Engineers

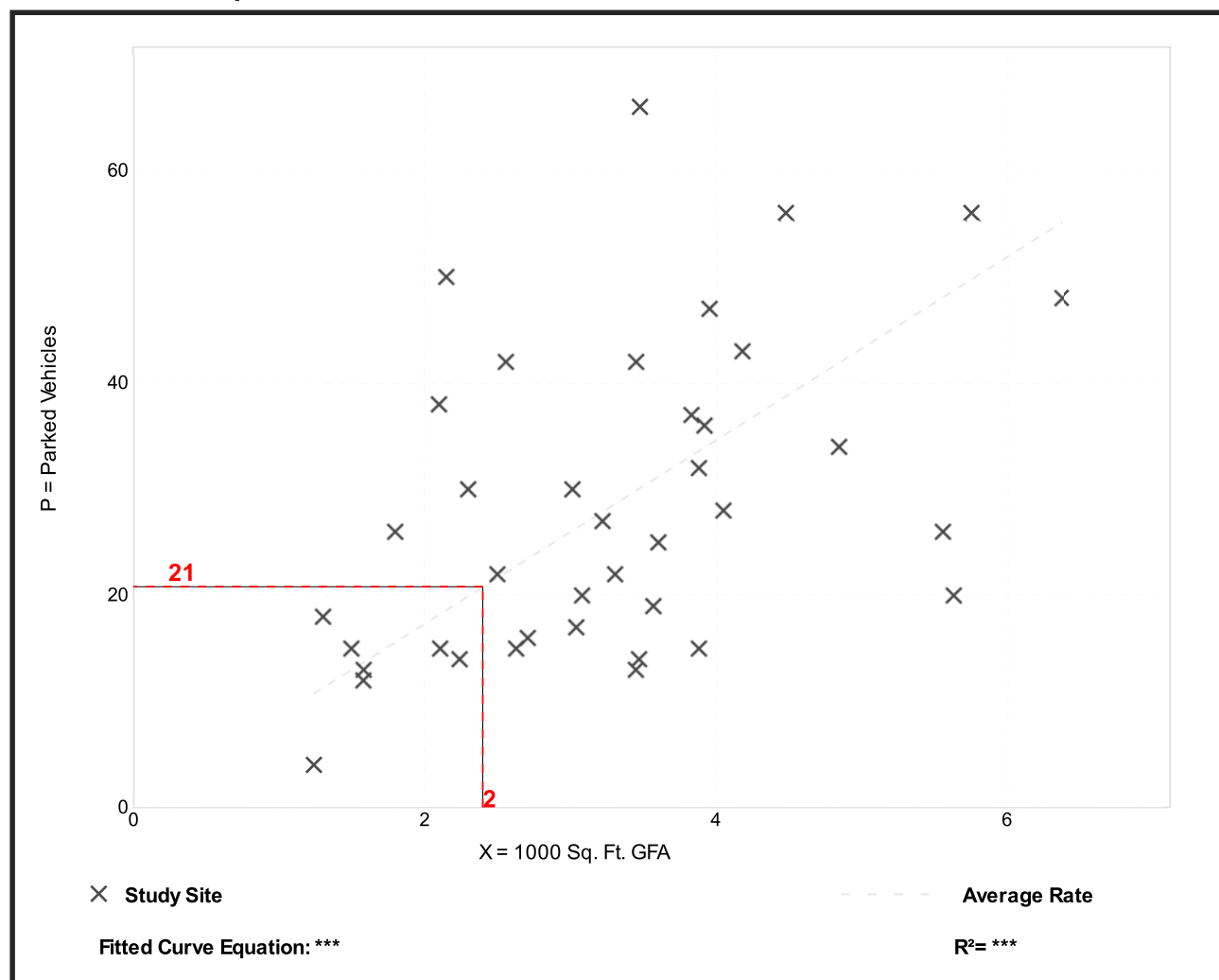
Fast-Food Restaurant with Drive-Through Window (934)

Peak Period Parking Demand vs: 1000 Sq. Ft. GFA
On a: Weekday (Monday - Thursday)
Setting/Location: General Urban/Suburban
Peak Period of Parking Demand: 12:00 - 1:00 p.m.
 Number of Studies: 39
 Avg. 1000 Sq. Ft. GFA: 3.2

Peak Period Parking Demand per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
8.66	3.23 - 23.26	6.71 / 13.78	7.34 - 9.98	4.22 (49%)

Data Plot and Equation



Parking Generation Manual, 5th Edition • Institute of Transportation Engineers

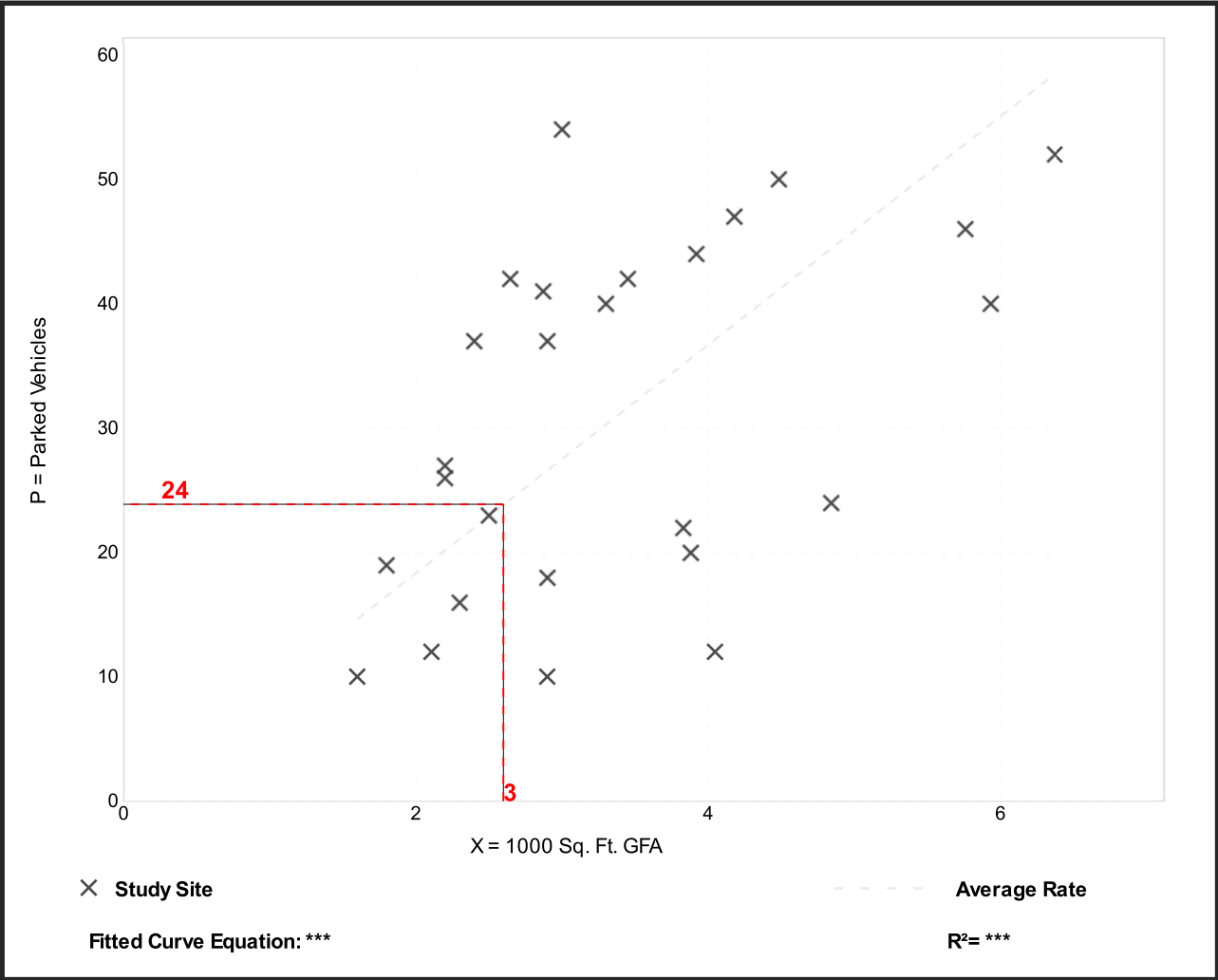
Fast-Food Restaurant with Drive-Through Window (934)

