

## NOTICE OF A REGULAR MEETING

Pursuant to Section 54954.2 of the Government Code of the State of California, a Regular meeting of the City of Tracy Planning Commission is hereby called for:

Date/Time: Wednesday, October 23, 2019  
7:00 P.M. (or as soon thereafter as possible)

Location: City of Tracy Council Chambers  
333 Civic Center Plaza

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Planning Commission on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

### REGULAR MEETING AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES – 9/11/19, 10/09/19

DIRECTOR'S REPORT REGARDING THIS AGENDA

ITEMS FROM THE AUDIENCE - *In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2015-052 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Commission Member to sponsor the item for discussion at a future meeting.*

#### 1. NEW BUSINESS

- A. PUBLIC HEARING TO CONSIDER A RECOMMENDATION TO THE CITY COUNCIL TO APPROVE AN AMENDMENT TO SECTION 10.08.3196 OF THE TRACY MUNICIPAL CODE REGARDING ESTABLISHING ZONING AND LOCATION REQUIREMENTS FOR COMMERCIAL CANNABIS BUSINESSES, APPLICATION NUMBER ZA19-0002
- B. PUBLIC HEARING TO CONSIDER AN APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR'S REVOCATION OF A HOME OCCUPATION PERMIT FOR AUTO DETAILING AT PROPERTY LOCATED AT 1881 NEWPORT COURT IN VIOLATION OF TRACY MUNICIPAL CODE SECTION 10.08.4600. THE APPELLANT IS GABRIEL HERNANDEZ. CODE ENFORCEMENT CASE 19CD-0917
- C. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT AND DEVELOPMENT REVIEW PERMIT TO CONVERT AN EXISTING SINGLE FAMILY RESIDENCE TO A DAY CARE CENTER LOCATED AT 1525 WILBANKS LANE (ASSESSOR'S PARCEL NUMBER 242-240-36) – THE APPLICANT AND OWNER IS MARIA CARINA DIAZ DE BARAJAS – APPLICATION NUMBERS CUP19-0003 AND D19-0016

- D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE PERMITTED USES IN THE GENERAL HIGHWAY COMMERCIAL ZONE OF THE RESIDENTIAL AREAS SPECIFIC PLAN (SPA19-0003) AND A DEVELOPMENT REVIEW PERMIT FOR AN ASSISTED LIVING AND MEMORY CARE FACILITY (D19-0019) ON APPROXIMATELY 2.73 ACRES LOCATED AT THE NORHTWEST CORNER OF CORRAL HOLLOW ROAD AND ALEGRE DRIVE (2050 W. GRANT LINE ROAD – THE APPLICANT IS SUMMIT SENIOR LIFE, LLC.

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

Posted: October 18, 2019

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6000) at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Development Services Department located at 333 Civic Center Plaza during normal business hours.



**MINUTES  
TRACY CITY PLANNING COMMISSION  
SEPTEMBER 11, 2019, 7:00 P.M.  
CITY OF TRACY COUNCIL CHAMBERS  
333 CIVIC CENTER PLAZA**

**CALL TO ORDER**

Chair Orcutt called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Chair Orcutt led the pledge of allegiance.

**ROLL CALL**

Roll Call found Chair Orcutt, Vice Chair Hudson, and Commissioner Wood present. Also present were: Bianca Rodriguez, Deputy City Attorney; Bill Dean, Assistant Development Services Director; Gina Peace, Recording Secretary, and Paula Venegas, Administrative Assistant (Training).

**ELECTION OF VICE CHAIR**

**ACTION:** It was moved by Chair Orcutt, and seconded by Commissioner Wood, that Commissioner Hudson be appointed as Vice Chair. A voice vote found all in favor, 3-0-0-0; passed and so ordered.

**MINUTES**

Chair Orcutt introduced the Minutes from the August 14, 2019, meeting.

**ACTION:** It was moved by Vice Chair Hudson and seconded by Chair Orcutt that the Planning Commission Meeting Minutes of August 14, 2019, be approved. A voice vote found all in favor, 3-0-0-0; passed and so ordered.

**DIRECTOR'S REPORT REGARDING THIS AGENDA**

None.

**ITEMS FROM THE AUDIENCE**

None.

**1. NEW BUSINESS**

- A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE OFF-STREET PARKING AREA LANDSCAPING REQUIREMENTS (TMC SECTION 10.08.3560) – THE APPLICANT IS ADM GROUP, INC ON BEHALF OF KAISER FOUNDATION HEALTH PLAN, INC. – APPLICATION NUMBER ZA19-0001

Bill Dean presented the staff report.

Commission questions and discussion followed.

Chair Orcutt opened the public hearing at 7:14 p.m.

Robert Tanner, 1371 Rusher, addressed the Commission.

Fernando Mercado, ADM Group, Applicant, addressed the Commission.

Chair Orcutt closed the public hearing at 7:17 p.m.

**ACTION:** It was moved by Vice Chair Hudson and seconded by Commissioner Wood, that the Planning Commission recommend that the City Council approve the attached Ordinance, amending the Tracy Municipal Code Sections 10.08.3560(c) and (d) regarding landscaping requirements for parking areas.

A voice vote found all in favor, 3-0-0-0; passed and so ordered.

## **2. ITEMS FROM THE AUDIENCE**

None.

## **3. DIRECTOR'S REPORT**

Bill Dean mentioned how he was looking forward to the upcoming APA Conference.

## **4. ITEMS FROM THE COMMISSION**

Vice Chair Hudson echoed Mr. Dean's comments.

## **5. ADJOURNMENT**

It was moved by Chair Orcutt and seconded by Commissioner Hudson, to adjourn.  
Voice vote found all in favor; passed and so ordered.

Time: 7:29 p.m.

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CHAIR

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STAFF LIAISON

**MINUTES  
TRACY CITY PLANNING COMMISSION  
OCTOBER 9, 2019, 7:00 P.M.  
CITY OF TRACY COUNCIL CHAMBERS  
333 CIVIC CENTER PLAZA**

**CALL TO ORDER**

Chair Orcutt called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Chair Orcutt led the pledge of allegiance.

**ROLL CALL**

Roll Call found Chair Orcutt, Commissioner Atwal, and Commissioner Francis present. Commissioner Wood and Vice Chair Wood were absent. Also present were: Leticia Ramirez, City Attorney; Bianca Rodriguez, Deputy City Attorney, Bill Dean, Assistant Development Services Director; Gina Peace, Recording Secretary, Paula Venegas, Administrative Assistant (Training), Scott Claar, Senior Planner, Kimberly Matlock, Associate Planner, Kenny Lipich, Assistant Planner, and Al Gali, Associate Civil Engineer.

**MINUTES**

Chair Orcutt postponed the introduction of the September 11, 2019 minutes to the next regularly scheduled Planning Commission meeting.

**DIRECTOR'S REPORT REGARDING THIS AGENDA**

Assistant Director of Development Services, Bill Dean welcomed both new Commissioners.

**ITEMS FROM THE AUDIENCE**

None.

**1. NEW BUSINESS**

1. **PUBLIC HEARING TO CONSIDER APPLICATIONS FOR A DEVELOPMENT REVIEW PERMIT, A CONDITIONAL USE PERMIT, A TENTATIVE PARCEL MAP, AND SIGN PERMIT FOR A NEW CALIFORNIA HIGHWAY PATROL FACILITY LOCATED AT 1305 E. PESCADERO AVENUE, ASSESSOR'S PARCEL NUMBER 213-060-43. APPLICANT IS TRACY CHP PARTNERS, LLC AND PROPERTY OWNERS ARE BRANAGH TRUST, PATTERSON TRUST, ET AL. - APPLICATION NUMBERS D19-0023 & CUP19-0006, MS19-0004, & SGN19-0038.**

Kimberly Matlock delivered the staff report.

Commission questions and discussion regarding the Project followed.

Chair Orcutt opened the public hearing at 7:14 p.m.

David Stapley, Developer/Partner, Magnon Companies, addressed the Commission.

Captain Ken Roberts, Facilities Section, CHP, addressed the Commission.

Eric Glass, Glass Architects, addressed the Commission.

Chair Orcutt closed the public hearing at 7:27 p.m.

**ACTION:** It was moved by Chair Orcutt and seconded by Commissioner Atwal, that the Planning Commission approve the application for a development review permit, a conditional use permit, a tentative parcel map, and sign permit for a new California Highway Patrol Facility located at 1305 E. Pescadero Avenue.

A voice vote found all in favor, 3-0-2-0; passed and so ordered.

**2. PUBLIC HEARING TO CONSIDER APPROVING A CONDITIONAL USE PERMIT TO ALLOW A FITNESS CENTER AT 3262 N. TRACY BLVD – APPLICANT IS ANDREW DAVIES AND PROPERTY OWNER IS SILVERLAND INVESTMENT LLC – APPLICATION NUMBER CUP19-0005**

Scott Claar delivered the staff report.

Commission questions and discussion regarding the Project followed.

Chair Orcutt opened the public hearing at 7:51 p.m.

Rachel Beealer, with Planet Fitness, and Andrew Davies, Applicant, addressed the Commission.

Chair Orcutt closed the public hearing at 7:56 p.m.

**ACTION:** It was moved by Chair Orcutt and seconded by Commissioner Atwal, that the Planning Commission approve a conditional use permit to allow a fitness center at 3262 N. Tracy Blvd.

A voice vote found all in favor, 3-0-2-0; passed and so ordered.

**3. PUBLIC HEARING TO CONSIDER APPROVAL OF A DEVELOPMENT REVIEW PERMIT FOR EXTERIOR MODIFICATIONS TO HAMPTON INN AT 2400 NAGLEE ROAD (ASSESSOR'S PARCEL NUMBER 212-050-62) – APPLICANT IS DANIEL SAVAGE AND PROPERTY OWNER IS TRACY MALL PARTNERS LP – APPLICATION NUMBER D19-0009**

Kenny Lipich presented the staff report.

Commission questions and discussion regarding the Project followed.

Chair Orcutt opened the public hearing at 7:59 p.m.

Matthew Nudelman addressed the Commission on behalf of Daniel Savage, the Applicant.

Chair Orcutt closed the public hearing at 8:02 p.m.

**ACTION:** It was moved by Chair Orcutt and seconded by Commissioner Atwal, that the Planning Commission approve a development review permit for exterior modifications to Hampton Inn at 2400 Naglee Road.

A voice vote found all in favor, 3-0-2-0; passed and so ordered.

## **2. ITEMS FROM THE AUDIENCE**

None.

## **3. DIRECTOR'S REPORT**

Bill Dean postponed the APA Conference Recap to the next regularly scheduled Planning Commission Meeting. Bill Dean reiterated his welcome to both new Commissioners.

## **4. ITEMS FROM THE COMMISSION**

Chair Orcutt welcomed and thanked the new Commissioners.

## **5. ADJOURNMENT**

It was moved by Chair Orcutt and seconded by Commissioner Francis, to adjourn. Voice vote found all in favor; passed and so ordered.

Time: 8:05 p.m.

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CHAIR

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STAFF LIAISON



AGENDA ITEM 1.A

REQUEST

**PUBLIC HEARING TO CONSIDER A RECOMMENDATION TO THE CITY COUNCIL TO APPROVE AN AMENDMENT TO SECTION 10.08.3196 OF THE TRACY MUNICIPAL CODE REGARDING ESTABLISHING ZONING AND LOCATION REQUIREMENTS FOR COMMERCIAL CANNABIS BUSINESSES, APPLICATION NUMBER ZA19-0002**

DISCUSSION

Background

Currently, all commercial cannabis activity is prohibited in Tracy. The City Council provided direction to staff on February 5, 2019 to draft regulatory and zoning ordinances to permit commercial cannabis subject to certain limitations on cultivation and on the numbers of dispensaries, and further directed staff to research regulatory programs related to issuing permits to the industry. Through three separate workshops on August 13, September 3, and most recently on October 1, 2019, the City Council provided direction to staff to further develop cannabis regulatory and zoning requirements for its consideration.

City Council explored and provided feedback to staff regarding various locational considerations and cannabis business types and staff has prepared an amendment to the City's zoning ordinance responsive to that direction. An amendment to Section 10.08.3196 of the Tracy Municipal Code (TMC) would make certain cannabis business types conditionally permitted in various commercial and industrial areas, and would prohibit outdoor cultivation within the City limits. As conditionally permitted uses, operations of such businesses would only be allowed after Planning Commission issues a Conditional Use Permit, pursuant to TMC Section 10.08.4250.

Two-Track System of Regulations

The majority of the proposed regulations for commercial cannabis businesses will be established in amendments to Chapter 6.36 of the TMC. Together, the two ordinances (Chapter 6.36 and Chapter 10.08) would create a two-track system for addressing commercial cannabis. The first track (ordinance amending Chapter 6.36) addresses in the allowable cannabis business types, the operating procedures for the permitted cannabis businesses, the operating procedures specific to certain cannabis business types, and enforcement of those regulations. The second track (ordinance amending Chapter 10.08) involves where such dispensaries could be located and under what permit.

The first track, involving the cannabis regulatory requirements, would establish an application process to evaluate potential cannabis business operators. The proposed process would be managed and administered by the Tracy Police Department and involves review and permitting requirements in order for the City to select appropriate operators. The City has an interest in ensuring that the operators meet certain minimum criteria and that they and their employees undertake appropriate background checks before being able to operate in Tracy.

The second track would occur once an operator has successfully applied for and obtained approval by the Tracy Police Department. This second track is a proposed ordinance that establishes where cannabis dispensaries are permitted to be located

(allowable land uses) in the City.

The Planning Commission will only be making recommendations to Council regarding the proposed zoning amendment to Section 10.08.3196. However, for informational purposes the draft regulatory ordinance (Chapter 6.36) and the Council packet for the Council workshop on the draft regulatory ordinance has been included as Attachment A to this staff report.

#### Proposed Zoning Ordinance

The zoning ordinance establishes the following:

- Creates new definitions
- Allows retail storefront dispensaries in commercial and industrial zones
- Allows non-storefront retailer (delivery), distribution, manufacturing, microbusiness, testing laboratories, indoor cultivation of cannabis in industrial zones
- Prohibits outdoor cultivation of cannabis in all zones
- Maintains State law provisions that cannabis businesses must be 600 feet from day care centers, schools, and youth centers
- Establishes that the cultivation of cannabis for personal use shall only be conducted indoor and in accordance with State law
- Requires the approval of a Conditional Use Permit prior to establishing any cannabis business

#### CEQA Documentation

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Business and Professions Code Section 26055(h), which provides that CEQA does not apply to the adoption of an ordinance, rule, or regulation that requires discretionary review and approval of permits or other authorizations to engage in commercial cannabis activity. This project is further exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As this is only a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

#### RECOMMENDATION

Staff recommends that the Planning Commission recommend the City Council introduce an ordinance and approve the Tracy Municipal Code amendment regarding the proposed zoning amendment to Section 10.08.3196.

#### RECOMMENDED MOTION

Move that the Planning Commission recommend that the City Council approve the Tracy Municipal Code amendment regarding the proposed zoning amendment to Section 10.08.3196., as indicated in the Planning Commission Resolution dated October 23, 2019.



Prepared by: Bill Dean, Assistant Director of Development Services

Approved by: Andrew Malik, Assistant City Manager

ATTACHMENTS

A – City Council workshop Packet from October 1, 2019 containing draft ordinance amending Chapter 6.36, Commercial Cannabis Activity



## NOTICE OF SPECIAL MEETING

Pursuant to Section 54956 of the Government Code of the State of California, a Special meeting of the **Tracy City Council** is hereby called for:

**Date/Time:** **Tuesday, October 1, 2019, 6:00 p.m.**  
(or as soon thereafter as possible)

**Location:** **Council Chambers, City Hall**  
**333 Civic Center Plaza, Tracy**

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Tracy City Council on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

1. Call to Order
2. Roll Call
3. Items from the Audience - *In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2015-052 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting.*
4. WORKSHOP TO DISCUSS DRAFT REGULATORY ORDINANCE FOR COMMERCIAL CANNABIS ACTIVITY AND PROVIDE DIRECTION TO STAFF
5. Adjournment



Mayor

### **Thursday, September 26, 2019**

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

Any materials distributed to the majority of the Tracy City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's office located at 333 Civic Center Plaza, Tracy, during normal business hours.

October 1, 2019

## AGENDA ITEM 4

### REQUEST

#### **WORKSHOP TO DISCUSS DRAFT REGULATORY ORDINANCE FOR COMMERCIAL CANNABIS ACTIVITY AND PROVIDE DIRECTION TO STAFF**

### EXECUTIVE SUMMARY

Staff is returning to the City Council to conduct a workshop on regulating commercial cannabis activity in Tracy. Staff is presenting a draft cannabis regulatory ordinance for Council discussion. The proposed ordinance, is one of two ordinances, in which the City exercises local control over cannabis by establishing a local permitting scheme and zoning restrictions.

Tonight's workshop will highlight the aspects of the regulatory ordinance that are consistent with State minimums and where the City is electing to regulate cannabis above the State minimums.

### DISCUSSION

In preparing the draft regulatory ordinance, staff conducted two prior workshops with the City Council. At the August 13<sup>th</sup> workshop, the City Council provided direction related to what types of cannabis business activities to allow in Tracy and the zoning and locational requirements for these business types. During the September 3<sup>rd</sup> workshop, the City Council provided further direction on types of business activities, including outdoor cultivation and volatile manufacturing. In addition, the Council discussed and provided direction for specific regulations that are above the minimums established by State cannabis regulations which include Proposition 64 and implementing laws and regulations such as Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"). In this workshop, staff will highlight the sections of the ordinance that incorporated the Council's prior direction.

The regulatory ordinance seeks to amend Chapter 6.36 "Commercial Cannabis Activity" of the Tracy Municipal Code ("TMC"). The ordinance is organized into the following five articles:

Article 1. – General Provisions

Article 2. – Cannabis Business Permits.

Article 3. – General Operating Procedures for all Cannabis Business Permittees.

Article 4. – Operating Procedures for Specific Cannabis Business Types.

Article 5. – Enforcement.

- Article 1 provides the purpose, intent and authority of the ordinance. In addition, this section includes the definitions, including the definition for "owner" as discussed on September 3<sup>rd</sup>.
- Article 2 covers allowable business types, number of cannabis business permits issued by types and the requirement to apply and renew these permits. This

section also includes the requirement that employees of cannabis businesses obtain a City-issued cannabis employee permit.

- Article 3 is the “General Operating Procedures for All Cannabis Business Permits.” Article 3 demonstrates where the City, acting as a regulatory body, adopts the same standards that exist in State cannabis regulations, allowing the City to monitor, enforce, and, if needed, prosecute cannabis business activities.
- Article 4 is distinct from Article 3 as the article focuses on regulation related to a particular cannabis business type (e.g. retail, distribution, manufacturing, etc). Like Article 3, the City is incorporating Proposition 64 regulations into the City regulatory process for local control and enforcement. The added regulation of employee badges resulting from City issued employee permits (Article 2: 6.36.150) is layered throughout the various business types in Article 4.
- Article 5 incorporates the City’s ability to inspect and enforce compliance, Title 6.36 of the Municipal Code.

Below is a short list of items discussed during the workshops and the related sections in Chapter 6.36. Attached is a memorandum drafted by the City’s consultant highlighting the differences between State cannabis regulations and the City’s regulatory ordinance.

- Definitions Section 6.36.012
  - “Owner”: 5% financial interest ownership
- Section 6.36.040: Allowable Business types no limit on permits:
  - Distribution
  - Manufacturing: non-volatile
  - Microbusiness
  - Retailer - Non-Storefront (Delivery Only)
  - Testing Laboratory
- Allowable Business types with limit on permits:
  - Retailer - Storefront (Dispensary) 4 permits (To be increased to 6 by amendment to the TMC)
- Prohibited business types for future consideration
  - Outdoor cultivation
  - Volatile manufacturing
- City-issued Cannabis Employee Permit
  - City issued permit following completion of employee background checks pursuant to Section 6.36.150(d).
  - Employee badges are issued with the employee permit and must be worn managers and staff while working. (Section 6.36.260)
- City-issued Cannabis Business Permit (Article 2)
  - Section 6.36.050-Review of Permit applications: subcommittee of Development Services, Finance, and Fire
  - Section 6.36.060 –
    - Approval of application: Police
    - Appeal of application: Tracy Municipal Code Title 1.12 Appeal Process

Other areas discussed with the City Council relate to land use matters that will be found in Title 10

- The definition of “youth center” presented to Council on September 3<sup>rd</sup>.
- Maintain State law 600-foot buffer around sensitive uses such as youth centers, licensed day care centers, and schools
- Conditionally permitted uses in areas designated as commercial and industrial zones

#### FISCAL IMPACT

Staff will return to the City Council with potential fiscal impacts based upon City Council policy direction. The City Council may consider placing cannabis general tax measure on the November 2020 ballot.

#### RECOMMENDATION

Council's feedback will be used to further develop cannabis regulatory requirements for the Council's consideration.

Next steps:

- Planning Commission - Recommendation regarding Zoning Ordinance- October
- City Council:
  - First reading of Regulatory Ordinance in November
  - Review and approval of application selection criteria and process - December

Prepared by: Karin Schnaider, Finance Director, and  
Bill Dean, Assistant Development Services Director

Reviewed by: Alex Neicu, Interim Police Chief  
Midori Lichtwardt, Assistant City Manager  
Leticia Ramirez, Interim City Attorney

Approved by: Jenny Haruyama, City Manager

#### ATTACHMENTS

Attachment A - State-Local Enforcement Prepared by HdL  
Attachment B - Proposed Ordinance Amending Chapter 6.36 Commercial Cannabis Activity

## State-Local Enforcement

Prepared by HdL

### California's Dual Licensing System

California requires both a state license and a local permit or other authorization in order for a commercial cannabis business to operate legally. This provides a significant element of local control. However, to be meaningful, local control also entails *local enforcement*, and to a degree it places the onus on local governments to conduct periodic and timely enforcement activity vis-à-vis cannabis businesses in order for the regulatory system to function effectively.

The League of California Cities fought to achieve exactly this kind of regulatory structure because it wanted to get away from the state-only enforcement model that was established with respect to alcohol licensees. With liquor establishments, the state has control of the only truly meaningful regulatory hammers, the ability to suspend or revoke the state alcohol license.

With the cannabis industry's dual licensing, locals are not dependent on the state for enforcement against wayward businesses – but with that enforcement power comes responsibility, namely the responsibility to direct appropriate resources for inspections and other local enforcement activity, to the degree resources are available.

### The State's Regulatory Priorities

When California's cannabis laws were being crafted, policymakers and to a lesser degree the state licensing entities made it clear that the state would have limited enforcement resources, and that local governments would need to have a role on the enforcement front. Given the state's finite resources, its enforcement priorities based on actual activity to date has been focused on the following:

- Shutting down illicit, unlicensed cannabis operators.
- Protecting the public health by prioritizing enforcement action against retailers who are selling non-compliant (untested) product, and against testing laboratories that are improperly certifying product as compliant with state health and safety requirements, when it is not.
- Conducting compliance inspections (as state resources allow).

In many other instances, local governments simply have to be the first line of defense.

### Local Police Powers

The Tracy ordinance provisions listed below have no parallel in state law. They relate directly to the city's **local police power** and have **no direct relation to state regulations**. These provisions are necessary in order for any city to have a functioning regulatory structure:

- Section 6.36.020 Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.
  - This specific provision is necessary in the ordinance to clarify what is and what is not allowed in terms of commercial cannabis activity. It provides transparency.

- It stems in part from the fact that state law has deliberately been crafted in such a way that the doctrine of **permissive zoning** has been turned on its head as far as local cannabis regulation is concerned. Because of this development, as a matter of prudent liability management, local ordinances absolutely must be specific in two areas:
    - 1. Prohibited activity
    - 2. Areas that may potentially be the subject of local enforcement activity.
- Section 6.36.030 Cannabis Business Permit Required to Engage in a Commercial Cannabis Activity.
  - This is a standard regulation of business activity locally and has ample precedent.
- Section 6.36.040 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.
  - Again, this is entirely consistent with local land use and police powers. State law does not address those issues except to provide generally for these powers within the state's regulatory framework for cannabis.
- Section 6.36.130 Transfer of Cannabis Business Permit.
  - Local jurisdictions have discretion as to whether to allow transfers.
  - This regulatory topic has traditionally been problematic for cities with respect to alcohol licensees, so it is important that this provision be present in the ordinance, depending on whether the city will allow such transfers.
- Section 6.36.150 Cannabis Employee Permit Required.
  - State law does not regulate employees at all. It focuses solely on owner/operators.
  - It is nonetheless important that locals regulate employees as there is abundant evidence from Colorado and Washington State that most problems operators have with product diversion/shrinkage is employee-related.
  - Employee background checks, which may or may not include an employee permit requirement, are an emerging best practice to address the need to have employees who are known to the local government.
- Section 6.36.160 City Business License.
  - This is a standard regulation emanating from local police power, essential to cities, but in which the state has no interest.
- Section 6.36.400 Fees Deemed Debt to City of Tracy.
  - The state has no interest in provisions pertaining to local fees.
- Section 6.36.420 Inspection and Enforcement.
  - The state has the authority to perform inspections and enforcement, but it does not have sufficient resources to conduct inspections on a sufficiently broad scale, or with sufficient frequency, for them to be of any real value in terms of encouraging widespread compliance with either state or local regulations.