Peak Period Parking Demand vs: 1000 Sq. Ft. GFA
 On a: Saturday
 Setting/Location: General Urban/Suburban
 Peak Period of Parking Demand: 12:00 - 2:00 p.m.
 Number of Studies: 26
 Avg. 1000 Sq. Ft. GFA: 3.4

Peak Period Parking Demand per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
9.18	2.96 - 18.00	6.70 / 14.20	7.69 - 10.67	3.88 (42%)

Data Plot and Equation



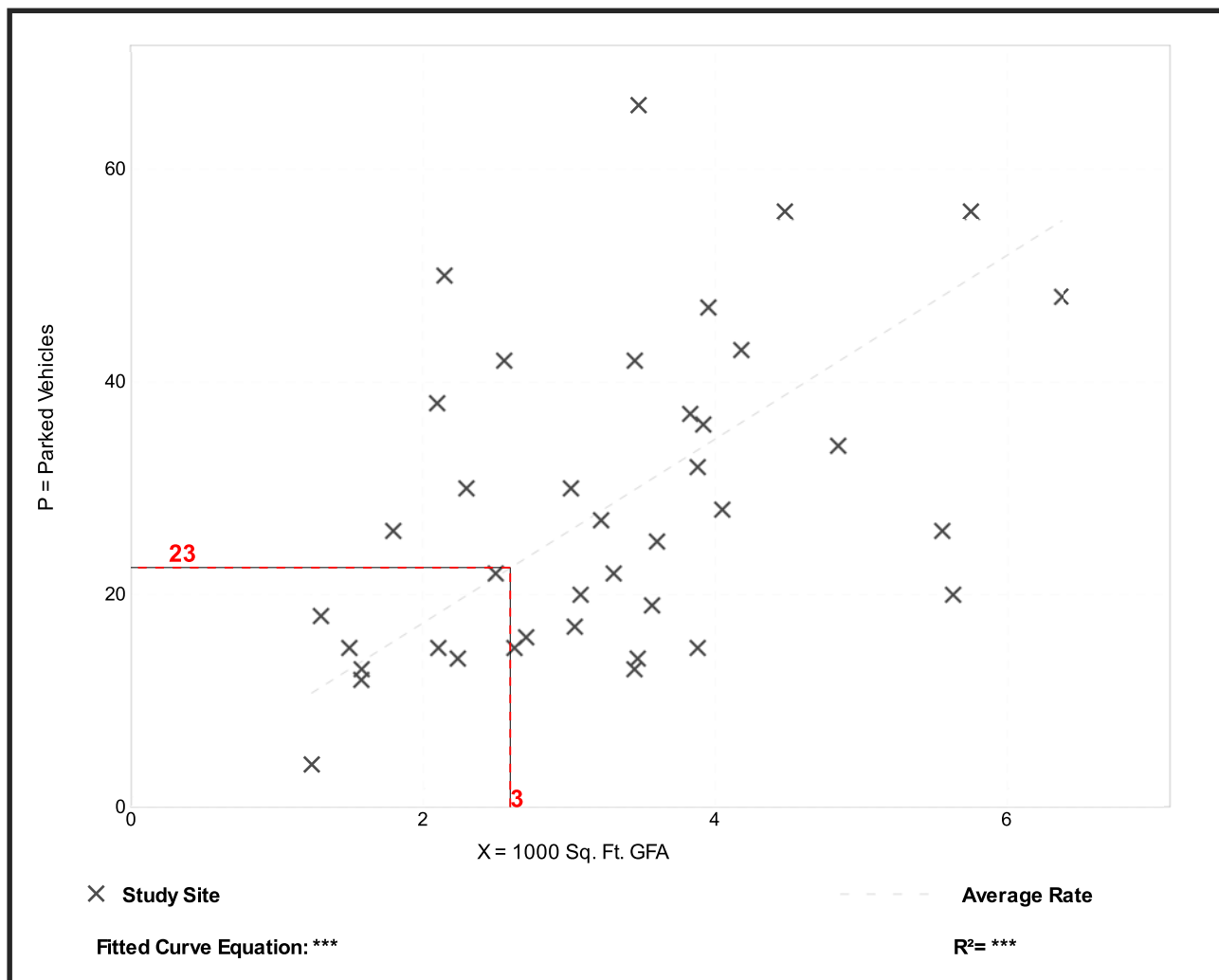
Fast-Food Restaurant with Drive-Through Window (934)

Peak Period Parking Demand vs: 1000 Sq. Ft. GFA
 On a: Weekday (Monday - Thursday)
 Setting/Location: General Urban/Suburban
 Peak Period of Parking Demand: 12:00 - 1:00 p.m.
 Number of Studies: 39
 Avg. 1000 Sq. Ft. GFA: 3.2

Peak Period Parking Demand per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
8.66	3.23 - 23.26	6.71 / 13.78	7.34 - 9.98	4.22 (49%)