- While officially the state does not rely on local governments for most enforcement, as a practical matter the state's finite resources dictate that timely enforcement may be local in nature. Locals therefore are often the first line of defense in this area – while local resources may also be limited, it is far more cost-effective in term of time and expense for local governments to handle compliance inspections, for example (although the state performs them as well) – locals are close at hand, have a greater ability to perform surprise inspections, and therefore have a superior ability to encourage compliance with all rules and regulations.

<b>Tracy Ordinance</b>	<b>State Law Equivalent</b>
Cannabis activities locally prohibited unless specifically authorized*	None
Maximum Number and Type of Cannabis Businesses*	None
Transfer of Cannabis Business Permit*	Parallel Regulation
Employee Permit Requirement	None
Background Check for Owners	Parallel Requirement
Background Check for Employees	None
City Business License Required	State License Required
Fees Deemed Debt to City	None
Inspection and Enforcement	Parallel Authority for both
Security Measures (locals have discretion to impose more stringent requirements than the state)	State Security Measures include limited access areas, video surveillance w/90 days storage, security rooms, camera coverage of all entrances/exits
Security Personnel (BSIS-licensed)	Parallel Requirement
Cultivation Regulations (Ban)	Cultivation Licensing Requirements
Manufacturing Regulations (discretion to allow/ban all license types, to regulate types of extraction)	Manufacturing Licensing Requirements

Nuisance (Odor) Regulations*	None
Complaints from Neighbors	None
Burglary/Right of Entry regulations	None

\*Denotes a local land use regulation.

**Chapter 6.36 COMMERCIAL CANNABIS ACTIVITY.**

**Article 1. – General Provisions.**

- Section 6.36.010 Purpose and Intent.
- Section 6.36.011 Legal Authority.
- Section 6.36.012 Definitions.
- Section 6.36.013 Compliance with State and Local Laws.

**Article 2. – Cannabis Business Permits.**

- Section 6.36.020 Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.
- Section 6.36.030 Cannabis Business Permit Required to Engage in a Commercial Cannabis Activity.
- Section 6.36.040 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.
- Section 6.36.050 Application Procedure for a Cannabis Business Permit.
- Section 6.36.060 Selection of Cannabis Business Permittee(s).
- Section 6.36.070 Grounds for Denial of a Cannabis Business Permit.
- Section 6.36.080 Expiration of Cannabis Business Permits.
- Section 6.36.090 Suspension, Modification or Revocation of Cannabis Business Permits.
- Section 6.36.100 Renewal Applications.
- Section 6.36.110 Effect of State License Suspension, Revocation, or Termination.
- Section 6.36.120 Change in Contact Information; Updated Registration Form.
- Section 6.36.130 Transfer of Cannabis Business Permit.
- Section 6.36.140 Limitations on City's Liability.
- Section 6.36.150 Cannabis Employee Permit Required.

**Article 3. – General Operating Procedures for all Cannabis Business Permittees.**

- Section 6.36.160 City Business License.
- Section 6.36.170 Records and Recordkeeping.
- Section 6.36.180 Security Measures.
- Section 6.36.190 Restriction on Alcohol & Tobacco Sales.
- Section 6.36.200 Fees and Charges.
- Section 6.36.210 Packaging and Labeling.
- Section 6.36.220 Diversion Prohibited.
- Section 6.36.230 Emergency Contact.
- Section 6.36.240 Community Relations Manager.
- Section 6.36.250 Payment of Taxes.
- Section 6.36.260 Employee Permit Requirement.
- Section 6.36.270 Cannabis Consumption Prohibited.
- Section 6.36.280 Persons Under 21 Years of Age Prohibited.
- Section 6.36.290 Site Management.
- Section 6.36.300 Reporting Criminal Activity.
- Section 6.36.310 Display of Permit and City Business License.
- Section 6.36.320 Miscellaneous Operating Requirements.

**Article 4. – Operating Procedures for Specific Cannabis Business Types.**

Section 6.36.330 Cannabis Distribution Permit Requirements  
Section 6.36.340 Cannabis Manufacturing Permit Requirements  
Section 6.36.350 Cannabis Microbusiness Permit Requirements  
Section 6.36.360 Cannabis Non-Storefront (Delivery) Retailer Permit Requirements.  
Section 6.36.370 Cannabis Storefront (Dispensary) Retailer Permit Requirements  
Section 6.36.380 Cannabis Testing Laboratory Requirements

**Article 5. – Enforcement.**

Section 6.36.390 Promulgation of Regulations, Standards and Other Legal Duties.  
Section 6.36.400 Fees Deemed Debt to City of Tracy.  
Section 6.36.410 Permit Holder Responsible for Violations.  
Section 6.36.420 Inspection and Enforcement.  
Section 6.36.430 Compliance with State Regulation.  
Section 6.36.440 Violations Declared a Public Nuisance.  
Section 6.36.450 Each Violation a Separate Offense.  
Section 6.36.460 Criminal Penalties.  
Section 6.36.470 Remedies Cumulative and not Exclusive.  
Section 6.36.480 Service of Notices.

**Article 1. General Provisions.**

**Section 6.36.010. Purpose and Intent**

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes and implement the desire of California voters who approved the Adult Use of Marijuana Act (“AUMA”) by Proposition 64 in November 2016, while imposing sensible regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to regulate the commercial cannabis activity in a responsible manner to protect the health, safety, and welfare of the residents of Tracy and to enforce rules and regulations consistent with state law. It is the further purpose and intent of this Chapter to require all commercial cannabis operators meeting the established requirements to obtain and renew annually a regulatory permit to operate a cannabis business in Tracy. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or local law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to operate a cannabis business in the City, such as a conditional use permit issued pursuant to Title 10 of this Code, and are in addition to any permits, licenses and approval required under state, county, or other law.

**Section 6.36.011. Legal Authority.**

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, and any subsequent state legislation and/or regulations regarding same, the City of Tracy is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the

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State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Tracy to all commercial cannabis activity.

**Section 6.36.012. Definitions.**

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

“A-license” means a State License issued for cannabis or cannabis products that are intended for adults who are 21 years of age or older (adult-use) and who do not possess a physician’s recommendation.

“A-licensee” means any person holding a license under California Business and Professions Code Section 26000 et seq. for cannabis or cannabis products that are intended for adults who are 21 years of age or older (adult-use) and who do not possess a physician’s recommendation.

“Applicant” means an owner applying for a cannabis business permit or a person applying for a cannabis employee permit pursuant to this Chapter.

“Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:

“Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals and harvested at the same time.

“Manufactured cannabis batch” means either of the following:

- (1) An amount of cannabis concentrates or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.
- (2) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.

“Bureau” means the California Bureau of Cannabis Control within the California Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

“Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does

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not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.

“Cannabis accessories” has the same meaning as in Section 11018.2 of the California Health and Safety Code.

“Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the California Health and Safety Code, or drug, as defined by Section 109925 of the California Health and Safety Code.

“Cannabis employee permit” means a regulatory permit issued by the City pursuant to this Chapter to persons working, volunteering, interning, or apprenticing at any cannabis business operating in the City.

“Cannabis product” means cannabis or a product containing cannabis, including, but not limited to, manufactured cannabis, and shall have the same meaning as in Section 11018.1 of the California Health and Safety Code. For purposes of this Chapter, “cannabis” does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

“Canopy” shall have the same meaning as that appearing in Title 3, Section 8000(f) of the California Code of Regulations.

“Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

“City” or “City of Tracy” means the City of Tracy, a California general law City.

“City Council” means the City Council of the City of Tracy.

“Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this Chapter and in MAUCRSA. This definition shall have the same meaning as set forth in California Business and Professions Code Section 26001(k) as the same may be amended from time to time.

“Commercial cannabis business” or “Cannabis business” means any business or operation which engages in medicinal or adult-use commercial cannabis activity.

“Commercial cannabis business permit” or “City cannabis business permit” means a regulatory permit issued by the City pursuant to this Chapter to a person operating a cannabis business in the City. This permit is required before any commercial cannabis activity may be conducted in the City and does not constitute a land use entitlement nor a conditional use permit. The issuance of a cannabis business permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted or imposed by the City governing the commercial cannabis activity at issue.

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“Cultivation” or “cultivate” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Cultivation site” means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

“Cultivation area” means the area in which cannabis is cultivated.

“Customer” means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician’s recommendation, or a primary caregiver.

“Delivery” means the commercial transfer of cannabis or cannabis products by a retailer directly to a customer off the premises of a cannabis retail facility, in the customer’s home or other locations authorized by this chapter. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer. This definition shall have the same meaning as Section 26001(p) of the California Business and Professions Code, as may be amended from time to time.

“Dispensary” or “Dispensary site” means a state-licensed, locally permitted business selling cannabis, cannabis products or cannabis accessories from a building or structure that is open to customers. For the purposes of this Chapter, the term “Dispensary” is synonymous with a storefront retailer.

“Dispensing” means any activity involving the licensed retail sale of cannabis or cannabis products from a retailer.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between Licensees.

“Distributor” means a person holding a valid commercial cannabis state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a license manufacturer, for sale to a licensed retailer.

“Dried flower” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

“Edible cannabis product” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

“Labeling” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

“Licensee” means any person holding a State License under this Chapter, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

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“Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the Licensee.

“Live plants” means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

“Lot” means a batch or a specifically identified portion of a batch.

“M-license” means a State License issued for commercial cannabis activity involving medicinal cannabis.

“M-licensee” means any person holding a State License for commercial cannabis activity involving medicinal cannabis.

“Manufacturing” or “manufacturing operation” means the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container.

“Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.

“Manufacturing site” means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Tracy and, a valid State License as required for manufacturing of cannabis products.

“Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation. For the purposes of this Chapter, the term “medicinal cannabis” is synonymous with medical cannabis.

“Microbusiness” means a business that engages in at least three of the following commercial activities: cultivation (provided that the cultivation area is less than 10,000 square feet); distribution; manufacturing (Level 1), storefront retailer (dispensary), or non-storefront retailer (delivery-only). This definition shall have the same meaning as Section 26001.1 of the California Business and Professions Code, as may be amended from time to time.

“Natural person” is an individual human being as opposed to an artificial or legal person like a company which may be a private entity or non-governmental organization or public government organization.



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"Non-Storefront retailer" or "Retailer Non-Storefront" means a cannabis business that conducts sales of cannabis or cannabis products to customers exclusively by delivery and whose premises are closed to the public. The term "Non-Storefront retailer" is synonymous with the terms "delivery only" or "delivery service."

"Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent. For purposes of this Chapter, a nonvolatile solvent includes ethanol and carbon dioxide used for extraction, or as it may be defined and amended by the state.

"Operation" means any act for which licensure is required under the provisions of this Chapter, or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following:

- (1) A person with an aggregate ownership interest of five (5) percent or more in the person applying for a permit or a permittee, unless the interest is solely a security, lien, or encumbrance.
- (2) The chief executive officer and the members of the board of directors of the entity engaging in the cannabis business.
- (3) An individual who will be participating in the direction, control, or management of the person applying for a City cannabis business permit.

"Package" means any container or receptacle used for holding cannabis or cannabis products.

"Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health and Safety Code Section 11362.5.

"Permit Holder" means person to whom a permit under this Chapter has been issued, including but not limited to a cannabis business permit and cannabis employee permit. For purposes of this Chapter, the term "Permit Holder" is synonymous with "Permittee."

"Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Person with an identification card" shall have the meaning given that term by California Health and Safety Code Section 11362.7.

"Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code.

"Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee. This definition shall have the same meaning as California Business and Professions Code Section 26001(ap), and as may be amended from time to time.

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“Retailer” means a cannabis business issued a state license for the retail sale and delivery of cannabis or cannabis products to customers. This definition shall have the same meaning as California Business & Professions Code Section 26070 and as may be amended from time to time.

“Sell,” “sale,” “to sell” and “retail sale” include any transaction whereby, for any consideration, title to cannabis or cannabis products are transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

“State” means the State of California.

“State License” means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same, to engage in commercial cannabis activity.

“Testing laboratory” means a laboratory, facility, or site that offers or performs tests of cannabis or cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
- (2) Licensed by the State of California to engage in cannabis testing activities.

“Topical cannabis” means a product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

“Transport” means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by the MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same.

“Unique identifier” means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

**Section 6.36.13. Compliance with State and Local Laws.**

It is the responsibility of the owners and operators of the cannabis business to ensure that it is always operating in a manner compliant with all applicable state and local laws, policies, rules, and regulations including, but not limited to, the California Health and Safety Code, the California Water Code, the City adopted Building Code, Plumbing Code, Electrical Code, Mechanical Code, Fire Code, Energy Code, Green Building Standards Code, Existing Building Code, Historical Building Code, the Tracy Municipal Code, the Tracy Zoning Code, all requirements and conditions related to the land use entitlement process, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions that violate state law or local law with respect to the operation of a cannabis business. It shall be the responsibility of the owners and the operators of the cannabis business to ensure that the

cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, including for as long as applicable, the Compassionate Use Act ("Prop. 215") and the Medical Cannabis Program Act ("MMPA") (collectively "the Medical Cannabis Collective Laws"), the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions that violate state law regarding the operation of a commercial cannabis business.

## **Article 2. – Cannabis Business Permits**

### **Section 6.36.020. Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.**

Except as specifically authorized in this Chapter, the commercial cultivation, manufacturing, processing, storing, laboratory testing, labeling, retail sale, delivery, distribution or transportation (other than as provided under California Business and Professions Code section 26090(e)), of cannabis or cannabis product is expressly prohibited in the City of Tracy.

### **Section 6.36.030. Cannabis Business Permit Required to Engage in a Commercial Cannabis Activity.**

No person may engage in any commercial cannabis activity within the City of Tracy unless the person (1) has a valid Cannabis Business Permit from the City of Tracy; (2) has a valid State License; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and the commercial cannabis activities and land use and zoning requirements, including obtaining a valid conditional use permit pursuant to Title 10 of this Code.

### **Section 6.36.040. Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.**

(a) Maximum Number and Type of Authorized Cannabis Businesses Permitted. The number of each type of cannabis business that shall be permitted to operate in the City at any one given time shall be as follows:

- i. Cultivation (Indoor Only) – no maximum number.
- ii. Distribution – no maximum number.
- iii. Manufacturing – no maximum number.
- iv. Microbusiness – no maximum number.
- v. Retailer - Non-Storefront (Delivery Only) – no maximum number.
- vi. Retailer - Storefront (Dispensary) – a maximum of four (4) storefront retailers.
- vii. Testing Laboratory – no maximum number.

This Section is only intended to create a maximum number of cannabis businesses that may be issued permits to operate in the City under each category. Nothing in this Chapter creates a mandate that the City Council must issue any or all of the cannabis business permits if it is determined that the applicants do not meet the standards which are established in the application requirements or further amendments to the application process.

(b) Each year following the Police Chief's initial award of cannabis business permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of cannabis business permits which are authorized for issuance. The City Council, in its discretion, may determine by ordinance whether the number of commercial cannabis permits should change.

**Section 6.36.050. Application Procedure for a Cannabis Business Permit.**

(a) The City Council shall adopt by resolution the procedures to govern the application process, and the manner in which the decision to issue a cannabis business permit(s) is made. Said resolution shall authorize City staff and/or consultants to provide detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria ("Review Criteria") and to prepare the necessary forms, solicit applications, and review and evaluate the applicants. Applications for a cannabis business permit shall include, but not be limited to, the following information:

i. Applicant Background Information.

- A. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement.
- B. The phone number and address to which any notices and correspondence regarding the application is to be mailed.
- C. Owners. The name, address, telephone number, title, respective percentage of ownership, and function of each of the owners.
- D. Background checks. For each of the interested parties:
  - 1. A legible copy of one valid government-issued form of photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.
  - 2. A list of their misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the sentence, the jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of nolo contendere.
  - 3. Consent to fingerprinting and a criminal background investigation.

ii. Business operations.

- A. Business plan. A plan describing how the cannabis business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include proof of sufficient capital to start the business and sustain it through the first three months of operation, plans for handling cash and transporting cannabis and cannabis products to and from the site.
- B. Community relations plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.
- C. Document(s) demonstrating property owner acknowledgement. Document(s) demonstrating that the property owner is fully aware that the

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- applicant intends to use the property for cannabis business purposes. Document(s) must include name, address, and contact information for the property owner.
- D. State licenses. Copies of any state licenses relating to cannabis that the applicant holds.
  - E. Tax compliance. A current copy of the applicant's city business operations tax certificate, state sales tax seller's permit, and the applicant's most recent year's financial statement and tax returns.
  - F. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
  - G. Budget. A copy of the applicant's most recent annual budget for operations.
  - H. Price list. A list of the most recent prices for all products and services provided by the applicant.
- iii. City authorization. Authorization and consent for the City to seek verification of the information contained within the application.
  - iv. Applicant's certification. A statement dated and signed by the applicant, under penalty of perjury, that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the applicant's supervision.
  - v. Indemnification. An agreement, in a form approved by the City Attorney, whereby the applicant: (1) releases the City, and its agents, officers, elected officials, and employees from any and all claims, injuries, damages, or liabilities of any kind arising from: (a) any repeal or amendment of this Chapter or any provision of Title 10 of the Zoning Code relating to cannabis, and (b) any arrest or prosecution of the applicant or its managers, employees, or members for violation of state or federal laws; and (2) defends, indemnifies, and holds harmless the City and its agents, officers, elected officials, and employees from and against any and all claims or actions: (a) brought by adjacent or nearby property owners or any other parties for any damages, injuries, or other liabilities of any kind arising from operations at the commercial cannabis business, and (b) brought by any party for any problems, injuries, damages, or other liabilities of any kind arising out of the distribution of cannabis produced or processed at the site or by the business.
- (b) Non-Refundable Application Fee. At the time of filing, each applicant shall pay a non-refundable application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process.
- (c) Review of Applications. The Development Services Director or designee, Finance Director or designee, and Fire Chief or designee ("Review Committee") shall conduct an initial review of the applications and rank and score the applications utilizing the Review Criteria. The Review Committee shall then make a recommendation to the Police Chief or designee, who shall make a final selection in accordance with Section 6.36.060.
- (d) THE CITY'S RESERVATION OF RIGHTS:
- The City reserves the right to reject any or all applications. Prior to cannabis business permit issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California law. Persons submitting

applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to cannabis business permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application.

**Section 6.36.060. Selection of Cannabis Business Permittee(s).**

- (a) The Police Chief or designee shall determine which applicants will be granted a cannabis business permit in accordance with the procedures established referenced in Section 6.36.050, subsection (a). The Police Chief's or designee's decision as to the selection of permittees shall be appealable to the City Manager. Such appeals shall comply with Chapter 1.12 of this Code.
- (b) Upon issuance of a conditional use permit, a cannabis business permit is valid at only the location granted under the conditional use permit and State License.
- (c) Issuance of a cannabis business permit does not constitute a land use entitlement nor does it constitute a land use permit. Following the Police Chief's selection, the prevailing candidates(s) shall apply to the City's Development Services Department to obtain a conditional use permit pursuant to Section 10.08.4250 and any other required land use approvals or entitlements for the permittee's premises. Land use approvals shall include compliance with all applicable provisions of California Environmental Quality Act.
- (d) Conditions placed on the conditional use permit issued under Title 10 of this Code are also conditions of the cannabis business permit. Any violation of the conditional use permit's conditions is grounds for suspending or revoking the cannabis business permit.
- (e) Furthermore, no permittee shall begin operations, notwithstanding the issuance of a cannabis business permit, unless all of the state and local laws and regulations have been complied with, including but not limited to the requirements of this Chapter and Section 10.08.3196 of this Code.
- (g) Notwithstanding anything in this Chapter to the contrary, the City reserves the right to reject any or all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a cannabis business permit until a permit is actually issued, and then only for the duration of the term specified in the permit. Each applicant assumes the risk that, at any time prior to the issuance of a cannabis business permit, the City Council may terminate or delay the program created under this Chapter.
- (h) If an application is denied for a cannabis business permit, a new application may not be filed for one (1) year from the date of the denial.
- (i) Permit Fee. Each person granted a Cannabis Business Permit shall pay the permit fee established by resolution of the City Council, to cover the costs of administering the cannabis business permit regulatory program created in this Chapter.

**Section 6.36.070 Grounds for Denial of a Cannabis Business Permit.**

- (a) The City may deny a cannabis business permit if the Police Chief or designee(s) determines that one or more of the following circumstances exist:
- i. The application received is incomplete, filed late, or not responsive to the requirements of this article;
  - ii. The application contains a false or misleading statement or omission of a material fact;
  - iii. The operation of a cannabis business described in the application fails to comply with any of the requirements in this code, state law, or any other regulation;
  - iv. The applicant or any of its owners has any unpaid and overdue administrative penalties imposed for violations of this chapter;
  - v. The applicant has not paid the applicable business operations tax pursuant to Chapter 6.04 or subsequent Chapter(s) or taxes which may be amended from time to time by the voters.
  - vi. Within 12 months of the date of application, either the applicant has had its cannabis business permit revoked; or any of its owners were associated with another business that had its cannabis business permit revoked; or
  - vii. Operation of the cannabis business is a threat to the public health, safety, or welfare.

**Section 6.36.080. Expiration of Cannabis Business Permits.**

Each cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Cannabis business permits may be renewed as provided in Section 6.36.100.

**Section 6.36.090. Suspension, Modification, or Revocation of Cannabis Business Permits.**

- (a) The Police Chief may suspend, modify, or revoke a cannabis business permit issued pursuant to the provisions of this chapter for any of the following reasons:
- i. One or more of the circumstances upon which a cannabis business permit could be denied, as described in Section 6.36.070, exists or has occurred;
  - ii. One or more conditions of the cannabis business permit has been violated; or
  - iii. The Permittee, its owners, officers, directors, partners, agents, or other persons vested with the authority to manage or direct the affairs of the business have violated any provision of this Chapter.

**Section 6.36.100. Renewal Applications.**

- (a) An application for renewal of a cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
- (b) The renewal application shall contain all the information required for new applications.
- (c) The applicant shall pay a fee in an amount set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
- (d) An application for renewal of a cannabis business permit shall be denied if any of the

following exists:

- i. One or more of the circumstances upon which a cannabis business permit could be denied, as described in Section 6.36.070, exists or has occurred;
- ii. The application is filed less than sixty (60) days before its expiration.
- iii. The cannabis business permit is suspended or revoked at the time of the application.
- iv. The cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application, unless the applicant has been granted a conditional use permit for a vacant site and is subject to discretionary permit processing and construction.
- v. The permittee fails to or is unable to renew its State License.

(e) The Police Chief or designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the Police Chief or designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the Police Chief or designee(s) shall be directed to the City Manager and shall be handled pursuant to Chapter 1.12.

(f) If a renewal application is denied, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.

(g) If an existing cannabis business permit holder fails to renew their permit, the City may, in its discretion, solicit and consider permit applications from other applicants pursuant to Sections 6.36.050 and 6.36.060.

**Section 6.36.110. Effect of State License Suspension, Revocation, or Termination.**

- (a) Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall constitute grounds for revoking a City cannabis business permit.
- (b) Permittee shall inform the Police Chief or designee of any suspension, revocation or termination of their State license within one business day of receiving notice from the State. Failure to do so shall constitute grounds for revoking a City cannabis business permit.

**Section 6.36.120. Change in Contact Information; Updated Registration Form.**

(a) Any time the contact information listed on a cannabis business permit has changed, the business shall re-register with the Police Chief or designee(s). The process and the fees for re-registration shall be the same as the process and fees set forth in Section 6.36.100.

(b) Within fifteen (15) calendar days of any other change in the information provided in the application or any change in status of compliance with the provisions of this Chapter, including any change in the cannabis business ownership or management members, the applicant shall file an updated registration form with the Police Chief or designee(s) for review along with a registration amendment fee, as set forth in Section 6.36.100.



**Section 6.36.130. Transfer of Cannabis Business Permit.**

(a) The holder of a cannabis business permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains an amendment to their State License, if required, and an amendment to the permit from the Police Chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief or designee(s) in accordance with all provisions of this Chapter (as though the transferee were applying for an original cannabis business permit) accompanied by a transfer fee in an amount set by resolution of the City Council, and the Police Chief or designee(s) determines that the transferee passed the background check required for permittees and meets all other requirements of this Chapter.

(b) Cannabis business permits issued through the grant of a transfer by the Police Chief shall be valid for a period of one year beginning on the day the Police Chief approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter.

(c) Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the Police Chief or designee(s) through the transfer process contained in this subsection (a). Failure to comply with this provision is grounds for revocation.