Data Plot and Equation



Parking Generation Manual, 5th Edition • Institute of Transportation Engineers

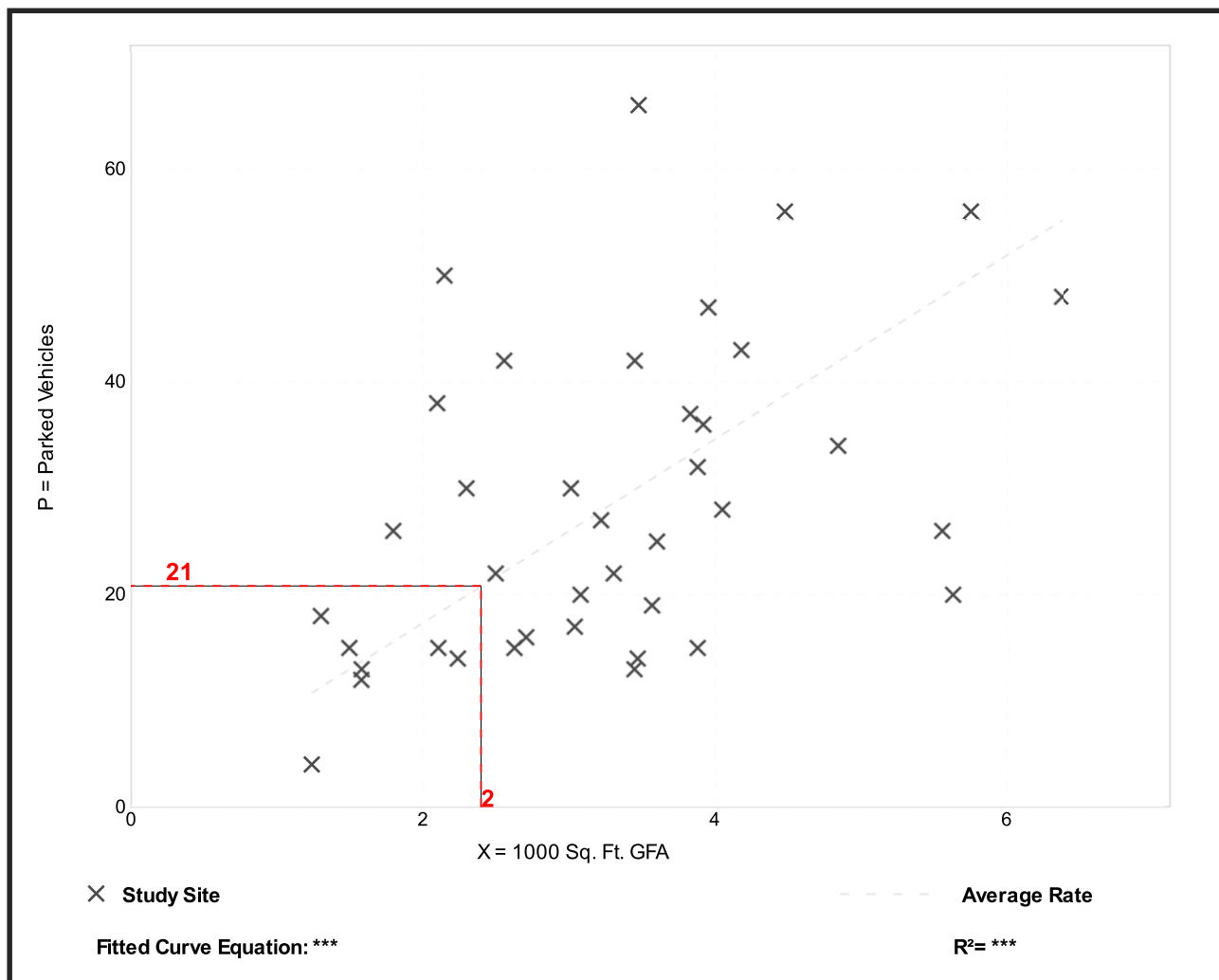
Fast-Food Restaurant with Drive-Through Window (934)

Peak Period Parking Demand vs: 1000 Sq. Ft. GFA
 On a: Weekday (Monday - Thursday)
 Setting/Location: General Urban/Suburban
 Peak Period of Parking Demand: 12:00 - 1:00 p.m.
 Number of Studies: 39
 Avg. 1000 Sq. Ft. GFA: 3.2

Peak Period Parking Demand per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
8.66	3.23 - 23.26	6.71 / 13.78	7.34 - 9.98	4.22 (49%)

Data Plot and Equation



Parking Generation Manual, 5th Edition • Institute of Transportation Engineers

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION NO. _____

-
- 1. APPROVING A DEVELOPMENT REVIEW PERMIT FOR THE TRIANGLE PLAZA COMMERCIAL DEVELOPMENT ON A 1.91-ACRE SITE LOCATED AT 3788 N. TRACY BLVD., APN 212-250-01 & 02;**
 - 2. APPROVING A 20% OFF-STREET PARKING SPACE REDUCTION PURSUANT TO TRACY MUNICIPAL CODE SECTION 10.08.3740(E); AND**
 - 3. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PER SECTION 15332.**

WHEREAS, A development review permit application for the Triangle Plaza development comprised of three drive-through restaurants (2,670 sf, 2,900 sf, and 2,701 sf), a gasoline fueling station with eight pumps and a 4,000 sf convenience store, and associated parking and landscaping improvements on an approximately 1.91 acres located at 3788 N. Tracy Blvd., Assessor's Parcel Numbers 212-250-01 & 02 was submitted on February 2, 2021; and

WHEREAS, The site has a General Plan land use designation of Commercial and a zoning designation of Highway Service Zone, wherein such uses are principally permitted; and

WHEREAS, The Planning Commission can approve a Development Review Permit on the basis of the application and evidence submitted, subject to making all of the requisite findings set forth in Tracy Municipal Code (TMC) Section 10.08.3920, which findings are set forth in **Exhibit 1**; and

WHEREAS, The proposed design also meets the City's objectives for high quality design as required by the Tracy General Plan and the City of Tracy Design Goals and Standards; and

WHEREAS, The applicant has requested a twenty percent reduction in off-street parking after presenting data indicating that not all the parking spaces required by the TMC would be necessary for the proposed development and uses; and

WHEREAS, The Planning Commission can make a determination to reduce up to a twenty percent of the required off-street parking spaces if a parking study or other written documentation to the satisfaction of the Development Services Director was submitted that documents such off-street parking spaces will not be necessary to mitigate parking demands for the project, pursuant to TMC Section 10.08.3740(e); and

WHEREAS, The TMC also states that in making a determination regarding an off-street parking space reduction, the following shall be taken into account: the parking study; the

availability of nearby on- or off-street parking; accessibility to nearby public transit; the City site planning design goals; and other relevant information; and

WHEREAS, The applicant submitted a parking demand memorandum which cites the Institute of Transportation Engineers (ITE) *Parking Generation Manual, 5th Edition* to the satisfaction of the Development Services Director as required by the TMC; and

WHEREAS, Based on the considerations set forth in the record, staff recommends that the Planning Commission grant the project a twenty percent off-street parking space reduction; and

WHEREAS, The project is categorically exempt from CEQA based on Guidelines Section 15332, which pertains to certain in-fill development projects. Because the project is consistent with the General Plan and Zoning, occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, has no value as habitat for endangered, rare or threatened species, would not result in any significant effects relating to traffic, noise, air quality, or water quality, and can be adequately served by all required utilities and public services, no further environmental assessment is necessary, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the applications on June 28, 2023; now, therefore, be it

RESOLVED: That the Planning Commission hereby adopts the findings set forth in **Exhibit 1**, supporting the approval of Development Review Permit D21-0006 for Triangle Plaza development; and be it

FURTHER RESOLVED: That the Planning Commission hereby further determines that the number of off-street parking spaces required for the Triangle Plaza development may be reduced by twenty percent in accordance with TMC Section 10.08.3740(e), based upon the facts and findings set forth in the record and **Exhibit 1**; and be it

FURTHER RESOLVED: That the Planning Commission, based upon the facts and findings set forth in the record and **Exhibit 1**, hereby approves Development Review Permit D21-0006 for the Triangle Plaza development comprised of three drive-through restaurants, a gasoline fueling station with eight pumps and a convenience store, and associated parking and landscaping improvements on an approximately 1.91 acres located at 3788 N. Tracy Blvd., Assessor's Parcel Numbers 212-250-01 & 02, subject to the Conditions of Approval contained in Attachment 1; and be it

FURTHER RESOLVED: That the Planning Commission of the City of Tracy hereby determines, based on the evidence in the record and its own independent judgment, that the proposed project is categorically exempt from the California Environmental Quality Act pursuant to Guidelines Section 15332 (In-fill Development).