(d) A permittee may change the form of business entity without applying to the Police Chief or designee(s) for a transfer of permit, provided that either:

- i. The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or
- ii. If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and to comply with Section 6.36.130, subsection (b), provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the City permit application) of the original permittee entity are the same as the new business entity.

Although a transfer is not required in these two circumstances, the permit holder is required to notify the Police Chief or designee(s) in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.

(e) No cannabis business permit may be transferred when the Police Chief or designee has notified the permittee that the permit has been or may be suspended or revoked.

(f) Any attempt to transfer a cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

**Section 6.36.140. Limitations on City's Liability.**

To the fullest extent permitted by law, the City of Tracy shall not assume any liability whatsoever with respect to having issued a cannabis business permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any cannabis business permit, the applicant shall be required to meet all of the following conditions before receipt of the permit:

(a) The applicant must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Tracy, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, or the alleged violation of any state or local laws by the cannabis business or any of its officers, employees or agents.

(b) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Attorney and/or Risk Manager.

(c) Reimburse the City of Tracy for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City of Tracy may be required to pay as a result of any legal challenge related to the City's approval of the applicant's cannabis business permit, or related to the City's approval of a commercial cannabis activity. The City of Tracy may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

**Section 6.36.150. Cannabis Employee Permit Required.**

(a) Any person who is an employee or who otherwise works within a cannabis business must be legally authorized to do so under applicable state law.

(b) Any person who is an employee or who otherwise works within a cannabis business must obtain a cannabis employee permit from the City prior to performing any work at any cannabis business.

(c) Applications for a cannabis employee permit shall be developed, made available, and processed by the Police Chief or designee(s), and shall include, but not be limited to, the following information:

- i. Name, address, and phone number of the applicant;
- ii. Verification of the applicant's age and identity. A copy of a birth certificate, driver's license, government issued identification card, passport or other proof that the applicant is at twenty-one (21) years of age must be submitted with the application;
- iii. Name, address of the cannabis business where the person will be employed, and the name and phone number of the primary manager of that business;
- iv. A list of any crimes enumerated in California Business and Professions Code Section 26057(b)(4) of which the applicant has been convicted;
- v. Name, address, and contact person for any previous employers from which the applicant was fired, resigned, or asked to leave and the reasons for such dismissal or firing;

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- vi. The application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the Police Chief or designee(s).
- vii. A fee paid in an amount set by resolution of the City Council in an amount necessary to cover the costs of administering the cannabis employee permit program. The fee is non-refundable and shall not be returned in the event the employee permit is denied or revoked.

(d) The Police Chief or designee(s) shall review the application for completeness, shall conduct a background check to determine whether the applicant was convicted of a crime or left a previous employer for reasons that show the applicant:

- i. Has ever been convicted of a violent felony as defined by California Penal Code Section 667.5, or equivalent offenses in other states;
- ii. Has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or; equivalent offenses in other states; or
- iii. Has ever been convicted of the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, except for cannabis related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.
- iv. Employers who wish to hire an individual notwithstanding this rule shall apply to the Chief of Police, who at his/her sole discretion may issue a written waiver.

Discovery of facts showing that the applicant has either failed to disclose or has been convicted of any of the above offenses are grounds for denial of the permit. Where the applicant's sentence (including any term of probation, incarceration, or supervised release) for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is completed, such underlying conviction shall not be the sole ground for denial of a commercial cannabis employee permit.

(e) The Police Chief or designee shall implement the cannabis employee permit process in accordance with the procedures and rules established by resolution adopted by the City Council.

(f) A cannabis employee permit shall be valid for a twelve (12) month period from date of issuance and must be renewed on an annual basis. Renewal applications shall contain all the information required in Section 6.36.150, subsection (c) above including the payment of a renewal application fee in an amount to be set by resolution of the City Council.

(g) The permit holder shall be issued a City Cannabis Employee permit identification badge. The cannabis employee permit identification badge shall be worn in accordance with Section 6.36.260, subsection (b).

(h) The City may immediately revoke the cannabis employee permit should the permit holder be convicted of a crime listed in subsection (d)(ii) above. The following are additional grounds for revoking a cannabis employee permit based on the specific role and function of that employee:

- i. A cannabis employee permit shall be revoked if the employee permit holder:
  - A. Sells or provides cannabis or cannabis products to a minor;
  - B. Attempts to give away cannabis or cannabis products;

- C. Acts to illegally divert cannabis or cannabis products to the black market, including stealing cash; stealing the licensee's product for personal consumption; or selling the licensee's product and keeping the proceeds of the sale; or
  - D. Is cited for driving under the influence of alcohol, cannabis or another illicit drug while on- or off-duty.
- (i) The applicant may appeal the denial or revocation of a cannabis employee permit to the City Manager by filing a notice of appeal with the City Clerk within ten (10) working days of the date the applicant received the notice of denial or revocation, which appeal shall be conducted as set forth in Chapter 1.12 of this Code.

### **Article 3. – General Operating Procedures for Cannabis Business Permittees**

#### **Section 6.36.160. City Business License.**

Prior to commencing operations, a cannabis business shall obtain a City of Tracy business license.

#### **Section 6.36.170. Records and Recordkeeping.**

(a) Each owner and operator of a cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or designee(s).

(b) Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the Police Chief or designee(s) upon a reasonable request.

(c) All cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes in accordance with the MAUCRSA.

(d) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) and other applicable regulations, each cannabis business shall allow City of Tracy officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of

conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated in writing by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

**Section 6.36.180. Security Measures.**

(a) A permitted cannabis business shall implement sufficient security measures to deter and prevent unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent theft of cannabis or cannabis products at the cannabis business. Except as may otherwise be determined by the Police Chief or designee and Fire Chief or designee, these security measures shall include, but shall not be limited to, all of the following:

- i. Preventing individuals from remaining on the premises of the cannabis business if they are not engaging in an activity directly related to the permitted operations of the cannabis business.
- ii. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
- iii. All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault, provided that such secured areas meet the emergency egress requirements in the Building Code. All cannabis and cannabis products that are being sold for retail purposes shall be kept in a manner as to prevent diversion, theft, and loss.
- iv. On-site security guard(s), licensed by the State of California Bureau of Security and Investigative Services, may be required as determined by the Police Chief or designee, and shall be subject to the prior review and approval of the Police Chief or his/her designee(s), with such approval not to be unreasonably withheld.
- v. Installing security surveillance cameras of sufficient resolution to allow the identification of persons and objects to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Police Chief or designee(s), and that it is compatible with the City's software and hardware. In addition, remote access to the video footage from the cameras shall be provided to the Police Chief or designee(s). Video recordings shall be maintained for a minimum of ninety (90) days, or as required under state law, and shall be made available to the Police Chief or designee(s) upon request without unreasonable delay. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.
- vi. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.
- vii. A commercial cannabis business shall notify the Police Chief or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
  - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).

- (2) Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
- (3) The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the commercial cannabis business.
- (4) Any other breach of security.

**Section 6.36.190. Restriction on Alcohol and Tobacco Sales.**

- (a) It shall be unlawful to cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis business.
- (b) It shall be unlawful to cause or permit the sale of tobacco products on or about the premises of the cannabis business.

**Section 6.36.200. Fees and Charges.**

No person may commence or continue any cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a cannabis business. Fees and charges associated with regulation of a cannabis business shall be established by resolution of the City Council which may be amended from time to time.

**Section 6.36.210. Packaging and Labeling.**

All cannabis, cannabis products, and cannabis accessories sold by a cannabis business shall be packaged, labeled and placed in tamper-evident packaging which at least meets the requirements of the MAUCRSA and all state implementing rules and regulations.

**Section 6.36.220 Diversion Prohibited.**

No person shall give, sell, distribute, or otherwise transfer any cannabis from a permitted cannabis business to any person in any manner that violates local or state law.

**Section 6.36.230 Emergency Contact.**

Each cannabis business shall provide the Police Chief or designee(s) with the name, telephone number (both landline and mobile, if available) of at least one 24-hour on-call designated employee to serve as a liaison to resolve complaints, to respond to operating problems or concerns associated with the cannabis business, and to notify the Police Chief of any security issues arising per the terms of Section 6.36.180 (a) vii.

**Section 6.36.240 Community Relations Manager.**

Each cannabis business shall provide the Police Chief or designee(s) with the name, telephone number (both landline and mobile, if available) of at least one employee to communicate with surrounding neighborhoods and businesses. The cannabis business shall make good faith efforts to encourage neighborhood residents to call this person to solve problems, if any, before any calls or complaints are made to the City.

**Section 6.36.250 Payment of Taxes.**

All cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under state and local law. Each cannabis business shall cooperate with the City or designee(s) with respect to any reasonable request to audit the cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

**Section 6.36.260 Employee Permit Requirement**

- (a) It shall be unlawful for any cannabis business Permittee to employ any person or allow a person to volunteer who is not the holder of a valid City cannabis Employee Permit.
- (b) All managers and staff of a cannabis business permittee must wear their cannabis employee permit identification badge, issued by the City, at all times while working.

**Section 6.36.270 Cannabis Consumption Prohibited.**

No cannabis business permittee shall allow any person to smoke, ingest, or otherwise consume cannabis or cannabis products in any form on, or within 20 feet of, the premises.

**Section 6.36.280 Persons Under 21 years of Age Prohibited.**

- (a) Persons under the age of twenty-one (21) years shall not be allowed on the premises of any cannabis business, unless otherwise provided in this Chapter. It shall be unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age.
- (b) Notwithstanding subsection (a) above, a natural person 18 to 20 years of age who possesses a physician's recommendation for medical cannabis shall be allowed on the premises of any cannabis business, for the purpose of purchasing cannabis for medical use only consistent with his or her physician's recommendation.

**Section 6.36.290 Site Management.**

- (a) The cannabis business permittee shall prevent and eliminate conditions on the site that constitute a nuisance.
- (b) The cannabis business permittee shall maintain the exterior of the site, including any parking lots under the control of the permittee, free of litter, debris, and trash.
- (c) The cannabis business permittee shall implement measures that discourage loitering near the business and shall collaborate with the City Police Department to enforce related laws.
- (d) The permittee shall properly store and dispose of all waste generated on the site, including chemical and organic waste, in accordance with all applicable laws and regulations.
- (e) Notwithstanding any provisions of this Code to the contrary, the permittee shall remove all graffiti from the site and parking lots under the control of the permittee within 72 hours of its application.

**Section 6.36.300 Reporting Criminal Activity.**

A cannabis business permittee shall immediately report to the City Police Department all criminal activity occurring on the cannabis business site.

**Section 6.36.310 Display of Permit and City Business License.**

The original copy of the City cannabis business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the cannabis business in a location readily-visible to all persons entering the premises.

**Section 6.36.320 Miscellaneous Operating Requirements.**

- (a) Cannabis businesses may operate only during the hours specified in the conditional use permit issued by the City. The hours of operation provided in the conditional use permit shall not exceed the hours of operation allowed under state law.
- (b) No cannabis, cannabis products, graphics depicting cannabis, or cannabis products shall be visible from the exterior of any property issued a cannabis business permit, or on any of the vehicles owned or used as part of the cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (c) Reporting and Tracking of Product and of Gross Sales. Each cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. Said tracking system must be in compliance with state's designated track-and-trace system. The commercial cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the Police Chief or designee(s) prior to being used by the permittee.
- (d) Odor Control. Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, cannabis businesses must install and take all measures, including installing equipment, to control odor as required by the Development Services Director or designee.

**Article 4. – Operating Procedures for Specific Business Types**

**Section 6.36.330. Commercial Cannabis Cultivation Permit Requirements**



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- (a) No person shall operate a cannabis cultivation business in the City without a valid cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued. This section shall not apply to the cultivation of cannabis for personal use allowed under state law.
- (b) Permit Fee. A cannabis cultivation permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) Cannabis Business Permit(s) will only be issued for the following types of cannabis cultivation businesses:
- i. Specialty Cottage – Indoor cultivation up to 500 square feet of total canopy size on one cultivation site.
  - ii. Specialty - Indoor cultivation of less than or equal to 5,000 square feet of total canopy size on one cultivation site.
  - iii. Small - Indoor cultivation between 5,001 and 10,000 square feet of total canopy size on one cultivation site.
  - iv. Medium – Indoor cultivation between 10,001 and 22,000 square feet of total canopy size on one cultivation site.
- (d) Indoor Only. A cannabis cultivation permittee shall only cultivate cannabis in a fully enclosed building. Outdoor cultivation of commercial cannabis is expressly prohibited.
- (e) A cannabis cultivation permittee shall not allow cannabis or cannabis products on the cultivation site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
- (f) A cannabis cultivation permittee may conduct all activities permitted by the State License.
- (g) Any cultivation activity that will be conducted by the permittee shall be included on the permit application. No additional cultivation activity can be conducted without applying for and receiving written permission from the City for that additional activity.
- (h) At all times, the cannabis cultivation site shall be compliant with all state regulations for cannabis cultivation including Title 3 of the California Code of Regulations as may be amended.
- (i) Inspections by the Fire Chief or designee may be conducted any time during the business's regular business hours.
- (j) Site Requirements. A cannabis cultivation site shall comply with the following requirements:
- i. Entrances. All entrances into the buildings on the cultivation site shall be locked at all times with entry controlled by the permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
  - ii. Cultivation area. All cultivation areas in any building on the cultivation site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee from the lobby area. As such, managers and staff of the permittee shall not be required to exit the building in an emergency through the cultivation area.
  - iii. Transport area. Each building with a cultivation area shall have an area designed for the secure transfer of cannabis from a vehicle to the cultivation area.
  - iv. Storage area. Each building with a cultivation area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee, provided that such

secured areas do not violate the emergency egress requirements in the Building Code.

- (h) **Signage.** A cannabis cultivation permittee shall post in the lobby of the cultivation site signs that state the following:
- i. "This site is not open to the public."
  - ii. "Retail sales of any goods and services is prohibited."
  - iii. "Persons under 21 years of age are prohibited from entering this site."
  - iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
  - v. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the cultivation site.
  - vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (i) **Restricted Site.** No cannabis cultivation permittee shall open their cultivation site to the public.
- i. No cannabis cultivation permittee shall allow anyone on the cultivation site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.
  - ii. A manager must be on the cultivation site at all times that any other person, except for security guards, is on the site.
  - iii. While on the cultivation site, managers and staff of the cannabis cultivation business must wear their cannabis employee permit, issued by the City, at all times.
  - iv. Any person other than managers or staff who are on the cultivation site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
  - v. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis cultivation site.
  - vi. Cannabis cultivation sites shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.
  - vii. Location Requirements. [SEE ZONING CODE]

#### **Section 6.36.330. Distribution Permit Requirements**

- (a) **Permit Required.** No person shall operate a cannabis distribution business in the City without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) **Permit Fee.** A cannabis distribution permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) **Cannabis Business Permit(s)** will only be issued for the following types of cannabis distribution businesses:
- i. **Distributor (Type 11):** Purchases, sells, arranges for testing, conducts quality assurance review of packaging and labeling, transports cannabis goods between licensees, and collects state cultivation tax from licensed cultivators.
  - ii. **Distributor- Self-Distribution Only (Type 13):** Transports only its own cannabis goods that it has cultivated or manufactured to testing facilities and retailers.

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- iii. Distributor- Transport Only (Type 13): Transports cannabis goods between licensees, but may not transport any cannabis goods, except for immature cannabis plants and/or seeds, to a retailer or to the retailer portion of a microbusiness
- (d) The buildings on the sites of a Type-11 or Type-13 cannabis distribution permittee must comply with the following requirements:
- i. Entrances. All entrances into the buildings on the distribution site must be locked at all times with entry controlled by the cannabis distribution permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
  - ii. Main entrance and lobby. The distribution site must have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance must be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there must be a lobby to receive persons into the site and to verify whether they are allowed in the areas where cannabis or cannabis products are stored.
  - iii. Storage area. The distribution site must have adequate storage space for cannabis and cannabis products being distributed. All storage areas in any building on the distribution site must be separated from the main entrance and lobby and must be secured by a lock accessible only to managers and employees from the lobby area.
  - iv. Transport area. Each building with a storage area must have an area designed for the secure transfer of cannabis between a vehicle and the distribution site.
- (e) Storage of cannabis and cannabis products.
- i. Type-11 and Type-13 (Self-Distribution Only) cannabis distribution permittees shall only store cannabis or cannabis products in a secured room within a limited access area that is covered by video cameras, in a fully enclosed building on the distribution site. No cannabis or cannabis products in possession of the cannabis distribution business may be stored in any other facility, such as a separate storage facility or a cannabis product manufacturing facility.
  - ii. Type-11 and Type-13 (Self Distribution Only) cannabis distribution permittees shall not allow cannabis or cannabis products on the distribution site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
  - iii. Type-13 (Transport Only) cannabis distribution permittees shall not store cannabis or cannabis products on the distribution site.
- (f) Transportation. The cannabis distribution business shall use and maintain computer software to record the following information relating to the transportation of cannabis and cannabis products:
- i. A shipping manifest that includes a specific description of the items being transported, whether each item is a medical cannabis or adult-use cannabis product, and the name, address, and license number of the cannabis business to which the items are to be transported;
  - ii. The name of the person who transported the items;
  - iii. The date and time of the transport; and
  - iv. The name of the manager of the cannabis business who confirmed receipt of the items.

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- v. A person transporting cannabis or cannabis products on behalf of a cannabis distribution business shall carry the following items:
    - A. A copy of the distributor's current cannabis distribution business permit;
    - B. The person's government-issued identification;
    - C. The person's city-issued cannabis distribution business badge; and
    - D. A copy of the shipping manifest as described in subsection (f) i.
  - vi. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person transporting cannabis or cannabis products pursuant to this section shall present the items listed in subsection v. for examination.
  - vii. No person shall transport cannabis or cannabis products to anyone except a lawfully operated cannabis business. The person transporting the cannabis or cannabis products shall obtain a signature from a manager of the cannabis business confirming receipt of the items listed in the shipping manifest, before leaving the items.
  - viii. A cannabis business shall maintain the information described in subsection (f) v. for at least three years on the site and shall produce the information upon request by the City.
- (g) **Restricted Site.** No cannabis distribution permittee shall open their distribution site to the public.
- i. No cannabis distribution permittee shall allow anyone on the distribution site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.
  - ii. A manager must be on the distribution site at all times that any other person, except for security guards, is on the site.
  - iii. While on the distribution site, managers and staff of the cannabis distribution business must wear their cannabis employee permit, issued by the City, at all times.
  - iv. Any person other than managers or staff who are on the distribution site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
- (h) **Signage.** A cannabis distribution permittee shall post in the lobby of the distribution site signs that state the following:
- i. "This site is not open to the public."
  - ii. "Retail sales of any goods and services is prohibited."
  - iii. "Persons under 21 years of age are prohibited from entering this site."
  - iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
  - v. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the distribution site.
  - vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (i) **Retail Sales Prohibited.** No person shall conduct any retail sales of any good or services on or from a permitted cannabis distribution site.
- (j) **Location Requirements.** [SEE ZONING CODE]

**Section 6.36.340 Cannabis Manufacturing Permit Requirements.**

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- (a) No person shall operate a cannabis manufacturing business in the City without a valid cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) Permit Fee. A cannabis manufacturing permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) Cannabis Business Permit(s) will only be issued for the following types of cannabis manufacturing businesses:
- i. Type 6, for a business involving all aspects of a cannabis manufacturing business, including the extraction of substances from a cannabis plant and the activities allowed with a Type N and Type P permit as described below.
  - ii. Type N, for a business involving the production and preparation of cannabis products (such as infusing cannabis extracts or concentrates into edibles and topicals) and the activities allowed with a Type P permit as described below. A business holding a Type N permit cannot engage in the extraction of substances from a cannabis plant.
  - iii. Type P, for a business involving only the packaging and labeling of cannabis or cannabis products. A business holding a Type P permit cannot engage in the extraction of substances from a cannabis plant, or the production and preparation of cannabis products.
- (d) Indoor Only. A cannabis manufacturing permittee shall only manufacture cannabis in a fully enclosed building. Outdoor manufacturing of cannabis is expressly prohibited.
- (e) A cannabis manufacturing permittee shall not allow cannabis or cannabis products on the manufacturing site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
- (f) A cannabis manufacturing permittee may conduct all activities permitted by the State License. This includes, but is not limited to, non-volatile extractions, repackaging and relabeling, and infusions.
- (g) Any manufacturing activity that will be conducted by the permittee shall be included on the permit application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City for that additional activity.
- (h) At all times, the cannabis manufacturing facility will be compliant with all state regulations for cannabis manufacturing including California Health and Safety Code 11362.775 and as it may be amended.
- (i) Inspections by the Fire Chief or designee may be conducted any time during the business's regular business hours.
- (j) Site Requirements. A cannabis manufacturing site shall comply with the following requirements:
- v. Entrances. All entrances into the buildings on the manufacturing site shall be locked at all times with entry controlled by the permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
  - vi. Manufacturing area. All manufacturing areas in any building on the manufacturing site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee from the lobby area.
  - vii. Transport area. Each building with a manufacturing area shall have an area designed for the secure transfer of cannabis from a vehicle to the manufacturing

- area.
- viii. Storage area. Each building with a manufacturing area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
- (h) Signage. A cannabis manufacturing permittee shall post in the lobby of the manufacturing site signs that state the following:
- vii. "This site is not open to the public."
  - viii. "Retail sales of any goods and services is prohibited."
  - ix. "Persons under 21 years of age are prohibited from entering this site."
  - x. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
  - xi. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the manufacturing site.
  - xii. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (i) Restricted Site. No cannabis manufacturing permittee shall open their manufacturing site to the public.
- i. No cannabis manufacturing permittee shall allow anyone on the manufacturing site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.
  - ii. A manager must be on the manufacturing site at all times that any other person, except for security guards, is on the site.
  - iii. While on the manufacturing site, managers and staff of the cannabis manufacturing business must wear their cannabis employee permit, issued by the City, at all times.
  - iv. Any person other than managers or staff who are on the manufacturing site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
  - vi. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis manufacturing site.
  - vii. Cannabis manufacturing sites shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.
- (j) Location Requirements. [SEE ZONING CODE]

#### **Section 6.36.350 Cannabis Microbusiness Permit Requirements**

- (a) No person shall operate a cannabis microbusiness in the City without a valid cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) Permit Fee. A cannabis microbusiness permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.

(c) All cannabis commercial activity that will be conducted by the permittee shall be included on the permit application. No additional cannabis activity can be conducted without applying for and receiving written permission from the City for that additional activity. Microbusinesses will count towards dispensary limit unless otherwise directed by the City Council.

(d) Location Requirements. [SEE ZONING CODE]

**Section 6.36.360 Cannabis Non-Storefront (Delivery Only) Retailer Permit Requirements.**

(a) Permit Required. No person shall operate a cannabis delivery only business in the City (without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.

(b) Permit Fee. A cannabis delivery-only permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.

(c) Permissible Delivery Locations and Customers. Cannabis delivery-only retailers are subject to the following requirements:

- i. Cannabis, cannabis products and cannabis accessories shall only be delivered to customers located at a residential address including a nursing or assisted living facility;
- ii. The delivery of Cannabis, cannabis products and cannabis accessories to any location or facility owned, leased or occupied by a public agency, including but not limited to, a public school, library, and community center, is expressly prohibited;
- iii. No deliveries shall be conducted on private property open to the public, including but not limited to, business and professional offices, retail stores and their adjoining parking lots, places of assembly, eating and drinking establishments.

(d) All cannabis and cannabis products being delivered shall be obtained from the site of the cannabis business that is authorized to deliver cannabis. No cannabis or cannabis products may be delivered from any other facility, such as a separate storage facility or a cannabis product manufacturing facility.

(e) No person delivering cannabis, cannabis products and cannabis accessories shall possess more than \$3,000 worth of cannabis and cannabis products at any time.

(f) The cannabis delivery only business shall use and maintain computer software to record the following information relating to each delivery:

- i. A delivery request that includes the date of the request, the full name of the person requesting the delivery, a specific description of the items requested, whether each item is a medical cannabis or adult-use cannabis product, and the address to which the items are to be delivered;
- ii. The name of the person who delivered the items; and
- iii. The date and time of the delivery.

(g) A person delivering cannabis or cannabis products on behalf of a cannabis non-storefront retailer shall carry the following items:

- i. A copy of the dispensary's current dispensary permit;

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- ii. The person's government-issued identification;
  - iii. The person's city-issued cannabis dispensary badge; and
  - iv. A copy of the delivery request as described in subsection (f).
- (h) Upon demand of a peace officer or City employee authorized to enforce this chapter, a person delivering cannabis or cannabis products pursuant to this section shall present the items listed in subsection (g) for examination.
- (i) No person shall deliver cannabis to anyone except the person who requested the delivery. The person delivering the cannabis shall confirm compliance with sections 6.36.370 (g) (medical cannabis dispensing operations) and 6.36.370(f) (adult-use cannabis dispensing operations), as applicable, by inspecting the relevant identification and documentation before handing the cannabis or cannabis product to the customer.
- (j) A cannabis delivery-only retailer shall maintain the information described in subsection (f) for at least three years on the site and shall produce the information to the city upon request.
- (k) **Delivery-Only Vehicle Requirements.** Prior to commencing operations, a Cannabis Non-Storefront Retailer shall provide the City with all information requested by the Police Chief or designee(s) regarding the vehicles used to deliver cannabis to customers. Such information shall include, but not be limited to the following:
- i. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
  - ii. Proof of insurance as required in section 6.36.140 (b) for any and all vehicles being used to deliver cannabis or cannabis products.
  - iii. The make, model, color, and license number of all vehicles owned or leased by the commercial cannabis retailer and used to deliver cannabis or cannabis products.
- (l) **Retail Sales Prohibited.** No person shall conduct any retail sales of any good or services on or from a permitted cannabis delivery-only retailer site.
- (m) **Location Requirements.** [SEE ZONING CODE]

**Section 6.36.370 Cannabis Storefront (Dispensary) Retailer Permit Requirements.**

- (a) **Permit Required.** No person shall operate a cannabis storefront retailer in the City without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) **Permit Fee.** A cannabis storefront retailer permit program fee is established and imposed. The City Council shall establish by resolution the amount of the cannabis business permit fee for a storefront retailer and any related penalties.
- (c) **Operating Hours.** The maximum hours of operation for a cannabis storefront retailer shall be established by the conditional use permit issued by the City, provided that the hours shall not exceed the maximum hours of operation allowed under state law.
- (d) **Indoor Operations Only.** A cannabis storefront retailer permittee shall not allow cannabis, cannabis products, or cannabis accessories on the dispensary site to be visible from the public



right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.

(e) **Restricted Access to Minors.** No person under 21 years of age shall be in the cannabis storefront retailer building unless they are a qualified patient or a primary caregiver or in possession of a physician's recommendation in their name, for the use of cannabis for a specific ailment. No person under 18 years of age shall be in the cannabis storefront retailer building unless they are a qualified patient or a primary caregiver, and they are accompanied by their parent or legal guardian.

(f) **Adult Use Only.** A cannabis storefront retailer with an A-license from the State shall only sell adult-use cannabis to persons who are 21 years of age or older, and who are in possession of a valid government-issued identification card.

(g) **Medical Cannabis Dispensing Operations.** A cannabis retailer that is expressly authorized to sell medical cannabis pursuant to this Chapter shall sell medical cannabis only to:

- i. Qualified patients with a currently valid physician's recommendation in compliance with the Compassionate Use Act of 1996 (California Health and Safety Code section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq.), and valid government-issued identification such as a Department of Motor Vehicles driver's license or State Identification Card; or
- ii. Primary caregivers with a verified primary caregiver designation by their qualified patients, a copy of their qualified patient's valid physician's recommendation in compliance with the Compassionate Use Act of 1996 (California Health and Safety Code section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq.), and valid official identification such as a Department of Motor Vehicles driver's license or State Identification Card.
- iii. No cannabis business that is expressly authorized to sell medical cannabis pursuant to this chapter shall have a physician on the dispensary site to evaluate patients or provide a recommendation for medical cannabis.

(h) **Maintenance of Medical Cannabis Records.** A cannabis retailer shall maintain records of the following information for each member and customer of the dispensary that purchases medical cannabis:

- i. The name, date of birth, physical address, and telephone number; and their status as a qualified patient or primary caregiver.
- ii. A copy of each qualified patient's written physician recommendation and their designation of a primary caregiver.
- iii. These records shall be maintained by the cannabis retailer for a period of not less than three years and shall be produced to the city within 24 hours after receipt of the City's request.
- iv. The storefront cannabis dispensary shall report any loss, damage or destruction of these records to the Police Chief within 24 hours of the loss, damage or destruction.

(i) **Cannabis Accessories.** A cannabis dispensary that is expressly authorized to sell cannabis pursuant to this chapter, whether medical cannabis or adult-use cannabis, may also sell cannabis accessories and display cannabis accessories.

(j) **Restrictions on Alcoholic Beverages.** No storefront cannabis dispensary or manager shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the

sale of alcoholic beverages; or operate a business on or adjacent to the dispensary site that sells alcoholic beverages.

(k) Site Requirements.

- i. Floor Plan. A cannabis storefront retailer must have a lobby waiting area at the entrance to receive persons to verify that they are members of that dispensary or are otherwise allowed to be on the dispensary site. A dispensary must also have a separate and secure area designated for selling cannabis, cannabis products, and cannabis accessories to its customers, provided that such secured areas do not violate the emergency egress requirements in the Building Code. The main entrance must be located and maintained clear of barriers, landscaping, and similar obstructions so that it is clearly visible from public streets or sidewalks.
- ii. Storage. A cannabis storefront retailer must have adequate locked storage on the dispensary site, identified and approved as a part of the security plan, for after-hours storage of cannabis and cannabis products. Cannabis and cannabis products must be stored at the dispensary site in secured rooms that are completely enclosed and do not violate the emergency egress requirements in the Building Code or in a safe that is bolted to the floor.

(l) Signage. A cannabis storefront retailer shall post in the lobby of the dispensary site signs that state the following:

- i. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
- ii. A cannabis storefront retailer that is only authorized to sell medical cannabis must have a sign stating, "Medical cannabis sales only. Only qualified patients and primary caregivers may enter. Any qualified patient or primary caregiver under 18 years of age must be in the presence of their parent or legal guardian."
- iii. A cannabis storefront retailer that is only authorized to sell adult-use cannabis must have a sign stating, "Adult-use cannabis sales only. Persons under 21 years of age are prohibited from entering."
- iv. A cannabis storefront dispensary that is authorized to sell both medical and adult-use cannabis must have a sign stating, "Medical and adult-use cannabis for sale. Persons under 21 years of age are prohibited from entering this property unless they are a qualified patient or a primary caregiver. Any qualified patient or primary caregiver under 18 years of age must be in the presence of their parent or legal guardian." If separate rooms are provided for medical cannabis and adult-use cannabis, the signs may be posted next to each room as appropriate.
- v. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons in the normal course of a transaction.
- vi. The signs must not obstruct the entrance or windows of the dispensary.
- vii. Each sign shall comply with California's accessibility requirements for persons with visual impairments.

(m) Restricted Site.

- i. All entrances into a storefront cannabis dispensary's building shall be locked from the exterior at all times with entry controlled by dispensary personnel, provided that such secured areas do not violate the emergency egress requirements in the Building Code.

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- ii. A manager must be on the dispensary site at all times that any other person, except for security guards, is on the site.
  - iii. While on the dispensary site, managers and staff of the cannabis dispensary permittee must wear their cannabis testing identification badge, issued by the city, at all times.
  - iv. Any person other than managers or staff who are on the dispensary site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
- (n) Cannabis Cultivation Prohibited. No cannabis storefront dispensary shall grow or cultivate cannabis, except for immature nursery stock cannabis plants, on the dispensary site.
- (o) Location Requirements. [SEE ZONING CODE]

**Section 6.36.380 Cannabis Testing Laboratory Requirements.**

- (a) Permit Required. No person shall operate a cannabis testing laboratory business in the City without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) Permit Fee. A cannabis testing laboratory permit program fee is established and imposed. The City Council shall establish by resolution the amount of the cannabis business permit fee for a cannabis testing laboratory and any related penalties.
- (c) Indoor Testing Only. A cannabis testing laboratory permittee shall only test cannabis in a fully enclosed building.
- (d) Site Requirements. A cannabis testing laboratory site shall comply with the following requirements:
- i. Entrances. All entrances into the buildings on the laboratory site shall be locked at all times with entry controlled by the cannabis testing laboratory permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
  - ii. Testing area. All testing areas in any building on the laboratory site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis testing laboratory permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
  - iii. Transport area. Each building with a testing area shall have an area designed for the secure transfer of cannabis from a vehicle to the testing area.
  - iv. Storage area. Each building with a testing area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis testing laboratory permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
- (e) Signage. A cannabis testing laboratory permittee shall post in the lobby of the laboratory site signs that state the following:
- i. "This site is not open to the public."
  - ii. "Retail sales of any goods and services is prohibited."
  - iii. "Persons under 21 years of age are prohibited from entering this site."

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- iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
  - v. Each sign must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the testing site.
  - vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (f) **Restricted Site.** No cannabis testing laboratory permittee shall open their laboratory site to the public.
- i. No cannabis testing laboratory permittee shall allow anyone on the laboratory site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters.
  - ii. A manager must be on the laboratory site at all times that any other person, except for security guards, is on the site.
  - iii. While on the laboratory site, managers and staff of the cannabis testing laboratory permittee must wear their cannabis testing identification badge, issued by the city, at all times.
  - iv. Any person other than managers or staff who are on the laboratory site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
- (g) **Retail Sales Prohibited.** No person shall conduct any retail sales of any good or services on or from a permitted cannabis testing laboratory site.
- (h) **Location Requirements.** [SEE ZONING CODE]

**Article 5. – Enforcement.**

**Section 6.36.390. Promulgation of Regulations, Requirements, Standards and Other Legal Duties.**

- (a) In addition to any regulations adopted by the City Council, the City Manager or designee is authorized to establish any additional regulations, requirements, and standards governing the issuance, denial or renewal of cannabis business permits; the operation of cannabis businesses that are necessary to protect the public health, safety and welfare; and the City's oversight of cannabis businesses, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter. Such regulations, requirements or standards shall take effect as determined by the City Manager or designee, and existing cannabis business permit holders shall comply as amended.
- (b) Regulations shall be published on the City's website.
- (c) Regulations promulgated by the City Manager or designee shall become effective as determined therein. Cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or designee.

**Section 6.36.400. Fees Deemed Debt to City of Tracy.**

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The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Tracy that is recoverable via an authorized administrative process as set forth in the Tracy Municipal Code, or in any court of competent jurisdiction.

**Section 6.36.410. Permit Holder Responsible for Violations.**

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Tracy, whether committed by the permittee or any employee, volunteer, or agent of the permittee, which violations occur in or about the premises of the cannabis business, and violations which occur during deliveries to off-site locations, whether or not said violations occur within the permit holder's presence.

**Section 6.36.420. Inspection and Enforcement.**

(a) The City Manager or designee(s), Chief of Police or designee(s), and Fire Chief or designee(s) charged with enforcing the provisions of the Tracy Municipal Code, or any provision thereof, may enter the location of a cannabis business during normal business hours, without notice, and inspect the location of any cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.

(b) It is unlawful for any person having responsibility over the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law.

**Section 6.36.430. Compliance with State Regulations.**

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City of Tracy in compliance with all provisions MAUCRSA and any subsequent state legislation.

**Section 6.36.440. Violations Declared a Public Nuisance.**

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

**Section 6.36.450. Each Violation a Separate Offense.**

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Tracy Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, and any permit issued pursuant to this Chapter shall be deemed null and void, entitling the City to disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity, including the imposition of a civil penalty not to exceed one thousand dollars (\$1000) for each day, or part thereof, such violation or failure to comply occurs. The City of

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Tracy may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the Police Chief or designee(s), may take immediate action to temporarily suspend a cannabis business permit issued by the City, pending a hearing before the City Manager.

**Section 6.36.460. Criminal Penalties.**

Each and every violation of the provisions of this Chapter may be prosecuted as a misdemeanor at the discretion of the City Attorney and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

**Section 6.36.470. Remedies Cumulative and Not Exclusive.**

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

**Section 6.36.480 Service of Notices.**

All notices required by this chapter are deemed issued and served upon the date they are either deposited in the United States mail, postage pre-paid, addressed to the applicant or cannabis business at the mailing address identified in its application, the last updated address on file with the City Manager's office, or the mailing address on the appeal form; or the date upon which personal service of the notice is provided to the applicant or a manager identified on the application or appeal form.

RESOLUTION 2019-\_\_\_\_\_

RECOMMENDING THAT THE CITY COUNCIL  
INTRODUCE AND ADOPT AN ORDINANCE AMENDING TRACY MUNICIPAL CODE SECTION  
10.08.3196 REGARDING ESTABLISHING ZONING AND LOCATIONAL REQUIREMENTS FOR  
COMMERCIAL CANNABIS,  
APPLICATION NUMBER ZA19-0002

WHEREAS, On September 19, 2017, Tracy City Council adopted Ordinance 1240, prohibiting all commercial medicinal and adult-use cannabis activity in the city; thus, until further Council action via new or revised ordinances, all such activity, including the manufacturing, cultivation, distribution, testing, and any other cannabis activity licensed by the State of California is prohibited in Tracy, and

WHEREAS, On February 5, 2019, Tracy City Council directed staff to prepare an ordinance to allow commercial cannabis business to operate in the City's industrial locations, subject to a appropriate regulation and oversight by the City, and

WHEREAS, the City Council conducted workshops on August 13, 2019, September 3, 2019, and October 1, 2019 to establish appropriate regulations and procedures related to permitting commercial cannabis activities in the City

WHEREAS, The proposed amendments establish specific locational requirements and permit requirements for commercial cannabis activities, and

WHEREAS, The proposed ordinance is exempt from the California Environmental Quality ACT (CEQA) pursuant to Business and Professions Code Section 26055(h), which provides that CEQA does not apply to the adoption of an ordinance, rule, or regulation that requires discretionary review and approval of permits or other authorizations to engage in commercial cannabis activity, and

WHEREAS, This project is further exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As this is only a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment, and

WHEREAS, On October 23, 2019, the Planning Commission conducted a public hearing to consider the ordinance;

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission hereby recommends the City Council introduce and adopt an ordinance to amend Tracy Municipal Code Section 10.08.3196 regarding establishing zoning and locational requirements for commercial cannabis activities as indicated in Exhibit 1, attached.

\*\*\*\*\*

The foregoing Resolution 2019-\_\_\_\_\_ was adopted by the Planning Commission on the 23rd day of October, 2019, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:

ATTEST:

\_\_\_\_\_  
CHAIR

\_\_\_\_\_  
STAFF LIAISON



**Chapter 10.08 - Zoning Regulations**

**10.08.3196 – Cannabis Uses.**

- (a) **Purpose and Intent.** The purpose of this section is to impose zoning and locational restrictions on commercial cannabis activities or uses and on the personal cultivation of cannabis. This section is not intended to give any person or entity authority to conduct commercial cannabis activities in the City of Tracy.
- (b) **Definitions.** Unless otherwise provided in this section, the definitions set forth in Chapter 10.08 (Zoning Regulations), Chapter 6.36 (Commercial Cannabis Activity) and Chapter 6.40 (Cannabis Business Tax) apply. The following words shall have the meanings set forth below when used in this section:
- (1) "Day care center" means a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers, and includes child care centers pursuant to Section 1596.951 of the California Health and Safety Code. This definition shall have the same meaning as set forth in Section 1596.76 of the California Health and Safety Code, as the same may be amended from time to time.
  - (2) "Fully enclosed and secure structure" means a space within a building, greenhouse, or other structure that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more lockable doors.
  - (3) "Outdoors" means any location within the City of Tracy that is not within a fully enclosed and secure structure or private residence, as defined by California Health and Safety Code section 11362.2.
  - (4) "School" means those sites upon which full-time instruction in any of the grades K through 12 is provided where the primary purpose is education, as determined in the sole discretion of the Planning Commission. "School" includes public schools, private schools, and charter schools, but does not include any private site upon which education is primarily conducted in private homes.
  - (5) "Youth center" means any public or private facility that is primarily used to host recreational or social activities for minors, including but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades where 10 or more video games or game machines or devices are operated, and where minors are legally permitted to accept services, or similar amusement park facilities, It shall also include a park, playground or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on City, county, or state parks. This definition shall not include any private gym, martial arts, yoga, ballet, music, art studio or similar studio of this nature nor shall it include any private gym, athletic training facility, pizza parlor, dentist office, doctor's office primarily serving

children or a location which is primarily utilized as an administrative office or facility for youth programs or organizations.

**(c) Commercial Cannabis Uses.**

- (1) All commercial cannabis uses are prohibited from operating in all zoning districts in the City, except as expressly permitted in this section.
- (2) All commercial cannabis uses permitted by this section must, prior to establishing and commencing operations, obtain and maintain a City cannabis business permit pursuant to Section 6.36.020 and any other state or local license or permit, as may be applicable.
- (3) The following commercial cannabis uses are permitted to establish as a conditional use on property, subject to the granting of and compliance with terms of a City cannabis business permit pursuant to Section 6.36.020 and a conditional use permit issued pursuant to Section 10.08.4250 in the following zone districts:

**(i) Retail (storefront dispensary):**

**a. Commercial Zone Districts:**

Tracy Hills Specific Plan – General Highway Commercial (GHC-TH)

Tracy Hills Specific Plan – Mixed Use Business Park (MUBP-TH)

Residential Areas Specific Plan – Neighborhood Shopping (NS)

Residential Areas Specific Plan - General Highway Commercial (GHC)

Industrial Areas Specific Plan – Neighborhood Shopping (NS)

Industrial Areas Specific Plan – Village Center (VC)

Industrial Areas Specific Plan – Flex Office (FO)

Ellis Specific Plan – Limited Use (LU)

Ellis Specific Plan – Village Center (VC)

Northeast Industrial Areas Specific Plan – General Commercial (GC)

I-205 Corridor Specific Plan – Commercial Center (CC)

I-205 Corridor Specific Plan – Freeway Commercial (FC)

I-205 Corridor Specific Plan – General Commercial (GC)

I-205 Corridor Specific Plan – General Commercial 2 (GC2)

I-205 Corridor Specific Plan –Service Commercial (SC)

## **Proposed Amendments to TMC Section 10.08.3196**

Cordes Ranch Specific Plan – General Commercial (GC)

Community Shopping Center (CS)

Neighborhood Shopping Center (NS)

General Highway Commercial (GHC)

Highway Service (HS)

Central Business District (CBD)

Community Recreation Support Zone (CRS)

Planned Unit Development – 545 West Clover Rd (City Council resolution number)

Planned Unit Development - Southeast corner of Grantline Road and Corral Hollow Road (City Council resolution number)

Planned Unit Development – Northwest corner of 6<sup>th</sup> Street and C Street (City Council Resolution number)

Planned Unit Development – northwest corner of 11<sup>th</sup> Street and East Street (City Council resolution number)

### **b. Industrial Zone Districts:**

Tracy Hills Specific Plan – Light Industrial (M1-TH)

Industrial Areas Specific Plan – General Industrial (GI)

Industrial Areas Specific Plan – Limited Industrial (LI)

Northeast Industrial Areas Specific Plan – Light Industrial (LI)

I-205 Corridor Specific Plan – Light Industrial (LI)

Cordes Ranch Specific Plan – Business Park Industrial (BPI)

Light Industrial – M1

Heavy Industrial – M2

Planned Unit Development – 450 West Larch Road (City Council resolution)

- (ii) Delivery (non-storefront retail), distribution, manufacturing, microbusiness, testing laboratory, indoor cultivation:

### **a. Industrial Zone Districts:**

## **Proposed Amendments to TMC Section 10.08.3196**

Tracy Hills Specific Plan – Light Industrial (M1-TH)

Industrial Areas Specific Plan – General Industrial (GI)

Industrial Areas Specific Plan – Limited Industrial (LI)

Northeast Industrial Areas Specific Plan – Light Industrial (LI)

I-205 Corridor Specific Plan – Light Industrial (LI)

Cordes Ranch Specific Plan – Business Park Industrial (BPI)

Light Industrial – M1

Heavy Industrial – M2

Planned Unit Development – 450 West Larch Road (City Council resolution)

### **(d) Location Requirements.**

- (1) Any property that contains any commercial cannabis use shall be located at least 600 feet from any parcel containing any of the following sensitive uses as of the date the conditional use permit is issued: school, day care facilities, youth center; and
- (2) The distance between the commercial cannabis use and the sensitive use property shall be measured from the outer boundaries of the sensitive use parcel to the closest structure on the parcel seeking to establish a cannabis use.

### **(e) Personal Cultivation of Cannabis.**

- (1) All outdoor cultivation of medicinal and adult use cannabis within the City is prohibited, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone. The indoor cultivation of adult use marijuana shall comply with state law.

### **(f) Penalties.**

- (1) Violations of this chapter are hereby declared a public nuisance.
- (2) Violations of this section are punishable as misdemeanors and as otherwise set forth in chapter 1.04 of this Code. Each day of operation of a commercial cannabis business or the outdoor cultivation of marijuana occurs, in violation of this section, constitutes a separate offense.

AGENDA ITEM 1.B

REQUEST

**PUBLIC HEARING TO CONSIDER AN APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR'S REVOCATION OF A HOME OCCUPATION PERMIT FOR AUTO DETAILING AT PROPERTY LOCATED AT 1881 NEWPORT COURT IN VIOLATION OF TRACY MUNICIPAL CODE SECTION 10.08.4600. THE APPELLANT IS GABRIEL HERNANDEZ. CODE ENFORCEMENT CASE 19CD-0917**

DISCUSSION

A City of Tracy Home Occupation permit was applied for by Mr. Gabriel Hernandez on July 20, 2016 for an auto detailing business at 1881 Newport Court. The applicant described the proposed business, Touch of Shine Detail, as an auto detailing business providing detail services at the referenced address. At the time of application submittal, City staff spoke with the applicant to obtain clarification on how the business would be conducted. City staff noted that the applicant intended to go to his client's location to pick up the vehicle for the detail work. The applicant further stated there would be no car washing onsite. This information was noted on his application form. Based on this information provided by the applicant, the Home Occupation Permit was granted on July 28, 2016.

Since October of 2017, City of Tracy Code Enforcement staff has received and investigated numerous reports of an improperly conducted home occupation at the referenced address. The reports claim the auto detailing business is operating in violation of the Home Occupation Regulations (Tracy Municipal Code ("TMC") 10.08.4600, attached). The reports allege the following:

1. The business has employees that work from the residence;
2. The business provides car washing, vacuuming and detail services from the garage of the single-family residence;
3. Customers of the business routinely drive their vehicles to the referenced property for the services provided, causing increased traffic in the neighborhood (see attached photographs); and
4. The equipment used to conduct the home occupation (vacuums and polishers) increases noise levels in the neighborhood.

On July 12, 2019, City of Tracy Code Enforcement staff met with Mr. Hernandez at the referenced property to discuss reports of an auto detailing business at the referenced property. In their discussion, Mr. Hernandez confirmed he does, in fact, operate an auto detailing business from the garage and driveway of the referenced property. Mr. Hernandez stated he did not believe his business negatively affects surrounding residents nor did he consider the business a nuisance. Mr. Hernandez clarified that he no longer washes vehicles at the referenced property; however, he does pick up vehicles from his client's locations and drives them to his residence to perform the detail work. Mr. Hernandez denied reports that his customers drive their vehicles to his location for his detail services.

Pursuant to TMC section 10.08.4600, Regulations, a home occupation must comply with the regulations contained therein (attached). As such, the home occupation, as conducted, violates the following subsections:

- (a) There shall be no exterior evidence of the conduct of the home occupation;
- (d) The nature and conduct of the home occupation must not be such as to change the principal character of the use of the dwelling unit or the residential character of the neighborhood;
- (h) The home occupation shall not create off-street or on-street parking, vehicular or pedestrian traffic which is greater than normally associated with a strictly residential use of the premises.

The purpose of this article of the TMC is to allow home occupations for the gainful employment of the occupant of a dwelling in a limited commercial activity, with such employment activity being incidental and subordinate to the residential use of the property. The intent of this article is to ensure that home occupations are compatible with, and do not change the character of, the surrounding residential area by generating more traffic, noise, odors, visual impacts, or storage of materials than would normally be expected in a residential zoning district

Based on Code Enforcement's investigation and review of the home occupation in its current method of operation, staff has determined that the use is inconsistent with the intent of the Home Occupation ordinance. Therefore, pursuant to Tracy Municipal Code Section 10.08.4620, the City of Tracy Community Development Director sent a Notice of Revocation of the City of Tracy Home Occupation permit issued to Gabriel Hernandez, based on the following findings:

- (d) (1) The use has become detrimental to the public health, safety, welfare, or character of a neighborhood or constitutes a hazard or nuisance to pedestrian or vehicular circulation or parking;
- (d) (2) The permit was obtained by misrepresentation or fraud, or the home occupation is different from that for which the permit was issued; and
- (d) (5) The business is in violation of this article or a condition of the permit, or of any statute, ordinance, law or regulation.

Pursuant to Section 10.08.4630 of the Tracy Municipal Code, Mr. Gabriel Hernandez has appealed the Community Development Director's decision, (see attached appeal letter), thereby resulting in this report and hearing.

### RECOMMENDATION

Based on the City of Tracy's Code Enforcement investigation and findings, staff recommends the Tracy Planning Commission uphold the Revocation of the City of Tracy Home Occupation Permit issued to Gabriel Hernandez in accordance with Section 10.08.4620 of the Tracy Municipal Code based on staff's determination that the use is inconsistent with the regulations of the Home Occupation Ordinance.