* * * * *

The foregoing Resolution 2023-_____ was adopted by the Planning Commission on June 28, 2023, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTENTION:	COMMISSION MEMBERS:

CHAIR

ATTEST:

STAFF LIAISON

**City of Tracy
Development Review Permit Findings
Application Number D21-0006**

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed project would develop an existing vacant site that is surrounded by commercial development. The proposed building and landscaped parking area meet the City's objectives for high quality design. The proposed buildings and fueling canopy are architecturally interesting in that they utilize building materials such as stone, metal accents, and storefront glazing and design elements including recesses and pop-outs, varied wall heights, significant cornice caps, and horizontal bands protruding from the wall, colorful accent colors, and score lines in the stucco. The architectural themes are present on all sides of the buildings, and rooftop equipment will be hidden from view behind building parapets. Through-circulation is provided throughout the site, and the parking area will serve all onsite buildings as well as provide vehicular access from the street to an adjacent existing development. In furtherance of the City's landscaping goals, a significant amount of landscaping, including a variety of canopy and accent trees, is proposed throughout the parking area, on the site's perimeter, and around the buildings, including an evergreen hedge to screen the drive-through lanes from views from the streets.
2. The proposal, as conditioned, conforms to the Tracy Municipal Code (TMC), the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, because the proposed development will comply with all applicable City and state regulations for building design and construction, off-street parking and circulation, and landscaping.
3. The proposed number of off-street parking spaces is 20 percent fewer than the number otherwise required in TMC Section 10.08.3480. The number of off-street parking spaces proposed will be sufficient for the project and is approved in accordance with TMC Section 10.08.3470(e), off-street parking space reduction. In accordance with TMC Section 10.08.3470(e), the applicant submitted a Parking Demand Study Technical Memo, prepared by TJKM Transportation Consultants, using Institute of Traffic Engineers research data to support the conclusion that 74 off-street parking spaces is sufficient to mitigate the parking demands of this project. The project includes multiple uses and users (restaurants, automobile service station, and a retail convenience store) which will all share the off-street parking spaces. Parking demands from customers and employees will be spread between the peak parking times of the various businesses. Although the automobile service station fueling locations do not count as off-street parking spaces, some customers will utilize the retail convenience store while their vehicle is fueling or otherwise located in a fueling spot, thereby not using a formally designated parking space for retail store visits. The restaurants have sufficiently long drive-thru lanes to provide for significant queuing of vehicles. Some vehicles' passengers may utilize restrooms or other on-site retail, or restaurant uses while their vehicle is in a drive-thru lane, thereby reducing parking demand. On-street parking is not allowed on either of the two fronting public rights-of-way: Tracy Boulevard and Larch Road. And therefore, if parking demand were to exceed the on-site supply, vehicles would not overflow onto the right-of-way, and instead would seek commodities or service elsewhere or at a different time and not adversely impact on-street parking. Public bus stops, furthermore, are within one-quarter mile of the project site, thereby enabling employees or customers to access the site via public transportation and additionally reduce the demand for off-street parking spaces.

City of Tracy
Conditions of Approval
Triangle Plaza
Application Number D21-0006

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: A commercial development comprised of three drive-through restaurants and a gasoline fueling station and convenience store

The Property: Two lots totaling approximately 1.91 acres located at 3788 N. Tracy Blvd., Assessor's Parcel Numbers (APN) 212-250-01 & 02

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, defined as a "Developer."
- b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
- c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project, Application Number D21-0006. The Conditions of Approval shall specifically include all conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

A.3. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the plans received by the Development Services Department on May 31, 2023, which include site, floor, elevation, section, civil, and landscape plans, as well as color and material details.

A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.

- A.5. Compliance with laws. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
 - California State Title 24 and Title 19
- A.6. Compliance with City regulations. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City regulations, including, but not limited to, the Tracy Municipal Code (TMC), Standard Plans, and Design Goals and Standards.
- A.7. Protest of fees, dedications, reservations, or other exactions. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

B. Development Services Department, Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@cityoftracy.org

- B.1. Parking on separate lots. Before the issuance of a building permit, the applicant shall record a reciprocal access and parking covenant on APN 212-250-01 & 212-250-02 in accordance with TMC Section 10.08.3460(g) and submit a copy to the Development Services Department. Said recordation(s) shall provide for pedestrian and vehicular traffic to travel unimpeded throughout the parking areas and shall provide for the maintenance of the parking area so long as the building is maintained. Said recordation shall be reviewed by the City prior to recordation with the County Recorder and shall contain measures to prevent its change or removal without prior written City approval.

Alternatively, the applicant may combine the two lots into one through a lot line adjustment or lot merger, in which case such parking covenant does not need to be recorded.

- B.2. Parking area. Before the approval of a building permit, the applicant shall submit the following to the satisfaction of the Development Services Director:
- B.2.1 Site plans and construction details that demonstrate 12-inch wide concrete curbs along the perimeter of landscape planters where such planters are

parallel and adjacent to vehicular parking spaces to provide access to vehicles without stepping into the landscape planters.

- B.2.2 Detailed plans that demonstrate the parking stalls are striped in accordance with Standard Plan 141.
 - B.2.3 Detailed plans that demonstrate sidewalk, landscape planters, and bio-retention areas perpendicular to parking stalls overhang up to 24 inches into the parking stall in place of wheel stops where feasible. Any landscape planter overhang may not be double-counted toward the required amount of parking area landscaping.
 - B.2.4 Bicycle parking spaces shall be provided in accordance with Tracy Municipal Code Section 10.08.3510.
- B.3. Landscaping & irrigation plans. Before the approval of a building permit, the applicant shall provide detailed landscape and irrigation plans consistent with the following to the satisfaction of the Development Services Director:
- B.3.1. Said plans shall demonstrate compliance with Tracy Municipal Code Section 10.08.3560 for parking area landscaping. Said plans shall include a planting legend indicating, at minimum, the quantity, planting size, and height and width at maturity and calculations for landscape and canopy tree shading areas.
 - B.3.2. Each planter shall contain a combination of trees, shrubs, and groundcover. Trees shall be a minimum of 24" box size, shrubs shall be a minimum size of 5 gallon, and groundcover shall be a minimum size of 1 gallon at planting.
 - B.3.3. A continuous evergreen landscape screen, such as a hedge, shall be planted along to the drive-through lanes when they are visible from the public right-of-way. The plants selected shall be of an appropriate size to adequately screen the vehicles in the drive-through lanes, which may be either mature plants at planting or 5 gallon fast-growing plants that achieve maturity within a few years.
 - B.3.4. Where trees are planted ten feet or less from a sidewalk or curb, root barriers dimensioned 8 feet long by 24 inches deep shall be provided adjacent to such sidewalk and curb, centered on the tree.
 - B.3.5. Landscape & Irrigation Maintenance. Prior to the issuance of a building permit, the Developer shall execute a two-year landscape and irrigation maintenance agreement and submit financial security, such as a performance bond, to ensure the success of all on-site landscaping for the term of the agreement. The security amount shall be equal to \$2.50 per square foot of the landscaped area or equal to the actual labor and material installation cost of all on-site landscaping and irrigation.