Reviewed by: Bill Dean, Assistant Development Services Director

Approved by: Andrew Malik, Assistant City Manager

ATTACHMENTS:

- A - Tracy Municipal Code (TMC) Chapter 10.08.4600, Home Occupation Regulations
- B - Tracy Municipal Code (TMC) section 10.08.4630, Appeal
- C - Business License & Home Occupation Application Dated July 20, 2016 Submitted by Gabriel Hernandez
- D - Code Enforcement Violation Notice Dated October 5, 2017
- E - Notice of Revocation of Home Occupation Permit dated August 21, 2019
- F - Appeal Letter from Gabriel Hernandez to Andrew Malik Dated August 29, 2019
- G - Photographs





10.08.4600 - Regulations.

A home occupation shall comply with the following regulations:

- (a) There shall be no exterior evidence of the conduct of the home occupation;
- (b) No sign or advertising may be displayed except for a single directory sign or name plate, which shall be flat-mounted against the building, shall not exceed one and one-half (1 ½) square feet in area, and shall be illuminated by reflected light only;
- (c) The occupation shall not be conducted in an accessory structure, nor shall equipment or supplies be stored in an accessory structure or outside the dwelling. The occupation may be conducted, and supplies and equipment may be stored, in a garage, as long as required off-street parking is maintained;
- (d) The nature and conduct of the home occupation must not be such as to change the principal character of the use of the dwelling unit or the residential character of the neighborhood;
- (e) A home occupation shall be clearly incidental to the residential use. The floor area used for the occupation shall not exceed one-fourth of the floor area of the main residence or 400 square feet, whichever is less;
- (f) There shall be no on-site sale of products;
- (g) Only the residents of the dwelling may be employed in the home occupation, except that non-residents may be employed as long as they do not work, meet or leave vehicles at the residence;
- (h) The home occupation shall not create off-street or on-street parking, vehicular or pedestrian traffic which is greater than normally associated with a strictly residential use of the premises, except for individual instruction in conformance with section 10.08.4610(b). The resident with the home occupation may not keep a vehicle greater than one ton at the premises, and may not have more than one such vehicle. Any trailer or wheeled equipment incidental to the home occupation shall be kept within an enclosure and not be visible from off site.
- (i)

The home occupation shall not create noise exceeding levels permitted by the noise ordinance (sections 4.12.710 through 4.12.1000); audible interference in radio or television receivers; fluctuations in line voltage; odor, dust, vibration, fumes or smoke readily discernible at the property's exterior boundary. (Amended during 9-07 supplement; prior code § 10-2.3604, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

10.08.4610 - Prohibited uses—Individual instruction permitted.

- (a) Prohibited uses. The following uses, and those with similar characteristics, are prohibited as home occupations: photography studio, beauty parlor, barber shop, pet grooming, appliance or vehicle repair shops, animal hospital, medical practitioner, clinic, music school, dancing school, business school, any other school with organized classes, except for individual instruction.
- (b) Individual instruction permitted. Individual instruction or tutoring of no more than two (2) students at a time may be allowed if the use is consistent with the intent of this article.

(Prior code § 10-2.3605, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

10.08.4620 - Permit procedures.

- (a) Application. A person intending to conduct a home occupation shall file a permit application form with the Community Development Department, together with the permit fee established by Council resolution.
- (b) Determination. The Community Development Director shall issue a home occupation permit if the proposed occupation conforms to the requirements of this article. The Director may impose special conditions depending on the nature of the proposed business. The Director shall inform the applicant in writing of the decision, and the reasons, if the permit is denied.
- (c) Duration and renewal. The permit is issued for a one year period and may be renewed. The renewal is approved unless the home occupation violates this article or a condition of the permit.
- (d) Revocation or modification. The Community Development Director may revoke, modify, or suspend a home occupation permit, after notice to the permittee, if any one of the following findings is made:

- (1) The use has become detrimental to the public health, safety, welfare, or character of a neighborhood, or constitutes a hazard or nuisance to pedestrian or vehicular circulation or parking;
- (2) The permit was obtained by misrepresentation or fraud, or the home occupation is different from that for which the permit was issued;
- (3) The use for which the permit was granted has ceased for at least six (6) consecutive months;
- (4) The condition or the premises has changed so that the use is no longer consistent with the intent of this article;
- (5) The business is in violation of this article or a condition of the permit, or of any statute, ordinance, law or regulation;
- (6) The business has not maintained a current business license.

(Prior code § 10-2.3606, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

#### 10.08.4630 - Appeal.

The decision of the Community Development Director to deny or revoke a home occupation permit may be appealed to the Planning Commission. A written appeal, together with the filing fee, shall be submitted to the Secretary of the Planning Commission within ten (10) working days after the written decision of the Community Development Director has been mailed to the applicant.

(Prior code § 10-2.3607, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)



09/28/16



**CITY OF TRACY - BUSINESS LICENSE TAX & FEES APPLICATION**

Administrative Svcs. Dept. - Finance Division  
333 Civic Center Plaza, Tracy, CA. 95376  
Fiscal year July 1<sup>st</sup> to June 30<sup>th</sup>

Finance Main: (209) 831-6800  
Finance Fax: (209) 831-6846  
DS Fax: (209) 831-6439

"Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies:

The Division of the State Architect at [www.dgs.ca.gov/dsa/Home.aspx](http://www.dgs.ca.gov/dsa/Home.aspx)

The Department of Rehabilitation at [www.rehab.cahwnet.gov](http://www.rehab.cahwnet.gov)

The California Commission on Disability Access at [www.cdda.ca.gov](http://www.cdda.ca.gov)"

☐ \$1.00 SB1186 fee

☒ New Business ☒ Home Occupation ☐ Name Change ☐ Ownership Change ☐ Address Change

Business Name Touch and Shine Auto Detail Owner: Gabriel Hernandez

Business Location (cannot be a PO Box type) 1881 Newport Ct Tracy CA 95376

Mailing Address same as above

Business Phone [REDACTED] Cell/Emergency phone [REDACTED]

Description of business activity (include detailed information such as dates, jobsite, products) Auto Detail

going to homes - does not include wash

Start date in Tracy 7-20-2016 e-mail (optional) [REDACTED]

Resale # [REDACTED] FEIN# [REDACTED] SEIN# [REDACTED]

State Contractor Lic. # [REDACTED] Class [REDACTED] Expires [REDACTED] Other Lic/Permit [REDACTED]

Peddlers/General Contractors ☐ Annual ☐ 1<sup>st</sup> Qtr July-Sept ☐ 2<sup>nd</sup> Qtr Oct-Dec ☐ 3<sup>rd</sup> Qtr Jan-Mar ☐ 4<sup>th</sup> Qtr Apr-June

SJCO Health Permit# [REDACTED] Expires [REDACTED] Temp Use Permit # [REDACTED]

Number of owners 1 # of full-time/workers 0 # of part-time/workers (less than 32 hrs) 0

Are you an independent agent or rent space at this location? ☐ Yes ☒ No # of Delivery Vehicles (in Tracy) [REDACTED]

As part of this license, do you prepare, sell or serve food? ☐ Yes ☒ No # of Rental units (in Tracy) [REDACTED]

Do you deal with Firearms? ☐ Yes ☒ No DOJ# [REDACTED] Est. annual gross Vending machines [REDACTED]

Is massage therapy conducted at this location? ☐ Yes ☒ No Do you deal with second-hand property? ☐ Yes ☒ No

OWNERSHIP: ☐ Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietor ☐ Non-Profit ☐ Other [REDACTED]

Name of owner(s), residential address & personal I.D. of owners & partners; if Corp, list Officer; personal I.D. not required.

1. Owners Name Gabriel Hernandez Address 1881 Newport Ct Tracy CA 95376

Drivers Lic./ID [REDACTED] Soc. Sec. # [REDACTED] act # [REDACTED]

2. Owners Name [REDACTED] Address [REDACTED]

Drivers Lic./ID [REDACTED] Soc. Sec. # [REDACTED] Contact # [REDACTED]

3. Owners Name [REDACTED] Address [REDACTED]

Drivers Lic./ID [REDACTED] Soc. Sec. # [REDACTED] Contact # [REDACTED]

Use the business tax & fee schedule on back to determine your classification and Business License tax and fees due.  
I declare under Penalty of Perjury that the information contained in this application is true and correct to the best of my knowledge, and that I am authorized to complete this application. I understand that once this application is submitted, the application fee and the State mandated fee is non-refundable.

Date 7-20-2016 Title Owner

Signature of Owner or Representative [Signature]

8522  
BL Tax Cert. #  
(City will issue)

Do not write in space below - City use only

☐ Adv Q ☐ Exempt ☐ Peddler Q1 Q2 Q3 Q4  
☐ Amuse ☐ GB-Outside ☐ Rental  
☐ Card Table ☐ Palmistry ☐ Solicitor ☐ Vending  
☐ Contractor Q1 Q2 Q3 Q4 ☐ Street Mus/Ent ☐ Xmas/PP  
☐ DV ☐ Transfer/Change ☐ State SB1186 fee collected

☒ Home Occ NAICS/SIC 81124  
☒ Per Employee 100  
Owner(s) 75  
FT 0 PTC 10  
☒ Application fee  
Amount paid \$ 186

767C  
7618C  
82445

CITY OF TRACY  
333 Civic Center Plaza  
Tracy, CA 95376  
(209) 831-6400 (Development Services Dept)  
(209) 831-6800 (Administrative Services Dept)

DEVELOPMENT SERVICES DEPARTMENT  
HOME OCCUPATION PERMIT SEC. 10.08.4590  
FILING FEE: \$10.00 (NON-REFUNDABLE)

*This form is for home-based businesses; and must be used  
in addition to the Business License Tax Per-Employee type  
application.*

DATE: 7-20-2016

Gabriel Hernandez  
(Applicant Name and DBA - Name of Business)

Touch and Shine Auto Detail

1881 Newport Ct. Tracy, CA 95376  
(Address of Home Occupation)

Present use of property in question: (i.e. Residence) Residence  
1881 Newport Ct. Tracy, CA 95376

Description of proposed home occupation: Auto detail / Home Office  
(Please describe in detail the business activity which will be conducted at home)

Number of persons working at this residence, under this permit 1 Hours of Operation 8-5<sup>PM</sup> Days of Operation M-Sat.

I, the undersigned, agree to the following regulations applicable to home occupations (Section 10.08.4590, Tracy Municipal Code):

- (a) There shall be no exterior evidence of the conduct of the home occupation;
- (b) No sign or advertising may be displayed except for a single directory sign or name plate, which shall be flat-mounted against the building, shall not exceed one and one-half (1 1/2) square feet in area, and shall be illuminated by reflected light only;
- (c) The occupation shall not be conducted in an accessory structure, nor shall equipment or supplies be stored in an accessory structure or outside the dwelling. The occupation may be conducted, and supplies and equipment may be stored, in a garage, as long as required off-street parking is maintained;
- (d) The nature and conduct of the home occupation must not be such as to change the principal character of the use of the dwelling unit or the residential character of the neighborhood;
- (e) A home occupation shall be clearly incidental to the residential use. The floor area used for the occupation shall not exceed one-fourth (1/4) of the floor area of the main residence or 400 square feet, whichever is less;
- (f) There shall be no on-site sale of products;
- (g) Only the residents of the dwelling may be employed in the home occupation, except that non-residents may be employed as long as they do not work, meet, or leave vehicles at the residence;
- (h) The home occupation shall not create off-street or on-street parking, vehicular or pedestrian traffic which is greater than normally associated with a strictly residential use of the premises, except for individual instruction conformance with Section 10.08.4610(b). The resident with the home occupation may not keep a vehicle greater than one ton at the premises, and may not have more than one such vehicle. Any trailer or wheeled equipment incidental to the home occupation shall be kept within an enclosure and not be visible from off site;
- (i) The home occupation shall not create noise exceeding the levels permitted by the noise ordinance (Sections 4.12.710 through 4.12.1070); audible interference in radio or television receivers; fluctuations in line voltage; odor, dust, vibration, fumes or smoke readily discernible at the property's exterior boundary. (Prior code §10-2.3604, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

[Signature]  
Signature of Applicant

7-28-2016  
Date

Reviewed By \_\_\_\_\_

☐ Approved

☐ Denied

Date \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

83522



[Q Home](#) [cJ Report a Problem](#)

## Search Businesses

Search By:  Value:

[Specify Business Start Date Range \(Optional\)](#)

Account#	Business Name	Start Date	Expire Date	Address	Phone	Website
06010946	TOUCH AND SHINE AUTO DETAIL	7/20/2016	6/30/2020	1881 NEWPORT CT TRACY CA 95376-2327	[REDACTED]	

Total businesses found: 1

Powered by Hdt





I ALREADY CLOSED  
THIS,

17CD-0887  
**VIOLATION NOTICE**



CITY OF TRACY  
DEVELOPMENT & ENGINEERING SERVICES  
333 CIVIC CENTER PLAZA  
TRACY, CA 95376  
(209) 831-6400

DATE: 10-5-17 TIME: 1137 HRS.

ADDRESS: 1881 NEWPORT CT.

VIOLATION: YOU ARE NOT ALLOWED TO WASH

THE VEHICLES AT YOUR RESIDENCE FOR THE  
BUSINESS. ALSO ANY LOAD EQUIPMENT NEEDS TO BE

I have inspected this structure and these premises and have found the USED  
following violation(s) of the Tracy Municipal Code and/or state laws WITH  
governing same. GARAGE CLOSED & INSIDE THE GARAGE.

- ☐ Section 9.02.040, Building
- ☐ Section 9.08.040, Electrical
- ☐ Section 9.12.040, Plumbing
- ☐ Section 9.16.040, Mechanical
- ☐ Section 4.12.265, Accumulation of Rubbish and Refuse -  
Abate by \_\_\_\_\_

☐ Section 3.48.080, Graffiti - Abate by \_\_\_\_\_

☐ H & S 17920.3, Improper Occupancy

☒ Other 10.08.4600 (a) & (i) TMC

EXTENSIVE EVIDENCE & EXCESSIVE NOISE EXCEEDING  
Submit plans to the City of Tracy by N/A and LEVELS  
(date)

secure a City of Tracy Building Permit by N/A  
(date)

Provide a complete description of the work being done or that has been  
done on the property. An investigative fee will be assessed in addition  
to the building permit fee(s).

Print Name: B. ALCANTAR  
Building Inspector/Code Enforcement Officer

Print Name: G.H.  
Received by ☐ Owner ☐ Tenant ☐ Other Responsible Party

**DO NOT REMOVE THIS TAG**

Original - Property Owner    Yellow - Tenant Copy    Pink - Office Copy  
\* SEE REVERSE SIDE FOR INFORMATION REGARDING YOUR LEGAL RIGHTS





## TRACY POLICE DEPARTMENT

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

### CERTIFICATE OF SERVICE

The undersigned declares as follows:

On the 21st day of August, 2019, I served the following document(s):

Notice of Revocation of Home Occupation Permit

to the following party or parties named and to the addresses listed below regarding  
Code Enforcement Case 19CD-0917:

Gabriel Hernnadez & Amalia Hernandez  
1881 Newport Court  
Tracy CA 95376

Said service was performed in the following manner:

- ☒ **BY MAIL:** I caused true and correct copies of the above documents to be placed and sealed in an envelope addressed to the parties named above and, following ordinary business practices, deposited said envelopes for collection and mailing by the City's mailroom staff, located in Tracy City Hall, 333 Civic Center Plaza, Tracy, California 95376, with prepaid postage from the United States Postal Service. In the ordinary course of business, correspondence placed for collection at City Hall on a particular day is deposited with the United States Postal Service that same day.
- ☐ **BY PERSONAL SERVICE:** I personally delivered true and correct copies of the above documents to the parties named above, at the addresses listed above, or at the address indicated hereafter.
- ☐ **BY POSTING:** I caused true and correct copies of the above documents to be posted in a conspicuous place at the listed address and or addresses indicated hereafter.

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

Executed this 21st day of August, 2019, in Tracy, California, 95376.

A handwritten signature in black ink, appearing to read "Joseph Viorge-Koide".

JOSEPH VIORGE-KOIDE  
Administrative Assistant II  
City of Tracy



# 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 OF REVOCATION OF HOME OCCUPATION PERMIT

Date: August 21, 2019  
Case Number: 19CD-0917  
Assessor Parcel Number: 232-143-26  
Property Address: 1881 Newport Court, Tracy, CA 95376  
Property Owners: Gabriel Hernandez & Amalia Hernandez  
Mailing Address: 1881 Newport Court, Tracy, CA 95376

**GABRIEL HERNANDEZ & AMALIA HERNANDEZ,  
AS OWNERS OF THE ABOVE REFERENCED PROPERTY,  
YOU ARE HEREBY SERVED NOTICE OF REVOCATION OF HOME OCCUPATION PERMIT**

City of Tracy Code Enforcement staff received and confirmed reports of violations at property located at 1881 Newport Court, Tracy, California, hereinafter referred to as the "referenced property", and determined the referenced property is maintained as a public nuisance per Tracy Municipal Code (TMC) Chapter 1.32, set forth in more detail below.

City of Tracy Code Enforcement Staff has investigated reports of an improperly conducted home occupation business at the referenced property. The reports claim the resident of the referenced property conducts an auto detailing business (aka Touch and Shine Auto Detail) in violation of the Home Occupation Regulations (TMC 10.08.4600, attached). The reports allege the following:

1. The business provides car washing, vacuuming and detail services from the garage of the single-family residence;
2. Customers of the business routinely drive their vehicles to the referenced property for the services provided, causing increased traffic in the neighborhood; and
3. The equipment used to conduct the home occupation (vacuums and polishers) increases noise levels in the neighborhood.

Upon researching City records, staff reviewed a copy of the City of Tracy Business License Tax & Fees application and the Home Occupation Permit application submitted to the City of Tracy Finance Department on July 28, 2016, attached. The business license application lists the activity as an "auto detail going to homes – does not include wash". The Home Occupation Permit identifies the business as auto detail/home office.

A City of Tracy Home Occupation permit was issued to Mr. Gabriel Hernandez on July 21, 2016 in accordance with TMC section 10.08.4620. However, upon reviewing the home occupation in its current method of operation, the use is found to be inconsistent with the intent of this section of the code.

On July 12, 2019, City of Tracy Code Enforcement Case Analyst Lacy Starling and Code Enforcement Manager Ana Contreras met with Gabriel Hernandez at the referenced property to discuss reports of an auto detailing business at the referenced property. In their discussion, Mr. Hernandez confirmed he does, in fact, operate an auto detailing business from the garage and driveway of the referenced property. Mr. Hernandez further stated he no longer washes vehicles at the referenced property. Mr. Hernandez stated he picks up vehicles from his client's locations and drives them to the referenced property to perform the detail work.

Notice of Revocation of Home Occupation Permit  
Touch and Shine Auto Detailing  
1881 Newport Court, Tracy CA 95376  
August 21, 2019  
Page 2

Pursuant to TMC section 10.08.4600, Regulations, a home occupation must comply with the regulations contained therein (attached). As such, the home occupation, as conducted, violates the following subsections:

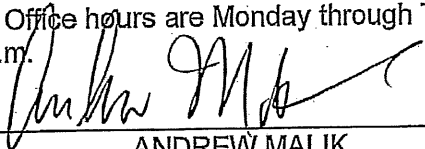
- (a) There shall be no exterior evidence of the conduct of the home occupation;
- (d) The nature and conduct of the home occupation must not be such as to change the principal character of the use of the dwelling unit or the residential character of the neighborhood;
- (h) The home occupation shall not create off-street or on-street parking, vehicular or pedestrian traffic which is greater than normally associated with a strictly residential use of the premises.

The City of Tracy Community Development Director hereby revokes City of Tracy Home Occupation permit issued to Gabriel Hernandez (aka Touch and Shine Detail) in accordance with section 10.08.4620 and based on the following findings:

- (d) (1) The use has become detrimental to the public health, safety, welfare, or character of a neighborhood or constitutes a hazard or nuisance to pedestrian or vehicular circulation or parking;
- (d) (2) The permit was obtained by misrepresentation or fraud, or the home occupation is different from that for which the permit was issued; and
- (d) (5) The business is in violation of this article or a condition of the permit, or of any statute, ordinance, law or regulation.

The decision of the Community Development Director to deny or revoke a home occupation permit may be appealed to the Planning Commission, as outlined in TMC section 10.08.4630. A written appeal, together with the filing fee, shall be submitted to the Secretary of the Tracy Planning Commission within ten (10) working days after the written decision of the Community Development Director has been mailed to the applicant.

Information regarding this Notice of Revocation of Home Occupation Permit and the provisions contained herein is available in the Code Enforcement Division of the Tracy Police Department, City Hall, (209) 831-6401. Office hours are Monday through Thursday, 8:00 a.m. to 6:00 p.m., and every other Friday, 8:00 a.m. to 5:00 p.m.

  
\_\_\_\_\_  
ANDREW MALIK  
Director  
Development Services Department

8/21/19  
\_\_\_\_\_  
DATE

Attachments:

- Tracy Municipal Code (TMC) Chapter 1.32
- Article 36 – Home Occupations
- Tracy Municipal Code (TMC) section 10.08.4600, Regulations
- Tracy Municipal Code (TMC) section 10.08.4620, Permit Procedures
- Tracy Municipal Code (TMC) section 10.08.4630, Appeal
- Business License & Home Occupation Permit – Gabriel Hernandez



August 29, 2019

Andrew Malik

City of Tracy Development Services

333 Civic Center Plaza

Tracy, CA 95376

RECEIVED

AUG 29 2019

CITY OF TRACY  
Development Services

RE: Gabriel Hernandez

Touch and Shine Auto Detailing

Dear Andrew,

I, Gabriel Hernandez, am writing regarding a letter I received from the Code Enforcement Division. This letter states that my home occupation permit has been revoked due to violation of city codes.

In reading this letter, I could only assume you have received false information from one of the neighbors living at 1896 Newport Court. She has called the City on me several times and even had the City come out to my property to observe my business. Her claims have been that I have multiple customer vehicles on my property, that I'm washing them on my property, create too much noise and that I have several customers dropping off and picking up their vehicle. Each time the City has come out to verify, I have not had multiple vehicles on the property, I have not washed them, have not had several customers picking up or dropping off their vehicles, nor have I created noise to disrupt my neighborhood. As I have read through the letter, I have complied with all codes listed in this letter. So, I am confused as to why you have revoked my home occupation permit. The City has not given me a written violation notice, has not seen anything out of order, nor have they left a note on my door stating I'm in violation, so my question is why is my permit being revoked?

There are a few cited violations on the report (TMC section 10.08.4600)

- (a) There shall be no exterior evidence of the conduct of the home occupation.

**Facts:** There is no evidence of any type of business being conducted from the property.

**All work is done in the garage. There has never been any warning by a city inspector to allow me to correct any problem if any.**

**Please show the evidence of the officer's complaint and attempt to reach the homeowner/business owner.**

- (b) The nature and conduct of the home occupation must not be such as to change the principal character of the use of the dwelling unit or the residential character of the neighborhood.

**Facts:** The property remains as if it is a normal house. There has been no additions or subtractions such as adding a tarp for covering or any type of machinery for business purposes. The opposite is true the house is one of the best or the best-looking house in the neighborhood there fore adding a nice appearance to the court.

**Please show any evidence that contradicts the facts. There has been nothing presented to the owner to correct the issue because there's nothing to correct.**

- (h) The home occupation shall not create off-street parking, vehicular or pedestrian traffic which is greater than normally associated with strictly residential use of the premises.

**Facts:** All cars are parked in the garage and not on the street. There are one to three cars per week that is brought in if I'm fortunate enough to have that much work per one week. There are no pedestrians that are added to the street due to the business.

**Please show evidence pictures of accusations stated by code enforcement.**

- (d) (1) The use has become detrimental to the public health, safety, welfare or character of a neighborhood or constitutes a hazard or nuisance or to pedestrians or vehicular circulation or parking.

**Facts:** There is absolutely no health risk or safety matters that would cause any harm to people or the homes around. The only nuisance that exist in the neighborhood is from the neighbors that have their yards looking horrible and cars parked on the driveway making the neighborhood look like a junkyard!

**Please present any evidence of any of these issue that I am being accused of.**

- (d) The permit was obtained by misrepresentation or fraud, or the home occupation is different from that for which is the permit was issued: and

- (d) (5) The business is in violation of this article or a condition of permit, or of any statute, ordinance, law or regulation.

**Facts:** The property remains as is, an auto motive detail business that is conducted with in the garage. The application that was filled out from the business owner has been tampered with. It is to my surprise that fraud has been committed by adding information after it left the possession of the one who filled out the legal form. If any changes where to be agreed upon

1. The clerk or person that received the application from the owner should have reviewed and immediately corrected any information such as rewrite another application or initial the sections where information was added by the clerk or person at the time.

Upon reviewing the section of the application:

- (a) Description of business activity (include detailed information such as dates, jobsite, products)

**The fill in space says Auto detail in the owners handwriting. There is someone else handwriting (going to homes-does not include carwash) that was added after it left the business owners possession.**

- (b) Description of proposed home occupation:  
(please describe in detail the business activity which will be conducted at home)

**The fill in space says Auto detail. Again, there is someone else handwriting (/Home Office) that was added on after it left the business owners possession.**



All facts have been presented to the Code Enforcement Division and in return the I the business owner of Touch and Shine Auto Detailing have not been properly investigated by Code Enforcement. The process was not followed accordingly.

Code enforcement is going off by the neighbor living at 1896 Newport Court, I am being falsely accused of violation of city codes. I believe that Code Enforcement is tired of hearing from the said neighbor and in order to stop her complaining they are attempting to shut my business down. This said neighbor as threaten me several times with the statement that she knows people the City Departments.

There has been no proof of any of the accusations and its only being conducted by hearsay. It is absolutely shocking how one person can be falsely accused and be stripped from its permit. More so to use a fraudulent application that has been tampered with to say that the business owners has falsified information. INCREDIBLE!

There should be an internal investigation to find out who added the information. I could only imagine what other things are being done behind closed doors!

It is also alarming how a director of development services department can with good conscious revoke a home occupation permit without understanding or viewing the entire evidence.

I'm requesting that my home occupation permit be reinstated and the fees of \$326.00 be given back.

Regards,  
Gabriel Hernandez

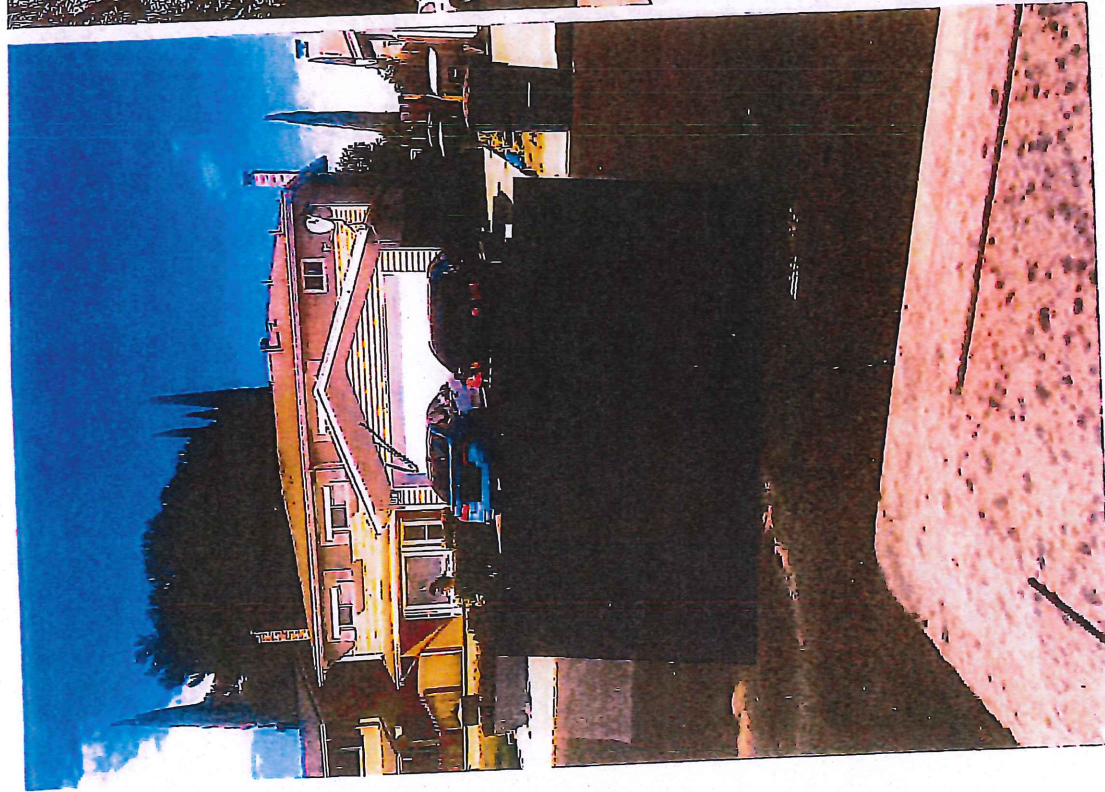
Owner  
Touch and Shine Auto Detail.



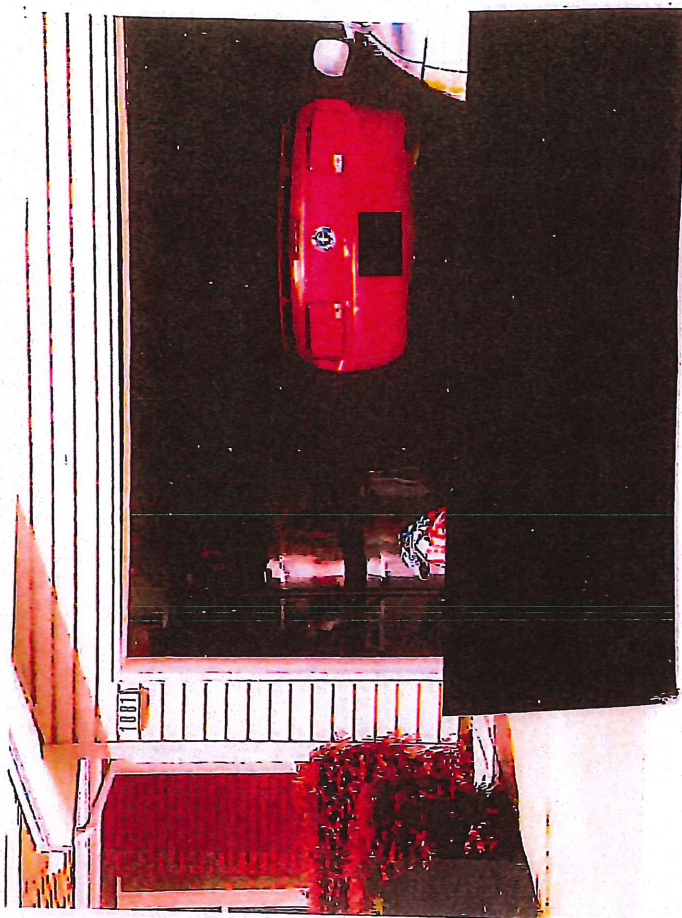


Photographs - 1881 Newport Court  
Non-Compliant Home Occupation





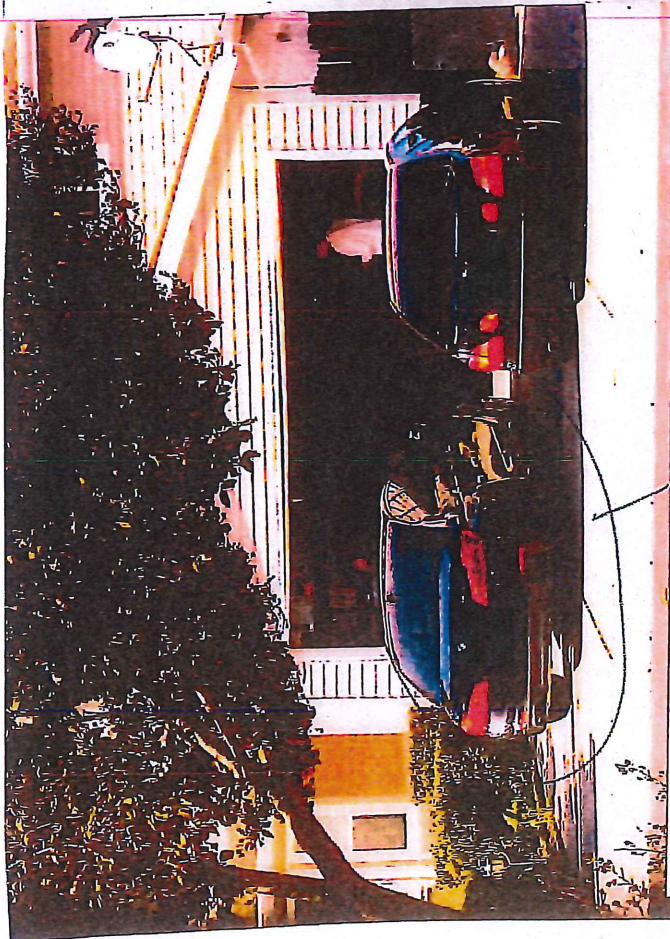
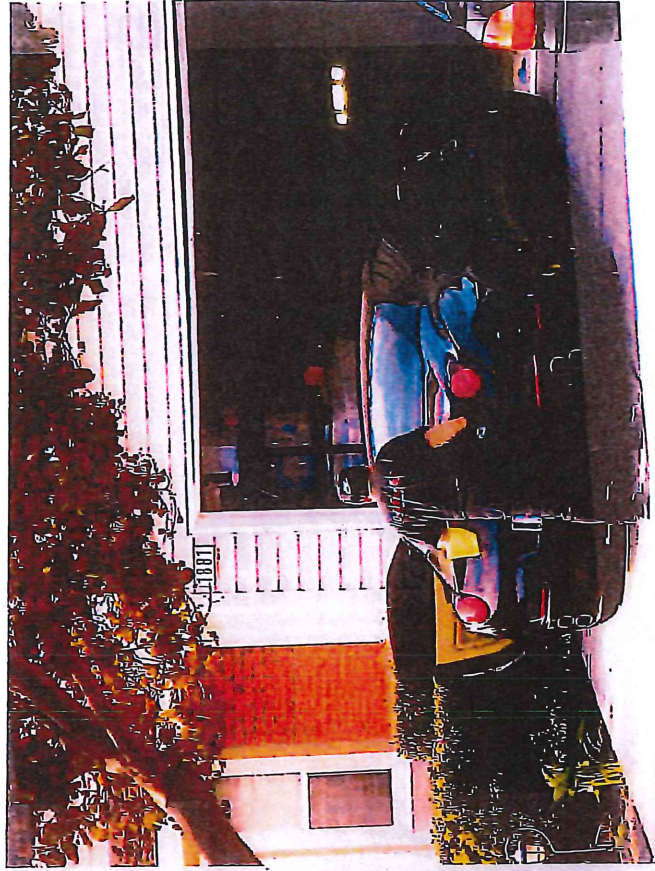




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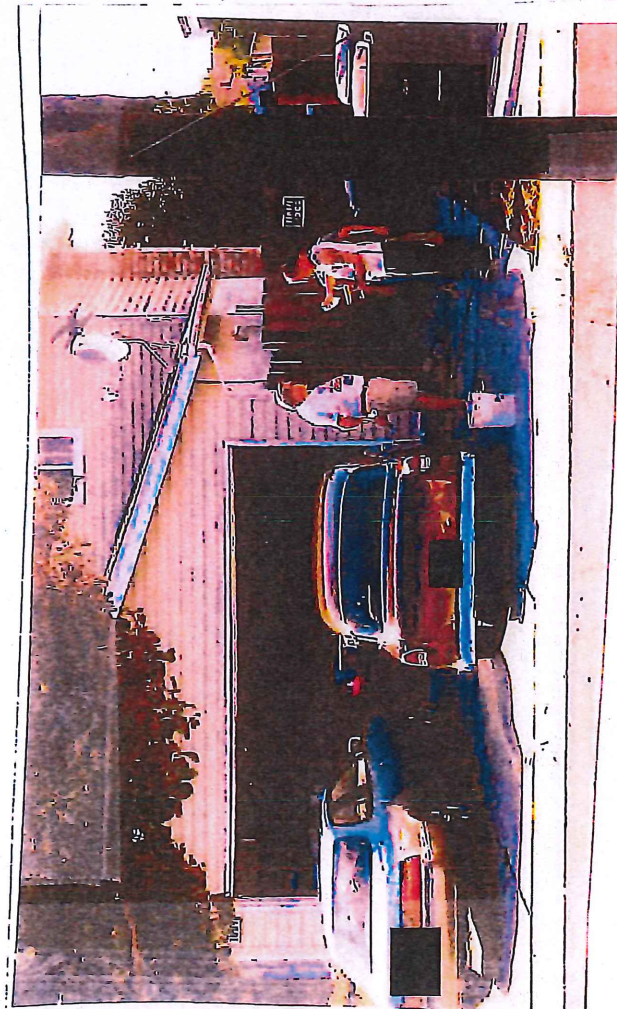
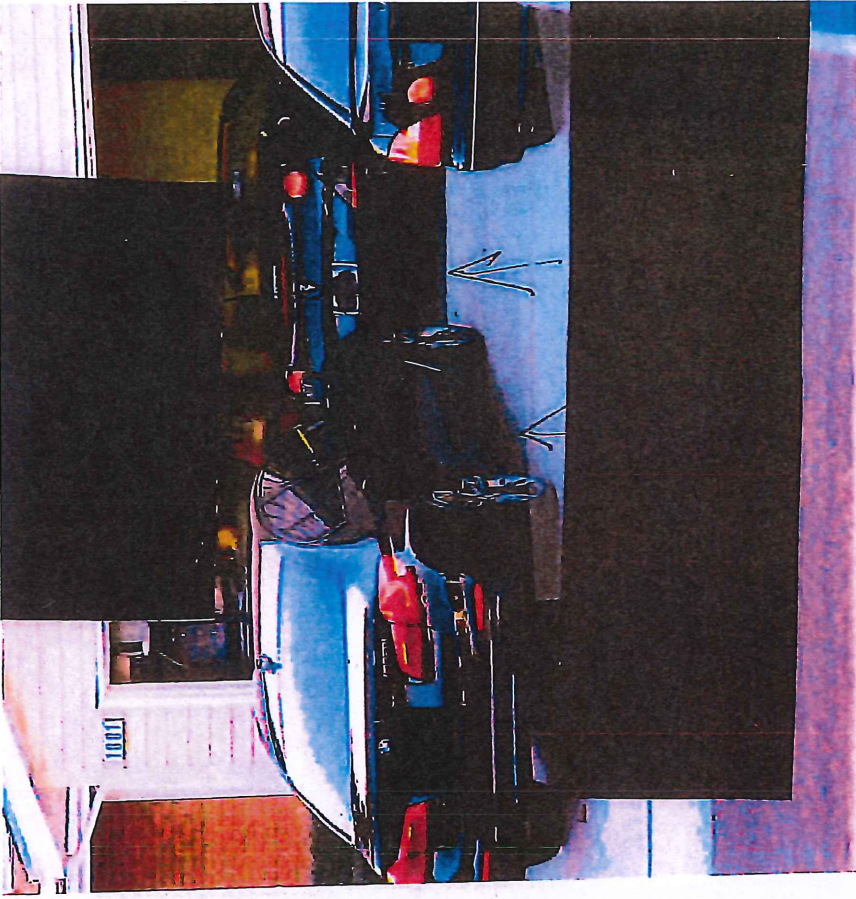




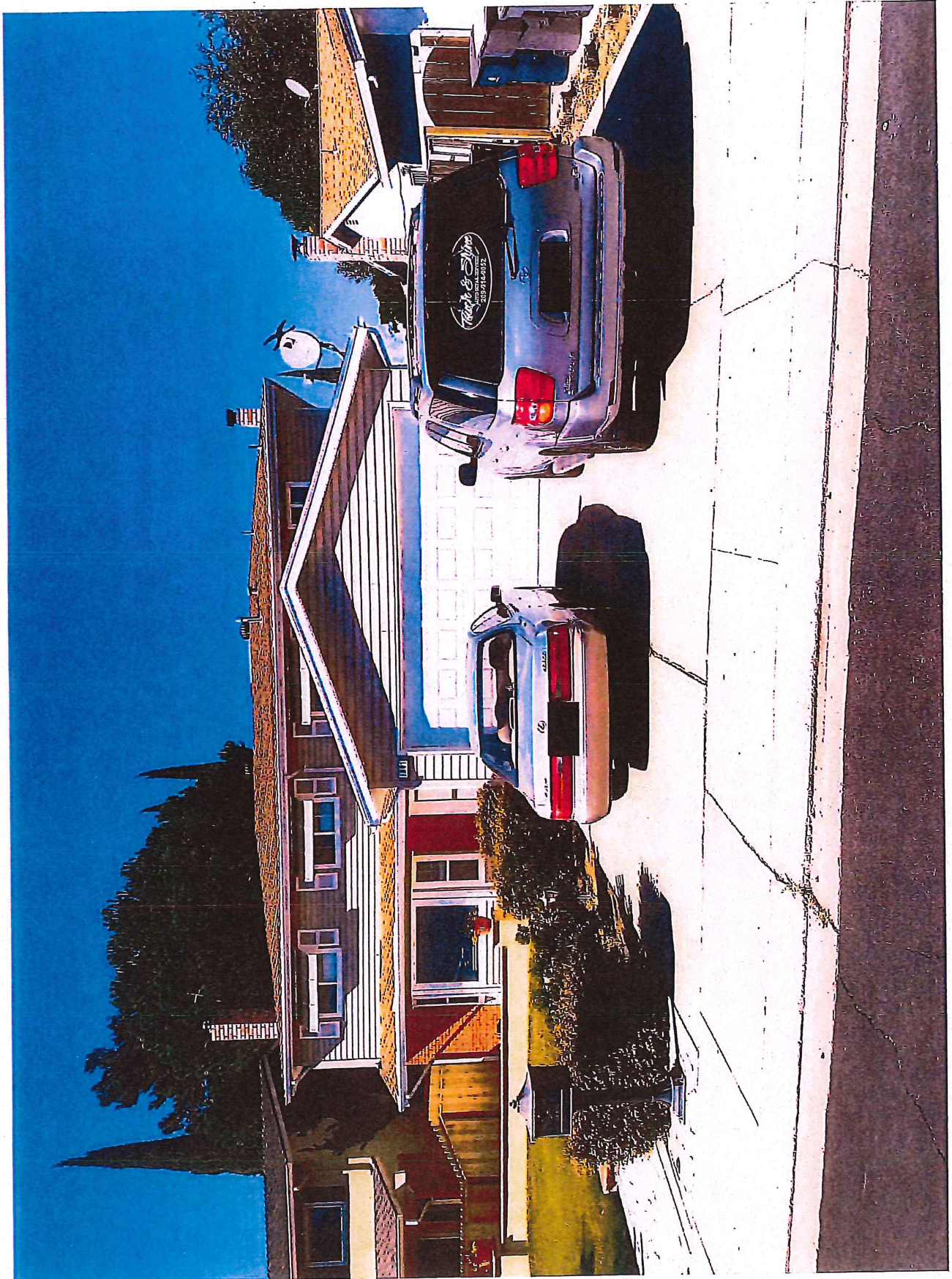














AGENDA ITEM 1.C

REQUEST

**PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT AND DEVELOPMENT REVIEW PERMIT TO CONVERT AN EXISTING SINGLE FAMILY RESIDENCE TO A DAY CARE CENTER LOCATED AT 1525 WILBANKS LANE (ASSESSOR'S PARCEL NUMBER 242-240-36) – THE APPLICANT AND OWNER IS MARIA CARINA DIAZ DE BARAJAS – APPLICATION NUMBERS CUP19-0003 AND D19-0016**

DISCUSSION

Project Description

The proposal consists of converting an existing 3,829 square foot, single-family residence into a day care center, named A Kids Place Preschool. The property is located at 1525 Wilbanks Lane, off Robert L Smith Drive, in the Parkside Estates Subdivision. Attachment A includes a location map.

The remodel of the building will result in a new floor plan inclusive of two classrooms, two staff restrooms, two offices, children's restrooms, and two indoor play areas (Attachment B). The exterior improvements include removal of the garage doors along the south elevation and parking area improvements including new landscaping. A portion of the one-acre site has an existing barn structure that is completely fenced-off from the rest of the site and will not be used as part of the proposed day care center. Attachment C is the proposed site plan which shows the parking area improvements including proposed landscaping and Attachment D provides the proposed south elevation and an image of the existing south elevation.

The day care center will provide space for up to 100 students from ages 0-12 and operate from 6:30am to 6:00pm, Monday through Friday. A Kids Place Preschool will be the second facility in the City of Tracy, the first is located at 1820 W Grant Road, just east of Corral Hollow Road. This center will remain open to accommodate the growing demand for availability to accept new students at A Kids Place Preschool.

Separate from the City's review of the project, the operator must obtain a Child Care Center License from the State Health and Human Services Agency. The State's review of the permit is focused on health, safety, and operational items such as fence height, indoor area required per child, outdoor area required per child, and number of toilets and sinks required, and training or qualifications of the childcare center staff. Annually, the Fire Department will conduct a state Fire Marshal mandated inspection of the facility.

Parking and Circulation

The site will be improved to include 10 parking spaces, including one accessible parking space. Tracy Municipal Code Section 10.08.3480 requires that one parking space is provided per staff position. At maximum capacity, the day care center would have eight instructors meaning that the parking requirement for the project has been met. In



addition to the automobile parking spaces, eight bicycle parking spaces are proposed along the front of the building. The new parking area will include landscape improvements, four shade trees and shrubs along the southern property line. All drop-off and pick-up of the students will be done on-site.

The applicant anticipates that a portion of the students will attend the facility before and/or after regular off-site school hours. These students are transported to and from various schools using the center's shuttle system. The program at A Kids Place Preschool is designed to allow students to arrive at any time throughout the morning, and leave at any point in the afternoon, as there is not a set schedule for "start" or "end" times. For this reason, the applicant does not anticipate more than a few students being dropped-off or picked-up at the same time. Engineering have reviewed the application and are not requiring any street improvements for the proposed use.

The applicant will also improve the site to include an accessible path that extends from the existing public sidewalk at Robert L Smith Drive to the entry of the center to allow students and guardians to access the site by foot. The large amount of bicycle parking also encourages students and employees to bike to the center to reduce vehicle trips to the site.

#### Land Use Compatibility

The site is zoned Low Density Residential which allows day care centers as a conditional use. This zone is designed to provide a variety of housing types and supporting uses. The immediate surrounding neighborhood consists of single-family homes. The project site is the only property on Wilbanks Lane, all of the neighboring properties back to the site, and potential students from the neighborhood will have convenient access to the property, making it a well-suited location for a day care center. The day care center will provide a service for the surrounding neighborhood.

The recommended conditions of approval for the Conditional Use Permit, included in Attachment E, limit the days of operation to Monday through Friday and limits the hours of operation to 6:30am-6:00pm thereby limiting any increase in noise or traffic to those restricted hours.

#### CEQA Documentation

The project is categorically exempt from the California Environmental Quality Act, pursuant to Guidelines Section 15303, New Construction or Conversion of Small Structures which pertains to construction of new facilities or structures not exceeding 10,000 square feet on sites zoned for such use. In accordance with CEQA Guidelines, no further environmental assessment is required.

#### RECOMMENDATION

Staff recommends the Planning Commission approve the Conditional Use Permit and Development Review Permit Application Numbers CUP19-0003 and D19-0016 for A Kids Place Preschool as indicated in the attached Planning Commission Resolutions dated October 23, 2019 (Attachment E and F).

RECOMMENDED MOTION

Move that the Planning Commission approve the Conditional Use Permit and Development Review Permit Application Numbers CUP19-0003 and D19-0016 for A Kids Place Preschool, subject to the conditions and based on the findings contained in the Planning Commission Resolutions dated October 23, 2019 (Attachment E and F).