- B.4. Landscaping & irrigation installation. Prior to final inspection or certificate of occupancy, all landscaping and irrigation substantially conforming with the development review permit plans dated May 31, 2023 and the approved building permit construction plans shall be installed to the satisfaction of the Development Services Director.
- B.5. Lighting.
- B.5.1. Before the issuance of a building permit, the applicant shall submit detailed plans that demonstrate a minimum of one foot candle throughout the parking area as defined in TMC Section 10.08.3450.
- B.5.2. Prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way and onto any adjacent private property, to the satisfaction of the Development Services Director.
- B.6. Screening utilities and equipment. Before the approval of a building permit, the applicant shall submit detailed plans that demonstrate the following:
- B.6.1. No roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, shall be readily visible from any public right-of-way, including I-205. The plans shall demonstrate that such equipment is fully screened from view by building parapet designed to be equal to or higher than the height of the mounted equipment to the satisfaction of the Development Services Director.
- B.6.2. All vents, gutters, downspouts, flashing, plumbing lines, fire risers, and electrical conduits shall be internal to the structures and other ground-mounted, wall-mounted or building-attached utilities, including bollards, shall be painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.
- B.6.3. All PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or substantially screened from view behind structures or landscaping, to the satisfaction of the Development Services Director.
- B.6.4. Trash enclosures shall be designed and appropriately sized for this project, including allowance for recycling collection. The trash and recycling collection enclosure shall include a solid roof structure, solid metal doors, and solid walls sufficiently sized to fully screen the dumpsters. The enclosure, including the roof, shall be architecturally compatible with the building, which includes but is not limited to, design, materials, and colors. A six-inch concrete curb and/or bollards may be installed on the interior of the enclosure for the protection and durability of the enclosure walls.

- B.7. Signs. No business identification signs are approved with this permit. Prior to the installation of any signs requiring a sign permit, the applicant shall obtain applicable sign and building permits in accordance with the Tracy Municipal Code.
- B.8. Fencing. Prior to final inspection, existing chain link fencing shall be removed. No chain link fence is permitted on site where it would be visible from the public right-of-way, and the existing chain link fencing shall be removed prior to final inspection. No electronically charged, razor wire, barbed wire, integrated corrugated metal, or plain exposed plastic concrete/PCC fences, vinyl slats, and woven fabric fences are permitted on the site.
- B.9. Bollards. Concrete bollard pipes shall not be used in areas visible to the general public, with exception of the fueling station, which may have pipe bollards painted to match the canopy columns to the satisfaction of the Development Services Director. Large boulders, planter boxes, decorative walls, or other architectural features that complement the character of the site may be used as needed for protection of site improvements from potential vehicular impact.
- B.10. APCD Requirements. The applicant shall comply with all applicable requirements of the San Joaquin Valley Air Pollution Control District (APCD), including District Rule 9510, Regulation VIII, and payment of all applicable fees, to the satisfaction of the APCD.
- B.11. Environmental Health Requirements. The applicant shall comply with all applicable requirements of the San Joaquin County Environmental Health Department.

C. Development Services Department, Engineering Division Conditions

Contact: Majeed Mohamed (209) 831-6425 majeed.mohamed@cityoftracy.org

C.1. General Conditions

Developer shall comply with the applicable sections of approved documents and/or recommendations of the technical analyses/reports prepared for the Project listed as follows:

- 1) Storm Drain Technical Memorandum prepared by Wood Rodgers, of Roseville, CA dated November 10, 2021;
- 2) Traffic Analysis and Engineering Review prepared by Kimley-Horn and Associates of San Jose, CA dated May 25, 2022;

C.2. RESERVED

C.3. RESERVED

C.4. Grading Permit

All grading work (on-site and off-site) shall require a Grading Plan. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Geotechnical Engineer.

Prior to the release of the Grading Permit for the Project, Developer shall provide all documents related to said Grading Permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.4.1 Developer has completed all conditions set forth in this section.
- C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, construction, etc.) of all other public agencies and/or private entities with jurisdiction or interest over the required public and/or private facilities and/or property. Written permission from affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit.
- C.4.3 Developer has obtained a demolition permit to remove any existing structure located within the project's limits.
- C.4.4 All existing on-site water well(s), septic system(s), and leech field(s), if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s), septic system(s), and leech field(s) including the cost of permit(s) and inspection. Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.
- C.4.5 The Improvement Plans for all improvements to serve the Project (on-site and off-site) including the Grading Plan shall be prepared in accordance with the City's Subdivision Ordinance (Tracy Municipal Code Chapter 12.36), City Design Documents as defined in Title 12 of the Tracy Municipal Code, and these Conditions of Approval.
- C.4.6 On-site Grading Plan shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size 20-pound (min.) bond paper and PDF. These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by the Project's Registered Civil Engineer of Record and the Project's Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the plans prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Grading Plan approved by the City Engineer for all grading work. All grading work not completed before October 15 may be subject to additional requirements as applicable. Improvement Plans shall specify all proposed erosion control methods and construction details to be employed and specify materials to be used during and after the construction.

- C.4.7 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.
- C.4.8 For Projects on property larger than one (1) acre: Prior to the issuance of the Grading Permit, Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and one (1) hard copy of the Storm Water Pollution Prevention Plan (SWPPP) as submitted in Stormwater Multiple Applications and Reporting Tracker System (SMARTS) along with either a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID) or a copy of the receipt for the NOI. After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Developer. Developer shall comply with all the requirements of the SWPPP, applicable Best Management Practices (BMPs) and the Stormwater Post-Construction Standards adopted by the City in 2015 and any subsequent amendment(s).

For Projects on property smaller than one (1) acre: Prior to the issuance of the Grading Permit, the Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and 1 hard copy of the City of Tracy Erosion and Sediment Control Plan (ESCP) for approval. Cost of preparing the ESCP including any annual storm drainage fees shall be paid by the Developer. Developer shall comply with all the requirements of the ESCP, applicable BMPs and the Post-Construction Stormwater Standards adopted by the City in 2015 and any subsequent amendment(s).

- C.4.9 Developer shall provide a PDF copy of the Project's Geotechnical Report signed and stamped by the Project's Registered Geotechnical Engineer. The technical report must include relevant information related to, but not limited to, soil types and characteristics; soil bearing capacity; recommendations of soil and pavement compaction, import fill gradation, retaining wall design, slope gradients, flexible and in-flexible pavement (including paving calculations such as 5-values, gravel factors, gravel equivalence); bore logs; elevation of the highest observed groundwater level; infiltration testing at the bottom floor elevation of the proposed basin; and other design recommendations or geotechnical tests to the satisfaction of the City Engineer.
- C.4.10 Minor Retaining – Developer shall use reinforced or engineered masonry blocks for retaining soil at property lines when the grade differential among the in-tract lots exceeds twelve (12) inches. Developer will include construction details of these minor retaining walls with the on-site Grading Plan. Developer may use slopes among the lots to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical) unless the Project's Registered Geotechnical Engineer signs and stamps a geotechnical report letter that supports a steeper slope gradient. Slope easements may be required and will be subject to approval by the City Engineer.

Minor Retaining along Project Perimeter – Developer shall use reinforced or engineered masonry blocks for retaining soil along the Project boundary and adjacent property(s) when the grade differential exceeds 12-inches. Developer will include construction details for these minor retaining walls with the on-site Grading Plan. Developer may use slopes to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical). Slope easements may be subject to approval by the City Engineer and if adjacent and affected property(s) owner(s) grants said easements.

Slopes are an acceptable option as a substitute to engineered retaining walls, where cuts or fills do not match existing ground or final grade with the adjacent property or public right of way, up to a maximum grade differential of two (2) feet, subject to approval by the City Engineer.