Prepared by Genevieve Federighi, Assistant Planner

Reviewed by Alan Bell, Senior Planner

Approved by Bill Dean, Assistant Development Services Director

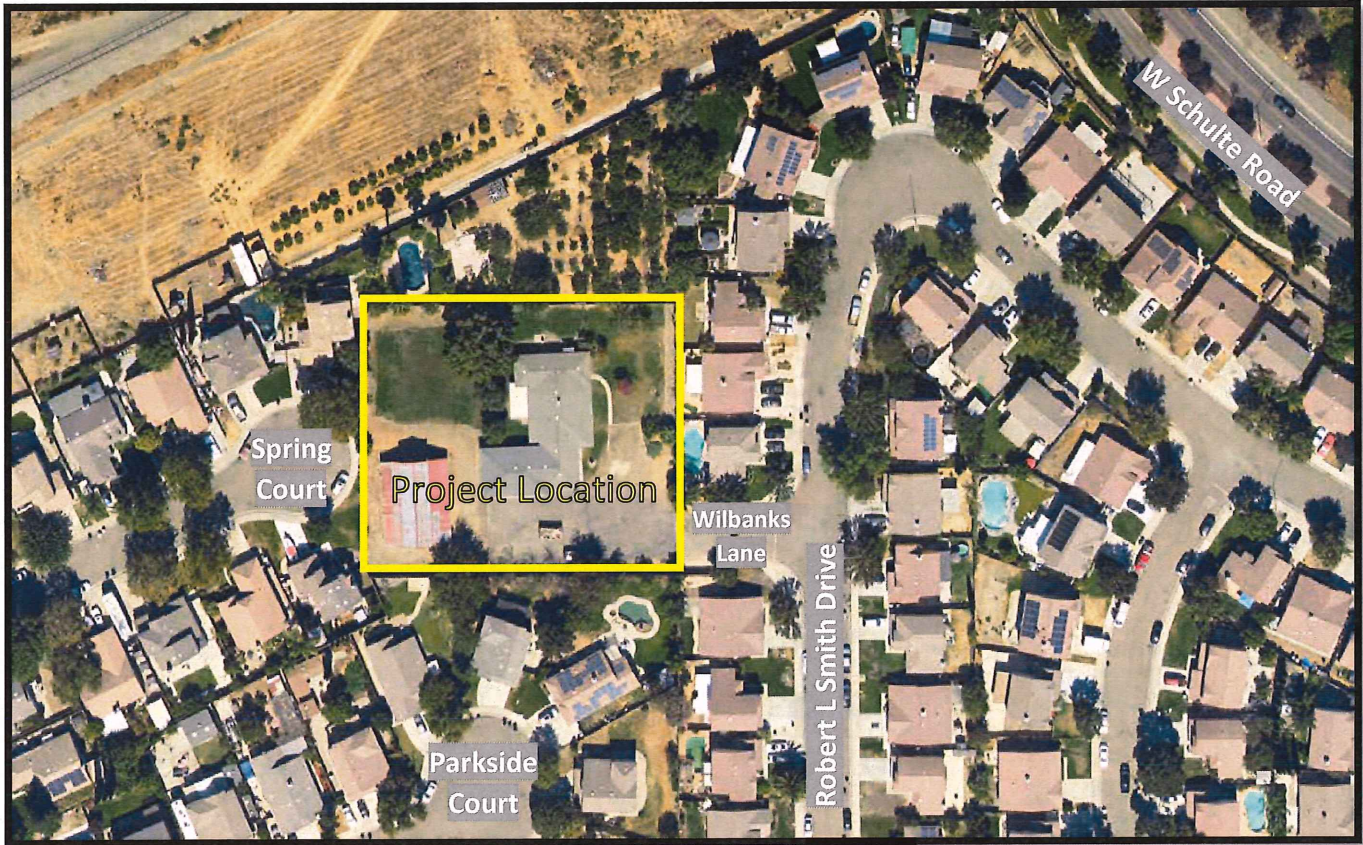
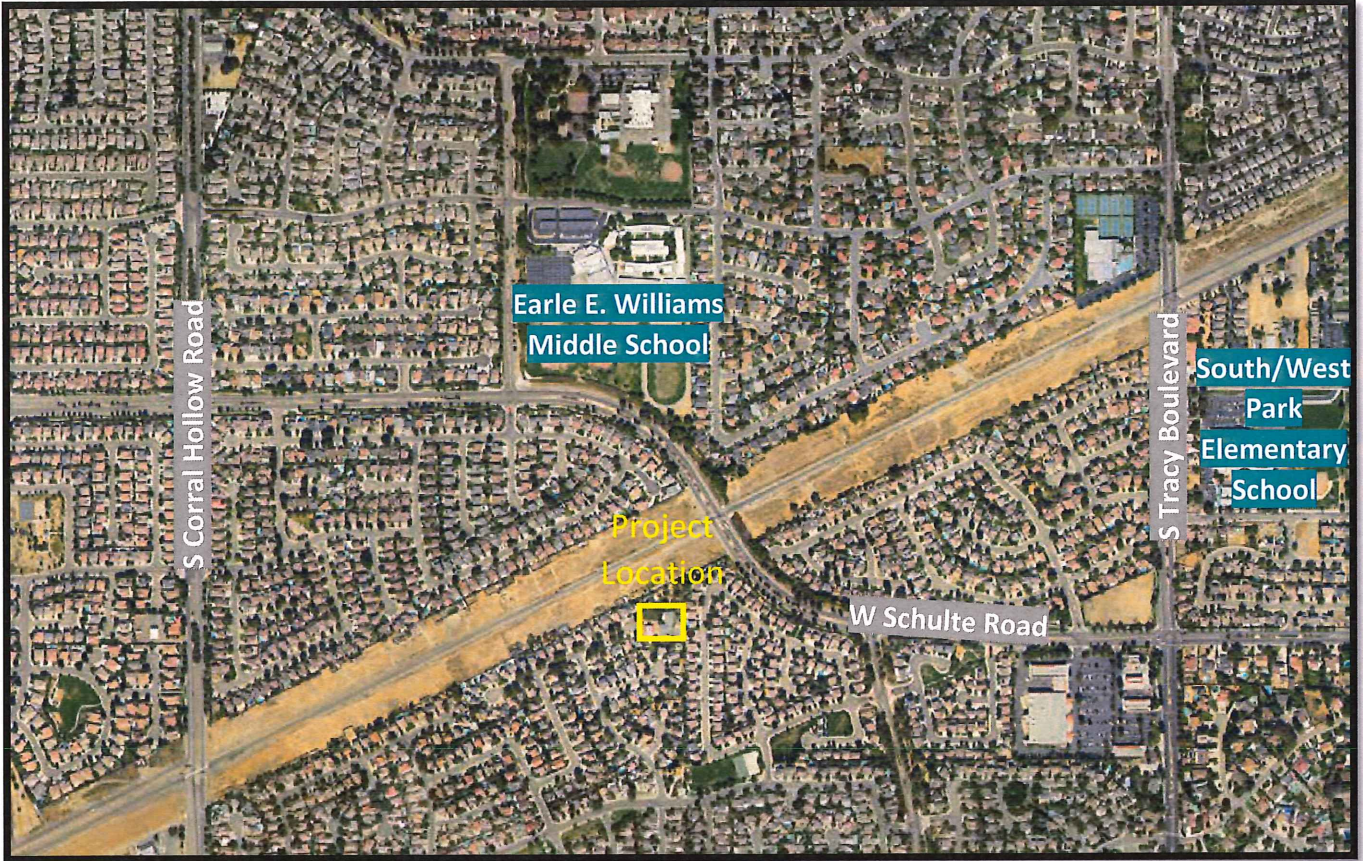
ATTACHMENTS:

Attachment A – Location Map  
Attachment B – Floor Plan  
Attachment C – Site Plan  
Attachment D – Images of Existing Structure and South Elevation  
Attachment E – Planning Commission Conditional Use Permit Resolution  
Attachment F – Planning Commission Development Review Resolution (with recommended conditions of approval)

(ATTACHMENTS B THROUGH E ARE ALSO PROVIDED IN OVERSIZE VERSIONS TO THE PLANNING COMMISSION AND ARE AVAILABLE AT TRACY CITY HALL, DEVELOPMENT SERVICES DEPARTMENT, 333 CIVIC CENTER PLAZA, TRACY)





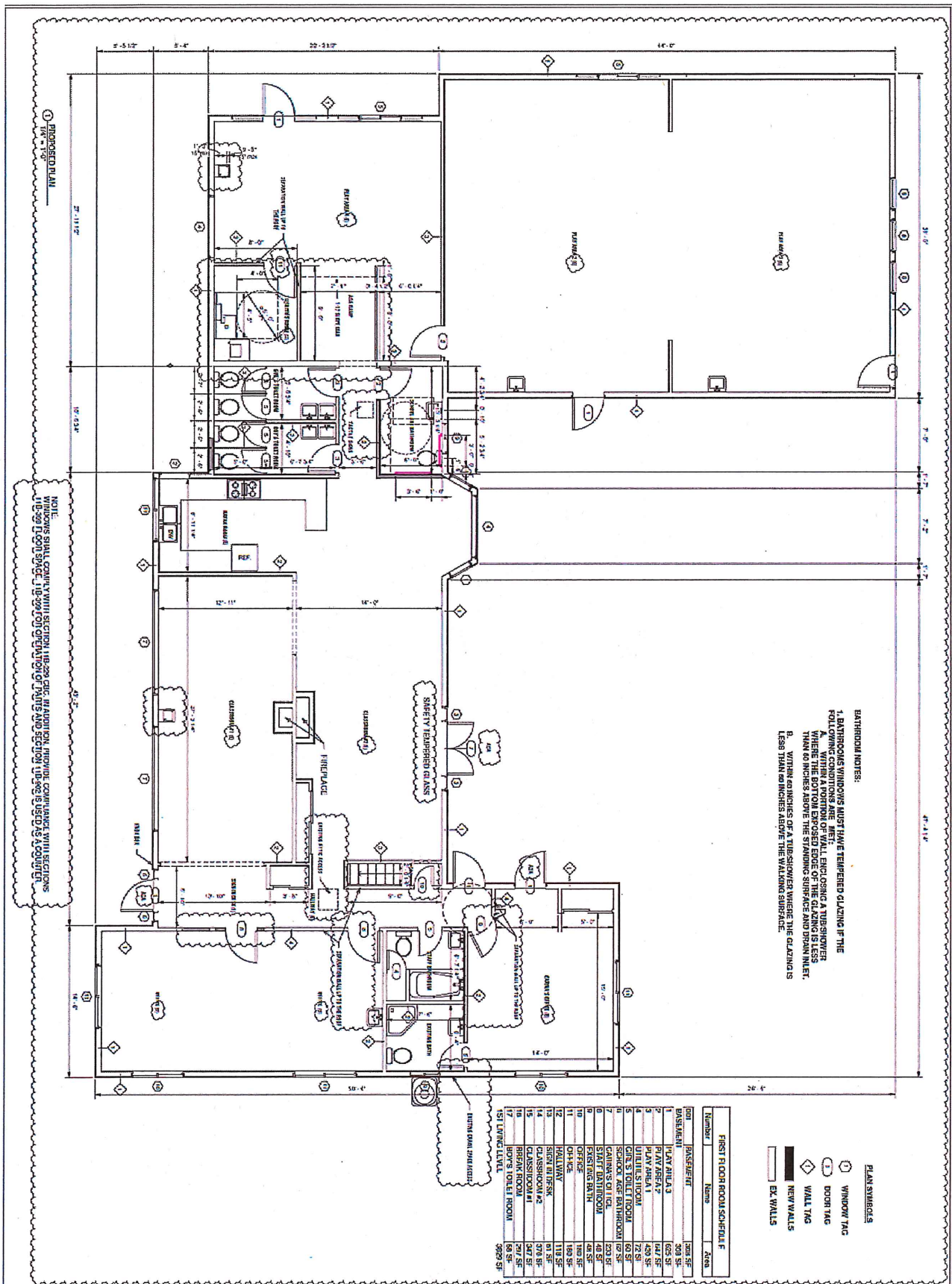




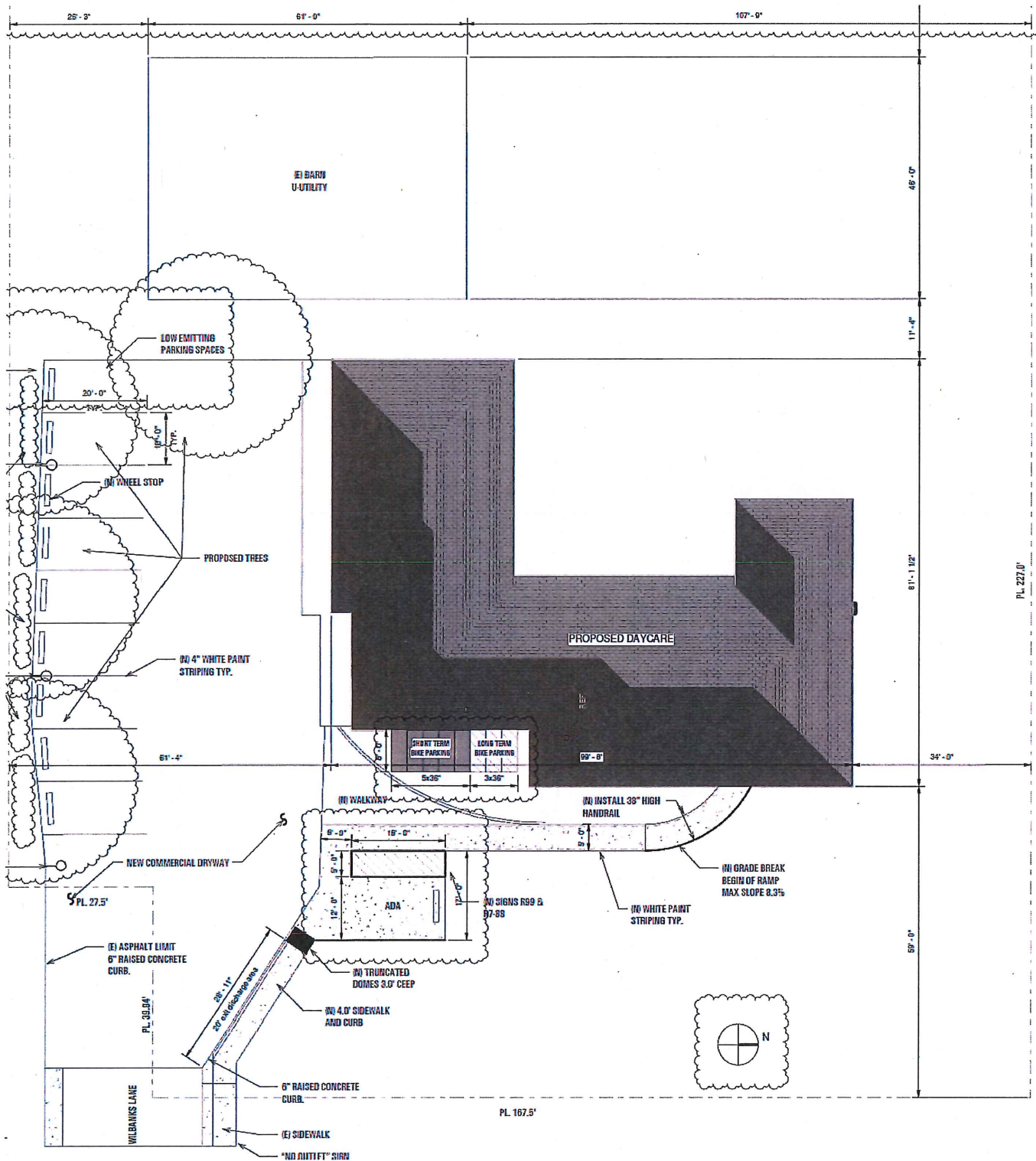




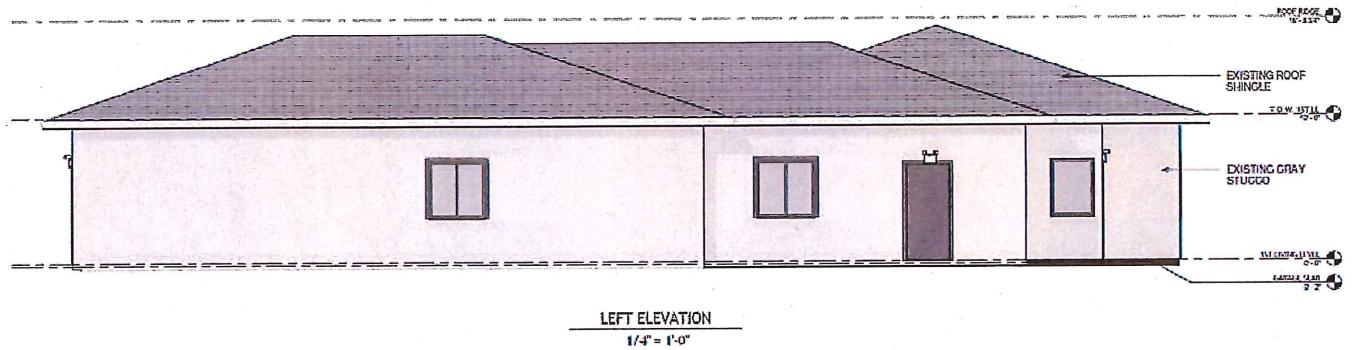
Proposed Floor Plan



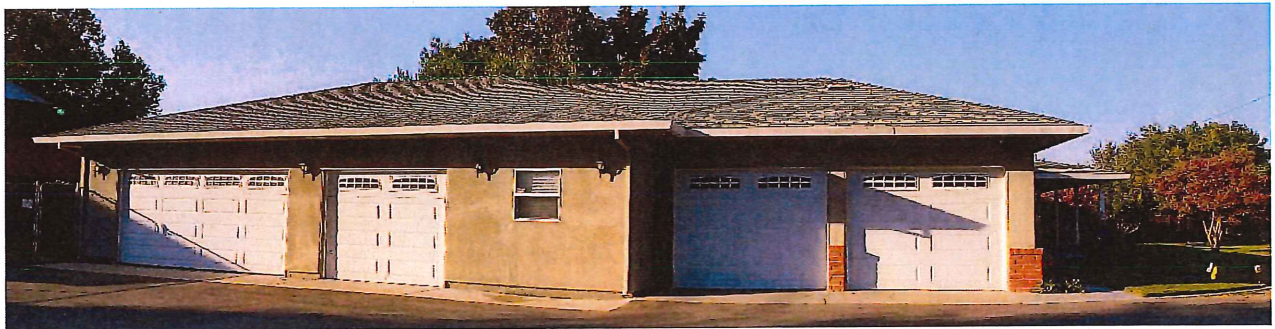
Proposed Site Plan



**South Elevation (The only elevation with proposed changes)**



**Proposed South Elevation**



**Image of the South Elevation from October 16 2019**





RESOLUTION 2019 - \_\_\_\_\_

APPROVAL OF A CONDITIONAL USE PERMIT (CUP19-0003) FOR A KIDS PLACE PRESCHOOL – EXISTING 3,829 SQUARE FOOT STRUCTURE TO BE OCCUPIED WITH A DAY CARE CENTER LOCATED AT 1525 WILBANKS LANE

WHEREAS, On May 14, 2019, Maria Carina Diaz De Barajas filed an application for a Conditional Use Permit (CUP19-0003) (the “project”) for a 3,829 square foot child care facility at 1525 Wilbanks Lane, and

WHEREAS, On May 14, 2019, Maria Carina Diaz De Barajas also filed an application for a Development Review Permit (D19-0016) for improvements related to the proposed child care facility at 1525 Wilbanks Lane which is being reviewed concurrently, and

WHEREAS, The subject property is located within the Low Density Residential Zone, which requires a Conditional Use Permit for day care centers, and

WHEREAS, The project is categorically exempt from CEQA based on Guidelines Section 15303 which applies to new construction or conversion of small structures not exceeding 10,000 square feet on the sites zoned for such use, and

WHEREAS, The Planning Commission conducted a public hearing to consider the project on October 23, 2019;

NOW, THEREFORE, BE IT RESOLVED, The Planning Commission approves a Conditional Use Permit for A Kids Place Preschool subject to the following conditions and the following findings:

Conditions

1. The hours of operations shall be limited to 6:30am to 6:00pm, Monday through Friday.
2. There shall be a maximum of 100 children attending the day care center at any time.

Findings

1. The project is consistent with the City of Tracy General Plan, in that: the site is designated Residential Low by the General Plan, and day care center is a conditionally permitted use in the Low Density Residential land use designation; the project will pay all applicable development impact fees to mitigate its proportionate impact on public facilities; and the project is consistent with the goals and policies of the General Plan, including economic development, circulation, noise, and air quality.
2. The Project includes site plan and design elements consistent with the City Design Goals and Standards, including number and design of parking spaces, circulation, land use and landscaping. The proposed location is designated Low Density Residential which has the objective of providing supporting uses for the surrounding neighborhood which the day care center will achieve.
3. The proposed location of the subject property is designated Low Density Residential. Day care centers are a conditionally permitted use within the Low Density Residential Zone.

The proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity. The day care facility proposes hours of operation from 6:30 a.m. through 6:00 p.m., Monday through Friday, which will restrict any increase in noise or vehicular traffic to those hours and minimize any impacts to the surrounding neighborhood.

4. The proposed use will comply with each of the applicable provisions of the zoning regulations. The project is consistent with City standards in all respects, including, but not limited to: siting standards, off-street parking, and landscaping.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was adopted by the Planning Commission on the 23<sup>rd</sup> day of October, 2019, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
STAFF LIAISON

RESOLUTION 2019 - \_\_\_\_\_

APPROVAL OF A DEVELOPMENT REVIEW PERMIT (D19-0016) FOR A KIDS PLACE PRESCHOOL – EXISTING 3,829 SQUARE FOOT STRUCTURE TO BE OCCUPIED WITH A DAY CARE CENTER LOCATED AT 1525 WILBANKS LANE

WHEREAS, On May 14, 2019, Maria Carina Diaz De Barajas filed an application for a Development Review Permit (D19-0016) for improvements related to the proposed child care facility at 1525 Wilbanks Lane, and

WHEREAS, On May 14, 2019, Maria Carina Diaz De Barajas also filed an application for a Conditional Use Permit (CUP19-0003) (the “project”) for a 3,829 square foot child care facility at 1525 Wilbanks Lane which is being reviewed concurrently, and

WHEREAS, The subject property is located within the Low Density Residential Zone, which requires a Conditional Use Permit for day care centers, and

WHEREAS, The project is categorically exempt from CEQA based on Guidelines Section 15303 which applies to new construction or conversion of small structures not exceeding 10,000 square feet on the sites zoned for such use, and

WHEREAS, The Planning Commission conducted a public hearing to consider the project on October 23, 2019;

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission approves the Development Review Permit to allow a day care center located at the 1525 Wilbanks Lane based on the following findings and subject to the conditions as stated in Exhibit “1” attached and made part hereof:

Findings

1. The proposal increases the quality of the project site including the addition of 10 parking spaces, including one accessible parking. The parking area will also have new landscaping including four shade trees and decorative shrubs. Other improvements include extending an accessible path from the business entry to the existing sidewalk and elevation modifications to convert the garage to additional conditioned space. The proposed use will comply with each of the applicable provisions of the zoning regulations. The day care center will provide a supporting use to the surrounding single-family home neighborhood.
2. The project is consistent with the City of Tracy General Plan, in that: the site is designated Residential Low by the General Plan, and day care center is a conditionally permitted use in the Low Density Residential land use designation; the project will pay all applicable development impact fees to mitigate its proportionate impact on public facilities; and the project is consistent with the goals and policies of the General Plan, including economic development, circulation, noise, and air quality. The Project includes site plan and design elements consistent with the City Design Goals and Standards, including number and design of parking spaces, circulation, land use and landscaping.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was adopted by the Planning Commission on the 23<sup>rd</sup> day of October, 2019, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:

---

CHAIR

ATTEST:

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STAFF LIAISON

Exhibit 1 – Project Conditions of Approval



**A Kids Place Preschool  
Conditions of Approval  
Application Numbers D19-0016  
October 23, 2019**

These Conditions of Approval shall apply to the real property described as A Kids Place Preschool, Development Review Permit (Application Number D19-0016). The approximately one-acre subject property is located at 1525 Wilbanks Lane (Assessor's Parcel Number 242-240-36).

A. The following definitions shall apply to these Conditions of Approval:

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "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.
3. "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 (the Streets and Utilities Standard Plans, Design Standards, Parks and Streetscape Standard Plans, Standard Specifications, and Manual of Storm Water Quality Control Standards for New Development and Redevelopment, and Relevant Public Facilities Master Plans).
4. "Conditions of Approval" shall mean the conditions of approval applicable to the real property described as A Kids Place Preschool at 1525 Wilbanks Lane, Development Review Permit (Application Number D19-0016). The approximately one-acre subject property is located at 1525 Wilbanks Lane (Assessor's Parcel Number 242-240-36).
5. "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.
6. "Project" means the real property consisting of approximately one-acre proposed for A Kids Place Preschool located at 1525 Wilbanks Lane (Assessor's Parcel Number 242-240-36).
7. "Property" means the real property located at 1525 Wilbanks Lane (Assessor's Parcel Number 242-240-36).
8. "Subdivider" 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. "Subdivider" also means Developer. The term "Developer" shall include all successors in interest.

B. Conditions of Approval:

1. Unless specifically modified by these Conditions of Approval, the Project shall comply with all City Regulations.
2. 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.
3. Except as otherwise modified herein, all construction shall be consistent with the plans received by the Development Services Department October 15, 2019.
4. Prior to the issuance of a building permit, the applicant shall provide a detailed landscape and irrigation plan consistent with City landscape and irrigation standards, including, but not limited to Tracy Municipal Code Section 10.08.3560, the City's Design Goals and Standards, and the applicable Department of Water Resources Model Efficient Landscape Ordinance on private property, and the Parks and Parkways Design Manual for public property, to the satisfaction of the Development Services Director. Newly planted, on-site trees shall be a minimum size of 24-inch box and shrubs shall be a minimum size of five gallons. Landscaping within the new, five-foot-wide planter along the west and south perimeter of the play area shall be planted with evergreen shrubs to substantially match the appearance, spacing, and size at maturity of the existing shrubs along the north side of the play area to achieve a dense, approximately five-foot-tall, visual screen of the play area.
5. Prior to the issuance of a building permit, an Agreement for Maintenance of Landscape and Irrigation Improvements shall be executed and financial security submitted to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements, or \$2.50 per square foot of on-site landscape area.
6. Prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or direct spray of light onto adjacent residential property, to the satisfaction of the Development Services Director.
7. All PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Development Services Director.
8. Prior to the installation of any signs, the applicant shall submit a sign permit application and receive approval from the Development Services Director in accordance with City Regulations. All signs shall be designed and constructed in accordance with the size, height, and other standards of Tracy's Municipal Code.