Slope easements will be recorded, prior to the issuance of the Grading Permit. The Developer shall be responsible to obtain and record slope easement(s) on private properties, where it is needed to protect private improvements constructed within and outside the Project, and a copy of the recorded easement document must be provided to the City, prior to the issuance of the Grading Permit.

Walls - Developer shall show proposed retaining walls and masonry walls on the on-site Grading Plan. The Developer is required to submit improvement plans, construction details, and structural calculations for retaining walls and masonry walls to Building and Safety. Retaining wall and masonry wall design parameters will be included in the geotechnical report.

- C.4.11 Developer shall provide a copy of the approved Incidental Take Minimization Measures (ITMM) habitat survey [San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)] from San Joaquin Council of Governments (SJCOG).
- C.4.12 Developer shall provide a copy of the approved Air Impact Assessment (AIA) with an Indirect Source Review (ISR) from San Joaquin Valley Air Pollution Control District (SJVAPCD).
- C.4.13 Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.

C.4.14 Developer shall underground existing overhead utilities such as electric, TV cable, telephone, and others. Each dry utility shall be installed at the location approved by the respective owner(s) of dry utility and the Developer shall coordinate such activities with each utility owner. All costs associated with the undergrounding shall be the sole responsibility of the Developer and no reimbursement will be due from the City. Developer shall submit undergrounding plans. Referenced and incorporated herein are Title 11 and Title 12 of the Tracy Municipal Code. Exemptions from this condition are further clarified in the aforementioned code sections.

C.4.15 If at any point during grading that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any potential archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan Environmental Impact Report; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.5. Improvement Agreement(s)

All construction activity involving public improvements will require a fully executed improvement agreement (Off-site, Subdivision, and/or Inspection). Any construction activity involving public improvements without a fully executed improvement agreement is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer of Record.

Prior to the consideration of City Council's approval of said improvement agreement, the Developer shall provide all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.5.1. Off-site and/or Public Infrastructure Improvement Plans prepared on a twenty-four (24) inch x thirty-six (36) inch size 20-pound (min.) bond paper and PDF that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Landscape Architect for the relevant discipline. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the plans including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:

- C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.
- C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers such as benchmarks.
- C.5.1.c. A PDF copy of the Project's approved Geotechnical/Soils Report that was prepared for the grading permit submittal.
- C.5.1.d. Storm Water - Storm drainage release point is a location at the boundary of the Project adjacent public right-of-way where storm water leaves the Property, in a storm event and that the Property's on-site storm drainage system fails to function or it is clogged. Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an adjacent public right-of-way with a functional storm drainage system and the existing storm drainage line has adequate capacity to drain storm water from the Property. The storm drainage release point is recommended to be at least 0.70-feet lower than the building finish floor elevation and shall be designed and improved to the satisfaction of the City Engineer.

The minimum building finish floor elevation shall be 18.5 feet.

The Project's permanent storm drainage connection(s) shall be designed and constructed in accordance with City Regulations. The design of the permanent storm drainage connection shall be shown on the Grading Plans with calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable requirements of the City's storm water regulations adopted by the City Council in 2012 and any subsequent amendments. Developer shall also comply with and/or construct the recommended mitigations as described in the storm drain technical memorandum.

Developer and its heirs shall be responsible for repairing and maintaining the on-site storm water treatment system at the Developer's (and heirs') sole cost and expense.

- C.5.1.e Sanitary Sewer - It is the Developer's responsibility to design and construct the Project's permanent on-site sanitary sewer (sewer) improvements including the Project's sewer connection in accordance with the City's Design Standards, City Regulations and Standard Specifications. Sewer improvements shall include but not limited to, replacing asphalt concrete pavement, reconstructing

curb, gutter and sidewalk, restoring pavement marking and striping, and other improvements that are disturbed as a result of installing the Project's permanent sewer connection. Developer shall submit improvement plans that include the design of the sewer line from the Property to the point of connection.

Developer shall remove and replace the existing sewer lateral along Tracy Boulevard with a ten (10) inch sewer lateral (minimum). The said sewer lateral installation shall be subject to Condition C.8.1.

- C.5.1.f Water Distribution - Developer shall design and construct domestic and irrigation water service that comply with the City Regulations. Water line sizing, layout and looping requirements for this Project shall comply with City Regulations. During the construction of the Project, the Developer is responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshal.

Interruption to the water supply to the existing businesses and other users will not be allowed to facilitate construction of improvements related to the Project. Developer shall be responsible for notifying business owner(s) and users, regarding construction work. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least seventy-two (72) hours before start of work. Prior to starting the work described in this section, the Developer shall submit a Work Plan acceptable to the City that demonstrates no interruptions to the water supply, and Traffic Control Plan to be used during the installation of the off-site water mains and connections.

The Project's water service connections shall use a remote-read (radio-read) master water meter and a Reduced Pressure Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection(s) must be completed before the inspection of the building. The location of the meters shall be per City Regulations and shall not in the driveway. Other proposed locations shall be approved to the satisfaction of the City Engineer.

All costs associated with the installation of the Project's water connection(s) including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street or parking area(s) that may be disturbed with the installation of the permanent water connection(s), or domestic water service, and other improvements shall be paid by the Developer.

Fire Service Line – Location and construction details of fire service line including fire hydrant(s) that are to serve the Project shall be approved by the Fire Marshal. Prior to the approval of the Improvement Plans by the City Engineer, the Developer shall obtain written approval from the Fire Marshal, for the design, location and construction details of the fire service connection to the Project, and for the location and spacing of fire hydrants that are to be installed or planned to serve the Project.

- C.5.1.g Streets – The Developer shall have frontage improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Documents including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City. The Developer shall construct frontage improvements as described below.

Larch Road

The Developer shall dedicate right of way as required to conform with the City of Tracy Transportation Master Plan (TMP), dated November 2012, Horizon Year four (4) lane major arterial with median cross section (twenty-two {22} feet total for landscaping and sidewalk along the project frontage, excluding the Public Utility Easement {P.U.E.}). In addition, the Developer shall record a ten (10) foot wide P.U.E. immediately behind the new property line.

Developer shall remove the existing curb gutter and sidewalk along northern property frontage and replace it with new asphalt, landscaping, sidewalk, curb and gutter per current City Standards.

Developer shall construct a ten (10) foot sidewalk/Class I Bikeway located immediately behind a seven (7) landscaped parkway.

Developer shall construct a commercial driveway per current City Standards

Street cuts and trenching related to utility installation in Larch Road shall be subject to Condition C.8.1

Tracy Boulevard

Developer shall remove the southernmost existing commercial driveway along the easterly frontage of the property and replace it

with new asphalt, landscaping, sidewalk, curb, and gutter per current City Standards.

Developer shall remove the northernmost existing commercial driveway along the easterly frontage of the property and replace it with a commercial driveway per current City Standards.

Street cuts and trenching related to utility installation in Tracy Boulevard shall be subject to Condition C.8.1

Developer shall record a ten (10) foot wide P.U.E. immediately behind the new/existing property line.

Larch Road and Tracy Boulevard

Developer shall construct or re-construct cracked, settled, and/or damaged portland cement concrete curb, gutter, and sidewalk, landscaping and its automatic irrigation system, street trees, fire hydrants and streetlights along the Project's frontage.

Developer shall restripe the existing northbound right turn lane to be a shared through/right turn lane at the south leg of the Larch Road and Tracy Boulevard intersection. In addition, the Developer shall restripe the northbound receiving lanes to include two (2) northbound through lanes at the north leg of said intersection. Lastly, the outside receiving lane at the north leg shall be restriped to merge before the roadway narrows just north of the said intersection.

Developer shall also construct the recommended mitigations described in the traffic technical memorandum.

Developer shall preserve the existing trees on the project's frontage.

Along the Project frontage, Developer shall construct a landscaped and irrigated parkway. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 20-pound (min.) bond paper and PDF that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect.

- C.5.2. Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size 20-pound (min.) bond paper and PDF for the installation of dry utilities such as electric, gas, TV cable, telephone, and others that will be located within a PUE, if existing, to be installed to serve the Project. All private utility services to serve Project must be installed

underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to the building(s).

- C.5.3. Payment of applicable fees required by City Regulations, and these Conditions of Approval including but not limited to plan checking, grading, construction inspection, agreement processing, encroachment permits, and testing fees.
- C.5.4. Project Engineer's reasonable cost estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans.
- C.5.5. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

Access and Traffic Circulation to Existing Businesses/Residents - Developer shall take all steps necessary to plan and construct site improvements such that construction operations do not impact safety and access (including emergency vehicles) to the existing businesses and residents throughout the duration of construction. Developer shall coordinate with the owners and cooperate to minimize impacts on existing businesses. All costs of measures needed to provide safe and functional access shall be borne by the Developer.

- C.5.6. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be either pinned and recessed into the pavement or ramped on all sides. Ramps will be made of cold-mix asphalt concrete, be a minimum two-foot wide, and will run the entire length of each side.
- C.5.6. If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

- C.5.7 Improvement Security - Developer shall provide improvement security for all public facilities, as required by the Improvement Agreement. The form of the improvement security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

Insurance – Developer shall provide written evidence of insurance coverage that meets the terms of the Improvement Agreement.

C.6. Building Permit

Prior to the release of a building permit within Project boundaries, the Developer shall demonstrate, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

- C.6.1 Developer has satisfied all conditions in C.1 through C.4 in these Conditions of Approval and has obtained a City approved Grading Permit.
- C.6.2 Developer shall pay any applicable development impact fees.

C.7 Acceptance of Public Improvements

Prior to the consideration of City Council's acceptance of public improvements, the Developer shall demonstrate to the reasonable satisfaction of the City Engineer, completion of the following:

- C.7.1 Developer has satisfied all conditions in C.1 through C.6 in these Conditions of Approval.
- C.7.2 Prior to improvement acceptance, Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.
- C.7.3 Developer has satisfactory completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.7.4 Certified "As-Built" On-site Grading and Off-Site Improvement Plans (or Record Drawings) - Prior to improvement acceptance, Developer shall cause its design professionals(s) to prepare Certified "As-Built" grading and off-site Improvement Plans (or Record Drawings). Said Record Drawings shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size 4-millimeter-thick polymer film (mylar). Developer shall re-obtain all signatures from outside agencies prior to submitting the Record Drawings to the City.

- C.7.5 Prior to improvement acceptance, Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter, sidewalk and other public improvements associated with the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.7.6 Prior to improvement acceptance, Developer has completed the ninety (90) day public landscaping maintenance period.
- C.7.7 Prior to improvement acceptance, per Section 21107.5 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet, if applicable.
- C.7.8 Survey Monuments – Prior to improvement acceptance, Developer shall submit centerline tie sheets, corner records, a record of survey, etc. for the following: new public streets; re-established survey monuments, damaged, destroyed, altered, and/or reconstructed any existing curb returns, survey monuments and/or benchmarks. Any survey document will be submitted to the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.
- C.7.9 Prior to improvement acceptance, repair and maintenance of all on-site water lines, laterals, sub-water meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer.
- C.7.10 Prior to improvement acceptance, Developer shall submit warranty bonds.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.
- C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the

improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

- C.8.3 Prior to the release of the Building Permit, if water is required for the Project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.
- C.8.4 Prior to acceptance of the public improvements, Developer shall cause its design professional to provide to the City in both AutoCAD format, and Shape File format (both in versions approved by the City), the public improvements associated with this Project.
- C.8.5 Prior to release of Building Permit, Developer shall record a temporary construction easement to allow for the reconstruction of existing curb ramp that is partially located on the neighboring parcel to the east. The said easement shall be recorded with the San Joaquin County Recorder's office and a copy shall be presented to the City to be filed with the City Clerk.

D. Utilities Department, Water Resources Division Conditions

Contact: Stephanie Hiestand (209) 831-6333 stephanie.hiestand@cityoftracy.org

- D.1. Prior to issuance of a construction or building permit, the applicant shall demonstrate compliance with the 2015 Post-Construction Stormwater Standards (PCSWS) Manual and obtain approval through the following:
 - D.1.1. Develop a Project Stormwater Plan (PSP) that identifies the methods to be employed to reduce or eliminate stormwater pollutant discharges through the construction, operation and maintenance of source control measures, low impact development design, site design measures, stormwater treatment control measures and hydromodification control measures.
 - D.1.1.a. Design and sizing requirements shall comply with PCSWS Manual.
 - D.1.1.b. Demand Management Areas must be clearly designated along with identification of pollutants of concern.
 - D.1.1.c. Calculations of the Stormwater Design Volume and/or Design Flow with results from the Post-Construction Stormwater Runoff Calculator must be submitted in the PSP for approval.
 - D.1.1.d. Per the PCSWS Manual, include a hydromodification management plan ensuring the post-project runoff flow rate shall not exceed

- estimated pre-project flow rate for the 2- year, 24 hour storm.
- D.1.1.e. Submit one (1) hard copy of the PSP and an electronic copy to the Utilities Department (WaterResources@cityoftracy.org), include the project name, address and Project # and/or Permit # in the title or subject line.
- D.1.2. A separate plan sheet(s) designated SW shall be submitted in the plan set that includes the identified methods for pollution prevention outlined in the submitted PSP. You must include all standards, cross sections and design specifications such as landscape requirement in treatment areas including type of irrigation installation and/or height of drain inlet above the flow line, etc. in these SW plan sheets along with legend.
- D.1.3. Develop and electronically submit to the Utilities Department for approval (WaterResources@cityoftracy.org) a preliminary Operations and Maintenance (O & M) Plan that identifies the operation, maintenance, and inspection requirements for all stormwater treatment and baseline hydromodification control measures identified in the approved PSP.
- D.1.4. No later than two (2) months after approval notification of the submitted PSP, the applicant shall electronically submit the following information to the Utilities Department (WaterResources@cityoftracy.org) for development of a draft stormwater maintenance access agreement, in accordance with the MAPCSWS:
- i. Property Owner(s) name and title report; or Corporate name(s) and binding documents (resolutions, etc) designating ability to sign agreement
 - ii. Property Address
 - iii. Exhibit A – legal property description
 - iv. Exhibit B – approved O & M Plan
- D.2. Prior to issuance of a grading permit, the applicant shall provide proof of permit coverage under the Construction General Permit and submittal of an electronic Stormwater Pollution Prevention Plan (SWPPP), to be submitted to WaterResources@cityoftracy.org.

D.3. Prior to Certificate of Occupancy, the applicant shall complete the following to the satisfaction of the Utilities Director:

D.3.1. Return to the Utilities Department, two legally signed and notarized copies of the final maintenance access agreement including all exhibits and approved O & M plan previously submitted and received from the Utilities Department.

D.3.2. Obtain final approval by the Utilities Department of the constructed and installed Stormwater pollution prevention methods outlined in the PSP. Frequent inspections of the Post- Construction treatment measures should occur during the construction phase by calling 209- 831-6333.

D.3.3. The project shall be in full compliance with Construction General Permit including 70% stabilization of the project with Notice of Termination approval.

D.4. Before the approval of a construction, grading or building permit, the applicant shall demonstrate compliance with Tracy Municipal Code Chapters 11.28 and 11.34 and Chapter 4 or 5 of the California Green Building Standards Code to the satisfaction of the Utilities Director.

D.5. Prior to issuance of a construction or building permit, applicant shall demonstrate compliance with the 2015 Model Water Efficient Landscape Ordinance and obtain approval by the Utilities Department through the following:

D.5.1. Develop and submit electronically and by hard copy, a Landscape Document Package (LDP) that identifies the methods to be employed to reduce water usage through proper landscape design, installation and maintenance. This LDP shall consist of:

- i. A project information sheet that includes the checklist of all documents in the LDP;
- ii. The Water Efficient Landscape Worksheets that include a hydrozone information table and the water budget calculations – Maximum Applied Water Allowance and Estimate Total Water Use;
- iii. A soil management report, after compaction and from various locations throughout the project;
- iv. A landscape design plan that includes the statement, "I agree to comply with the requirements of the 2015 water efficient landscape ordinance and shall submit for approval a complete Landscape Document Package:
- v. An irrigation design plan with schedule; and
- vi. A grading design plan.

D.5.2. A Certificate of Completion must be completed, signed, and

submitted to the Utilities Department prior to Final approval for Occupancy.

E. Development Services Department, Building & Fire Safety Conditions

Contact: Phillip Rainone (209) 831-6413 phillip.rainone@cityoftracy.org

- E.1. At time of Building permit submittal, the applicant to clarify location of recycled car wash equipment, including the sand/oil separator and clarifier tank.
- E.2. There are multiple buildings that are proposed in the 200-year flood plain. Therefore, at time of building permit application submittal, the applicant shall provide substantial reports prepared by Registered Civil Engineer for the City to make an official finding that will allow the development in the 200-year flood plain.
- E.3. At the time of building permit application submittal, applicant shall provide accessible parking stalls as close to the front entrance as possible per CBC 11B-208.3.1 for QSR #1 and #2.
- E.4. Prior to the construction of each building or structure, applicant shall submit construction documents, plans, specifications and/or calculations to the Building Safety Division, which meet all requirements of Title 24 California Code of Regulations and City of Tracy Municipal Codes, as applicable.
- E.5. Doors used as a means of egress shall be provided an accessible route to the public way per CBC 11B-206.2.
- E.6. At time of building permit application submittal, the applicant shall ensure that the cross slope of the valley gutter does not exceed 2% per CBC 11B-403.3 or they may relocate the valley gutter to a different location where it is not located in the path of travel to the gas pumps.

F. South San Joaquin County Fire Authority Conditions

Contact: Daniel Stowe (209) 831-6707 daniel.stowe@sjcfire.org

- F.1 Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.
 - F.1.1. Each building and structure will be classified as separate submittals and should be submitted for review separately.
 - F.1.2. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.
 - F.1.3. Deferred submittals shall be listed on the coversheet of each page for any fire protection system - fire service underground, fire sprinkler system, fire standpipe system, or the fire alarm system. Each deferred submittal shall be

submitted, reviewed and approved by SSJCFA prior to installation.

- F.2. Engineering and building permit applications received by our offices are subject to the current fee schedule for South San Joaquin County Fire Authority. Contact our offices for additional information.
 - F.2.1. Application processing fees and minimum plan review fees are due at time of submittal of construction documents.
 - F.2.2. Additional plan review fees, minimum inspection fees and administrative fees are calculated on approval of project and shall be paid prior to issuance of permit.
 - F.2.3. Permit holder is responsible for any additional inspection fees incurred and shall be paid prior to final inspection.
- F.3. Prior to construction, all-weather fire apparatus access roads shall be installed. Fire apparatus access roads during construction shall have a minimum 20' unobstructed width in accordance with CFC §503.
- F.4. Prior to construction, an address must be posted at the construction site entrance. Address must be a minimum of 4 inches high by ½ inch numerals. Address must be provided so that emergency service personnel can locate the construction site in the event of an emergency.

G. The following conditions provide the applicant with options for funding required Citywide services.

Contact: Guadalupe Pena 209.831.6834 Guadalupe.pena@cityoftracy.org

G.1. Streets and Streetlights

Before issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure"), by doing one of the following, subject to the approval of the City's Finance Director:

- a. Community Facilities District (CFD). Developer shall enter into an agreement with the City, to be signed by the Finance Director, which shall be recorded against the Property, which requires that prior to the final inspection, Developer shall complete the annexation of the Property to City of Tracy Community Facilities District in compliance with the requirements of the Mello – Roos Community Facilities Act of 1982 (Gov. Code § 53311 et seq.) including, without limitation, affirmative votes, and the recordation of a Notice of Special Tax Lien. Developer shall be responsible for all costs associated with the CFD proceedings.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, Developer

must do the following:

- 1) Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");
- 2) Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) of the POA to ensure the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");
- 3) Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of operation, maintenance and replacement for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure"). The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

- c. Direct funding. Developer shall enter into an agreement with the City, which shall be recorded against the Property, which requires that prior to approval of final inspection, Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure").

If the provisions for adequate funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement

Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure") are met prior to issuance of the building permit for the Property, subject to the Finance Director's review and approval, the terms of this condition shall be considered to have been met and this condition shall become null and void.

G.2. Landscaping Maintenance

Prior to issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of operation, maintenance and replacement for public landscaping for the Property at a high-quality service level as determined by the Parks Director by doing one of the following, subject to the approval of the City's Finance Director:

- a. CFD or other funding mechanism. The Developer shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates the following: (1) prior to issuance of a building permit, the Developer shall form or annex into a Community Facilities District (CFD) for funding the on-going costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan; (2) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems; masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails; (3) formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien; (4) upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment; (5) prior to issuance of a building permit, the Developer shall deposit an amount equal to the first year's taxes; and (6) the Developer shall be responsible for all costs associated with formation or annexation of the CFD.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, the Developer must do the following:
 1. Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going maintenance of all public landscaping areas that will serve the Property;
 2. Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection, setting forth, among other

things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) to ensure the long-term maintenance by the POA of all public landscape areas that will serve the Property;

3. Make and submit to the City, in a form reasonably acceptable to the City, an irrevocable offer of dedication of all public landscape areas that will serve the Property;
4. Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of public landscape maintenance. The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

- c. Direct funding. The Developer shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates that prior to issuance of a building permit, the Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails.

June 28, 2023

Agenda Item 1.D

THIS ITEM IS REMOVED FROM THE AGENDA AND WILL BE RE-NOTICED FOR ANOTHER DATE

STAFF RECOMMENDS THAT THE PLANNING COMMISSION RECOMMEND THAT THE CITY COUNCIL ADOPT A RESOLUTION: (1) DIRECTING CITY STAFF TO FINALIZE THE DRAFT HOUSING ELEMENT AND SUBMIT THE DRAFT HOUSING ELEMENT TO THE STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR REVIEW, AND (2) DETERMINING THE PROJECT IS EXEMPT FROM CEQA PURSUANT GUIDELINES SECTION 15061(B)(3).