**C. Engineering Division Conditions of Approval**

**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. The City will not accept a Grading Permit application for the Project until Developer provides 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 requirements set forth in this section.
- C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction 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 and Drainage Plans shall be prepared in accordance with the City's Subdivision Ordinance (TMC Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.
- C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick polyester film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans 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](mailto: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](mailto: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 a Registered Geotechnical Engineer. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, retaining wall recommendations, if necessary, paving recommendations, paving calculations such as gravel factors, gravel equivalence, etc., slope recommendations, and elevation of the highest observed groundwater level.
- 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 and Drainage 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 a California licensed 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 and Drainage 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 and Drainage 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 If the Project contains overhead utilities, the 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.

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 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.4.16 If required, Developer shall capture the storm water from the existing impervious surfaces and treat the storm water in a bio-retention swale, or equal.

C.5. Encroachment Permit

All construction activity involving public improvements will require an approved encroachment permit. Any construction activity involving public improvements without an approved 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. The City will not start processing any encroachment permit application until the Developer provides 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. 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.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 - 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 street 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.

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 is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way unless the sewer cleanout is located and constructed in conformance with Standard Plans. The City's responsibility to maintain on the sewer lateral is from the wye/onsite sewer manhole at the right-of-way line/property line/wye fitting to the point of connection with the sewer main.

C.5.1.g. 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.5.1.h. Fire Hydrants – Location and construction details of fire service line including the private 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. Any constructed fire hydrants shall be privately owned and maintained and shall be painted red.

- C.5.1.i. Streets – 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. On-site streets shall be privately owned and maintained.

The Project's utility connections, Developer shall use existing utility stubs. If the stubs are not present or additional utility connections are required, the pavement restoration shall conform to C.8.1 of these Conditions.

Developer shall remove all existing driveways not proposed to be used by the project.

- C.5.2. Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and others that will be located within the twenty-four (24) feet wide to forty-six (46) feet wide [the width varies) PUE 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). If necessary, the Developer shall dedicate ten (10) feet wide PUE for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.

- C.5.3. 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.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 ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.
- C.5.7. 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.5.8. RESERVED
- C.5.9. Off-site Public Improvements - Prior to the Developer commencing construction of off-site public improvements, Developer, if required, shall possess a fully executed Encroachment Permit. Developer shall also complete all of the following requirements to the satisfaction of the City Engineer:

Developer has received City signed improvement plans.

Developer has paid all required processing fees including plan check and inspection fees.

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

No building permit within the Project boundaries will be approved by the City until the Developer demonstrates, 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 completed all requirements set forth in Condition C.1, through C.5, above.
- C.6.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, and City Regulations.

C.7 Acceptance of Public Improvements

Public improvements will not be considered for City Council's acceptance until after the Developer demonstrates to the reasonable satisfaction of the City Engineer, completion of the following:

- C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.
- C.7.2 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" 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.7.5 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.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.
- C.7.7 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.

- C.7.8 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.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 2008 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 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 Developer shall obtain an account for the water service to the Project and register the water meter with the Finance Department. Developer shall prepare and submit a map depicting the location of the water meter on a 8.5-inch X 11-inch sheet to Finance Department.
- C.8.5 Project Entrance As stipulated by Section 5.17 of the 2008 Design Standards, a PCC valley gutter is prohibited in the City's right-of-way.
- C.8.6 If required, Developer shall design or purchase and then construct or install a storm water treatment device and shall be located entirely within private

property. Said installation shall be in a manner that does not impose any additional downstream maintenance burdens to the City. Said design and construction methods shall be to the satisfaction of the City Engineer.

- C.8.7 Developer shall install a galvanized metal sidewalk pedestrian barrier at the terminus of the southerly sidewalk. In conjunction with the sidewalk pedestrian barrier, Developer shall also construct ADA ramps, and stripe a cross-walk to allow pedestrians to walk from the southerly sidewalk to the northerly sidewalk. Said improvements will be on private property.
- C.8.8 Developer may use the existing utility stubs and can replace the existing utility boxes with traffic rated utility boxes.



AGENDA ITEM 1.D

REQUEST

**PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE PERMITTED USES IN THE GENERAL HIGHWAY COMMERCIAL ZONE OF THE RESIDENTIAL AREAS SPECIFIC PLAN (SPA19-0003) AND A DEVELOPMENT REVIEW PERMIT FOR AN ASSISTED LIVING AND MEMORY CARE FACILITY (D19-0019) ON APPROXIMATELY 2.73 ACRES LOCATED AT THE NORHTWEST CORNER OF CORRAL HOLLOW ROAD AND ALEGRE DRIVE (2050 W. GRANT LINE ROAD – THE APPLICANT IS SUMMIT SENIOR LIFE, LLC.**

DISCUSSION

Project Description

The proposal is to construct a 100-unit assisted living and memory care facility on the vacant, 2.73-acre site, at the northwest corner of Corral Hollow Road and Alegre Drive. Three of the units contain two bedrooms and the remaining 97 units are one-bedroom or studio units. Attachment A identifies the location of the proposed project. The site is located on the rear (southern) parcel in the Grant Line Center (Chili's/Western Dental Care) commercial center.

Attachments B through F include the project's site plan, floor plans, exterior building elevations, color renderings, and conceptual landscape plans.

The proposed building contains three floors, with a total of 84,107 square feet. The floor plans, Attachment C, show that the second floor contains less area than the first floor, and the third floor contains significantly less area than the second floor. Due to the second and third floor setback from the first floor, on the south side of the building, the result is a building that appears to be two and three stories from the north side, and appears to be one and two stories from the south side. This creates a considerably less visual impact on the adjacent residential neighborhood to the south.

Care facilities, such as the one proposed, have limited parking demands, as most of the parking is used by employees or visitors. Accordingly, City standards require only one, off-street parking space per three beds. Based on this standard, the 103-bed facility would require 34 parking spaces. This project exceeds that standard by providing 59 spaces.

The exterior building elevations and color renderings are depicted in Attachments D and E, respectively. Together with the site plan (Attachment B) and the floor plans (Attachment C), they illustrate the building's significant "movement" (horizontal relief) as one advances around the perimeter of the building.

The front (west end) of the building includes an open courtyard (loggia) with overhead trellis, bench seating, stone garden with pilasters and accent planter pots, a double-sided fireplace, a dining terrace with decorative pavers, ornamental landscaping, and other amenities. The east half of the building is designed to surround an outdoor courtyard containing flowering accent trees, decorative pavers and artificial turf, a raised

planter surrounding a large focal point tree, and bench and lounge seating. The south side of the building contains a recessed dining terrace with a trellis, seating, a BBQ counter with sink, fireplace/pizza oven, and landscaping.

#### Land Use Compatibility

The project site plan is well integrated with the circulation and parking plan of the existing commercial center. Furthermore, the one- and two-story portions of the building facing south toward Alegre Drive are respectful of the scale of the single-family homes on the south side of Alegre Drive.

Recommended Condition of Approval B.16 (Exhibit 1 to the Resolution, Attachment H) requires the existing eight-foot-tall masonry wall adjacent to the project's south boundary, along the north side of Alegre Drive, to be reduced in height to approximately four feet. The reason for this recommendation is related, primarily, to the appearance of Alegre Drive and the project site, and also of the view from the first floor windows of the new facility. The eight-foot-tall, flat, masonry wall offers limited opportunity for aesthetic appeal. The proposed building, by contrast, will contain windows, wood siding, stucco with accent score lines, and three colors. The building will be located approximately 25 to 35 feet north of the Alegre Drive curb. This space will be occupied by trees, shrubs, ground cover, and a portion will contain a new walkway. City staff believes lowering the height of the wall will result in a more attractive view of the building and landscaping than the flat masonry wall.

The wall was required in the early 1990s when the residential subdivision was approved because the expectation, at the time, was that a grocery store/drug store shopping center would be built on the commercial side of the wall, and the wall would help mitigate noise and other impacts associated with deliveries, roll-up doors, and trash compactors of the shopping center. With the proposed assisted living facility, a wall will not be necessary to mitigate noise, light, or glare.

#### Residential Specific Plan Amendment

The project includes a proposal to amend the permitted uses within the General Highway Commercial (GHC) Zone of the Residential Areas Specific Plan (RSP). Following is a list of the permitted and conditionally permitted uses within the GHC Zone of the RSP (Section 4.1.2.2) and the proposed amendment (underlined):

Permitted uses for GHC sites include:

- Restaurants
- Home Furnishings/Appliances/Furniture stores
- Auto accessory shops
- Auto rental services
- General consumer and business services
- Miscellaneous repair services
- Auto repair services
- Auto service stations
- Motels



Dependent living facility: adult care which requires personnel who are licensed to provide medical care in a commercially operated care facility including but not limited to assisted living, skilled nursing, and memory care

Conditionally permitted uses for GHC sites include:

Supermarkets  
General merchandising retail

The project site is located within the Residential Areas Specific Plan (RSP), adopted by the City Council in 1987. The RSP has been amended from time to time, in response to roadway realignments, elementary school site relocations, and changing market conditions for residential and non-residential development. In fact, the RSP has been amended 38 times since it was first adopted. Today, the RSP is nearly completely built out, with few vacant parcels remaining.

The GHC Zone within the RSP permits a limited range of commercial land uses. Since the Specific Plan was adopted, land use expectations for commercial centers have changed as the City has become larger, more urbanized, and developed several hundred additional acres of commercial property beyond what was planned in 1987. When the RSP was adopted, this site was envisioned to be a grocery store/drug store shopping center. Subsequently, other grocery sites were developed (for example, Winco, Wall Mart, Costco, and Target), and in 2006, the General Plan designation of the subject property was changed from Commercial to Office. The proposed amendment of the GHC Zone in the RSP is consistent with the General Plan designation and will contemporize the permitted land uses within this broadly mixed commercial center.

#### CEQA Documentation

Regarding the Residential Areas Specific Plan amendment, the project is consistent with the development density established by the City General Plan, for which an Environmental Impact Report (EIR) (SCH Number 2008092006) was certified (Resolution 2011-028). The General Plan designation is Office, which provides for medical and non-medical offices, hospitals, research and development uses, retail stores, restaurants, and other uses. The development density of the assisted living and memory care facility does not exceed the traffic, parking, City utilities, or other effects analyzed for the site in the General Plan EIR. Therefore, in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15183, no additional assessment is required.

Regarding the Development Review Permit, the project is an infill development, consistent with the City's General Plan and zoning, on a site of less than five acres, substantially surrounded by urban uses, has no value as habitat for threatened or endangered species, and will not result in significant effects on City utilities or services. Therefore, the project is categorically exempt from CEQA review in accordance with Guidelines Section 15332.

### RECOMMENDATION

Staff recommends that the Planning Commission recommends that the City Council take the following actions:

1. Approve the amendment to the Residential Areas Specific Plan to permit dependent living facilities in the GHC Zone of the Specific Plan, as indicated in the attached Resolution, Attachment G; and
2. Approve the Development Review Permit for Tracy Assisted Living and Memory Care facility, as indicated in the Planning Commission Resolution, Attachment H.

### RECOMMENDED MOTION

Move that the Planning Commission recommend that the City Council take the following actions:

1. Approve the amendment to the Residential Areas Specific Plan Section 4.1.2.2, Application Number SPA19-0003, to permit dependent living facilities in the GHC Zone of the Specific Plan, as indicated in the Planning Commission Resolution dated October 23, 2019; and
2. Approve the Development Review Permit for Tracy Assisted Living and Memory Care facility, Application Number D19-0019, as indicated in the Planning Commission Resolution dated October 23, 2019.

Prepared by Alan Bell, Senior Planner

Reviewed by Bill Dean, Assistant Development Services Director

### ATTACHMENTS

Attachment A – Project Vicinity

Attachment B – Site Plan

Attachment C – Floor Plans (three pages)

Attachment D – Exterior Elevations (three pages)

Attachment E – Color Renderings (two pages)

Attachment F – Conceptual Landscape Plans (two pages)

Attachment G – Planning Commission Resolution for Specific Plan Amendment

Attachment H – Planning Commission Resolution for Development Review Permit, with  
Conditions of Approval

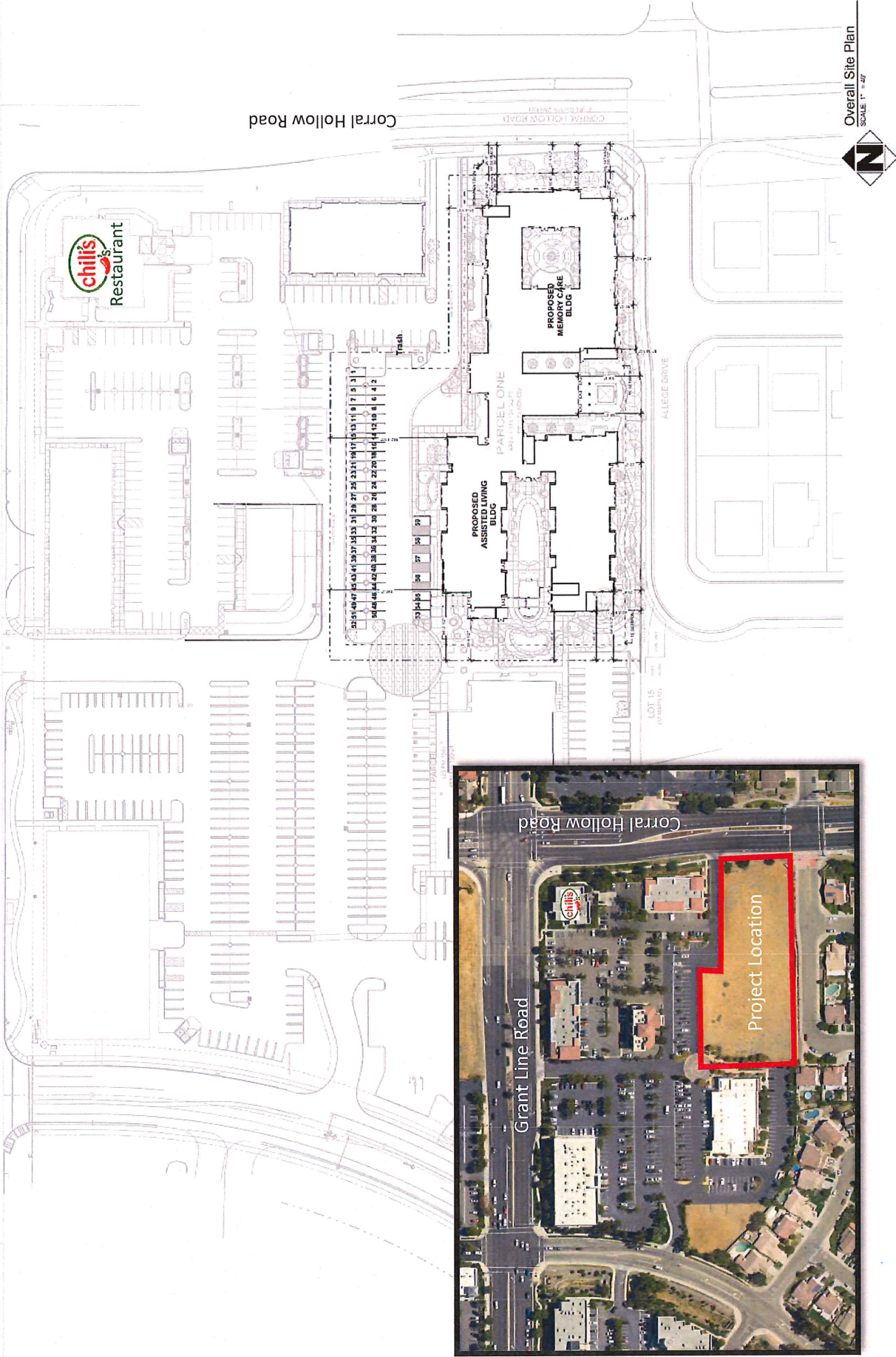
(The Planning Commission has been provided oversized copies of the project plans.

Color plans may be reviewed on the City's web site at

[https://cityoftracy.org/documents/Agenda\\_Item\\_1D\\_Plans.pdf](https://cityoftracy.org/documents/Agenda_Item_1D_Plans.pdf) and at Tracy City Hall, 333 Civic Center Plaza, Tracy).

Grant Line Road

Corral Hollow Road



Overall Site Plan  
SCALE 1" = 40'

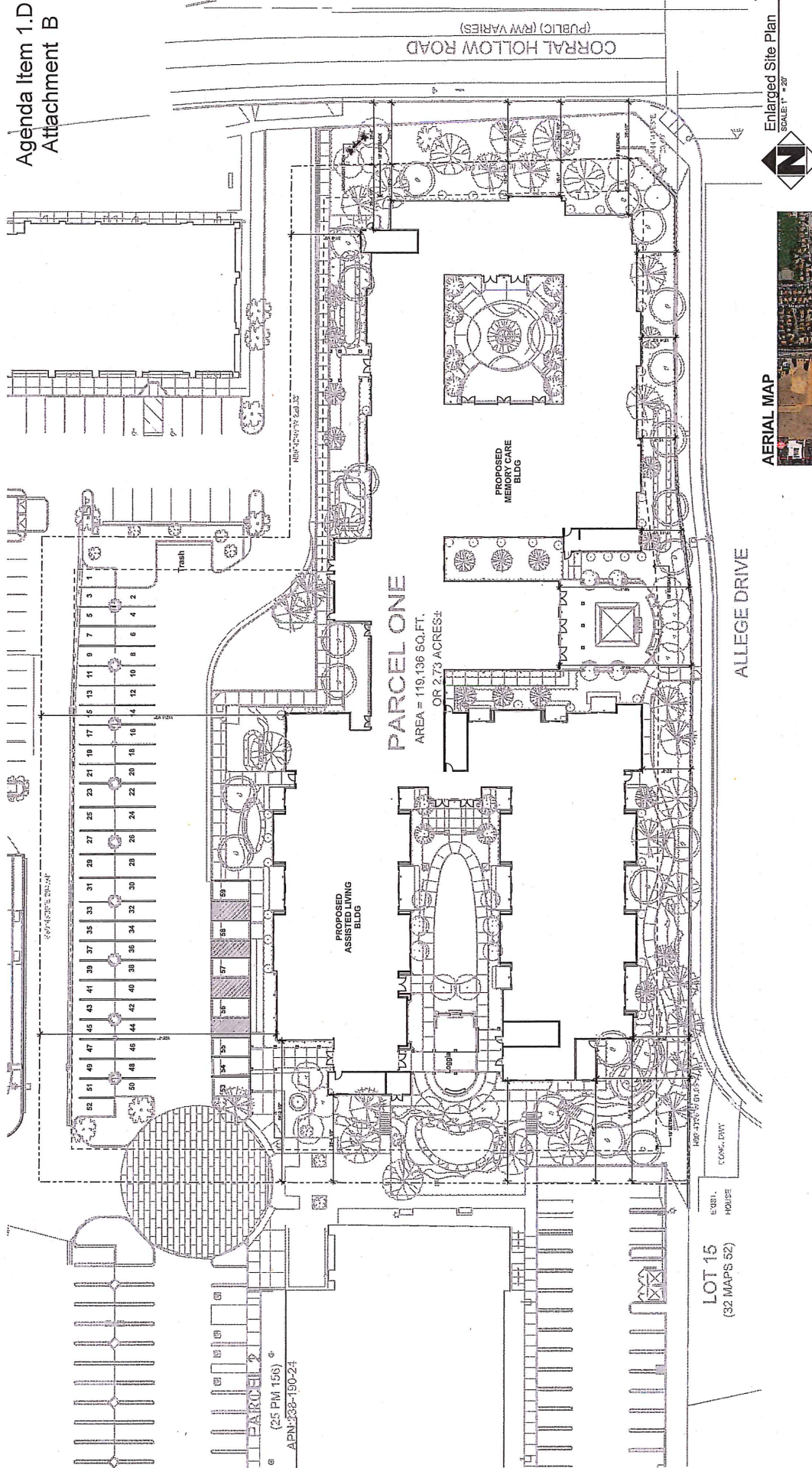
Tracy Assisted Living and Memory Care  
Summit Senior Living, LLC  
Corral Hollow Rd & Allegre Dr Tracy CA 95376

OVERALL SITE PLAN-FIRE PLAN  
A1

PROJECT NO: 15000  
PLOT DATE: 8/25/2016  
15000 Tracy 30 Jan







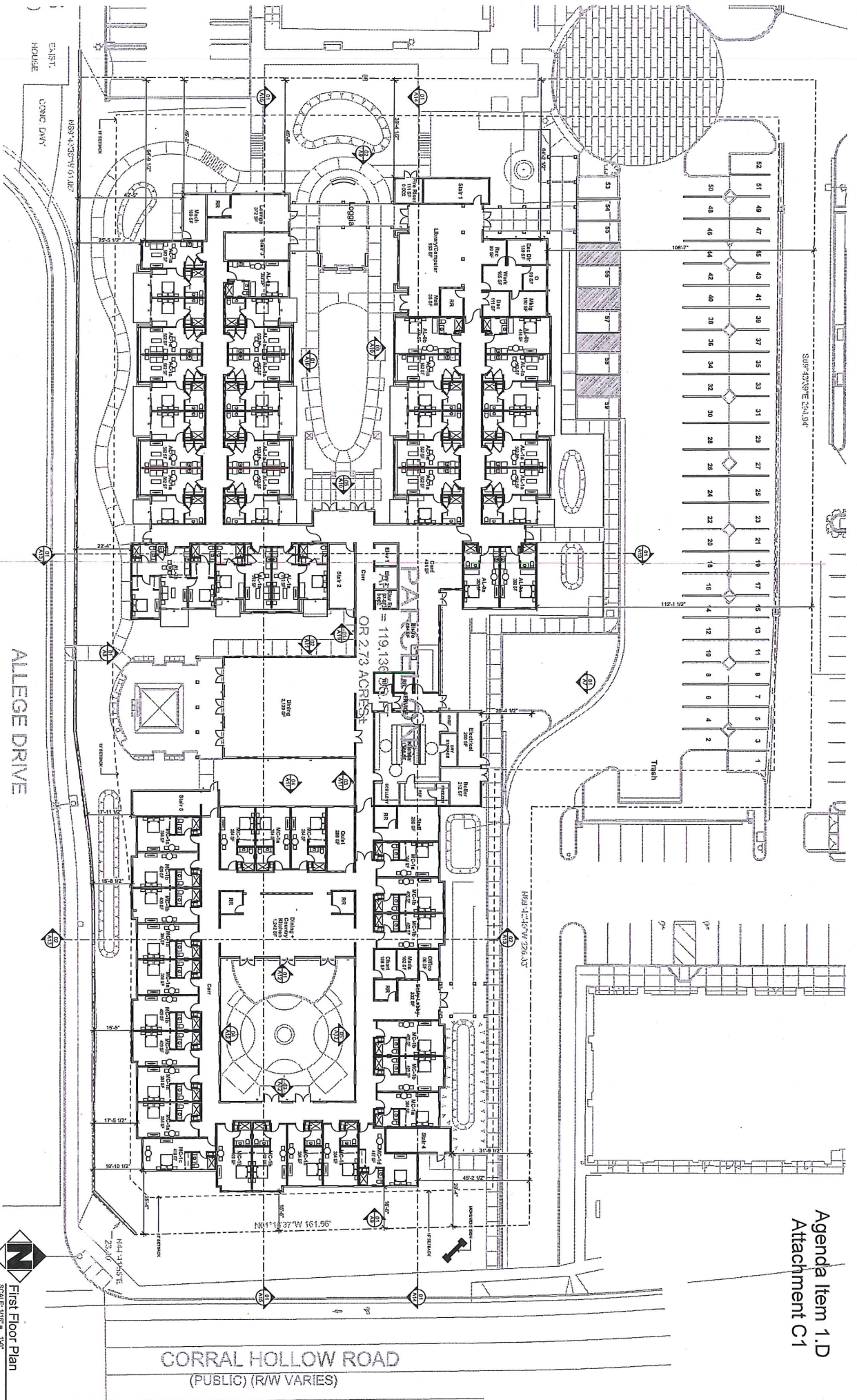
ENLARGED SITE PLAN  
A2

Tracy Assisted Living and Memory Care  
Summit Senior Living, LLC  
Corral Hollow Rd & Allegre Dr Tracy CA 95376

**IRVIN PARTNERS**  
**ARCHITECTS**  
245 Fischer Avenue, Suite 502 Costa Mesa CA 92626  
(714) 557-2448 www.ipac.com  
ARCHITECTURE PLANNING CONSULTING

PROJECT NO: 18000  
PLN DATE: 8/22/2019  
18000 Tracy SD-01n



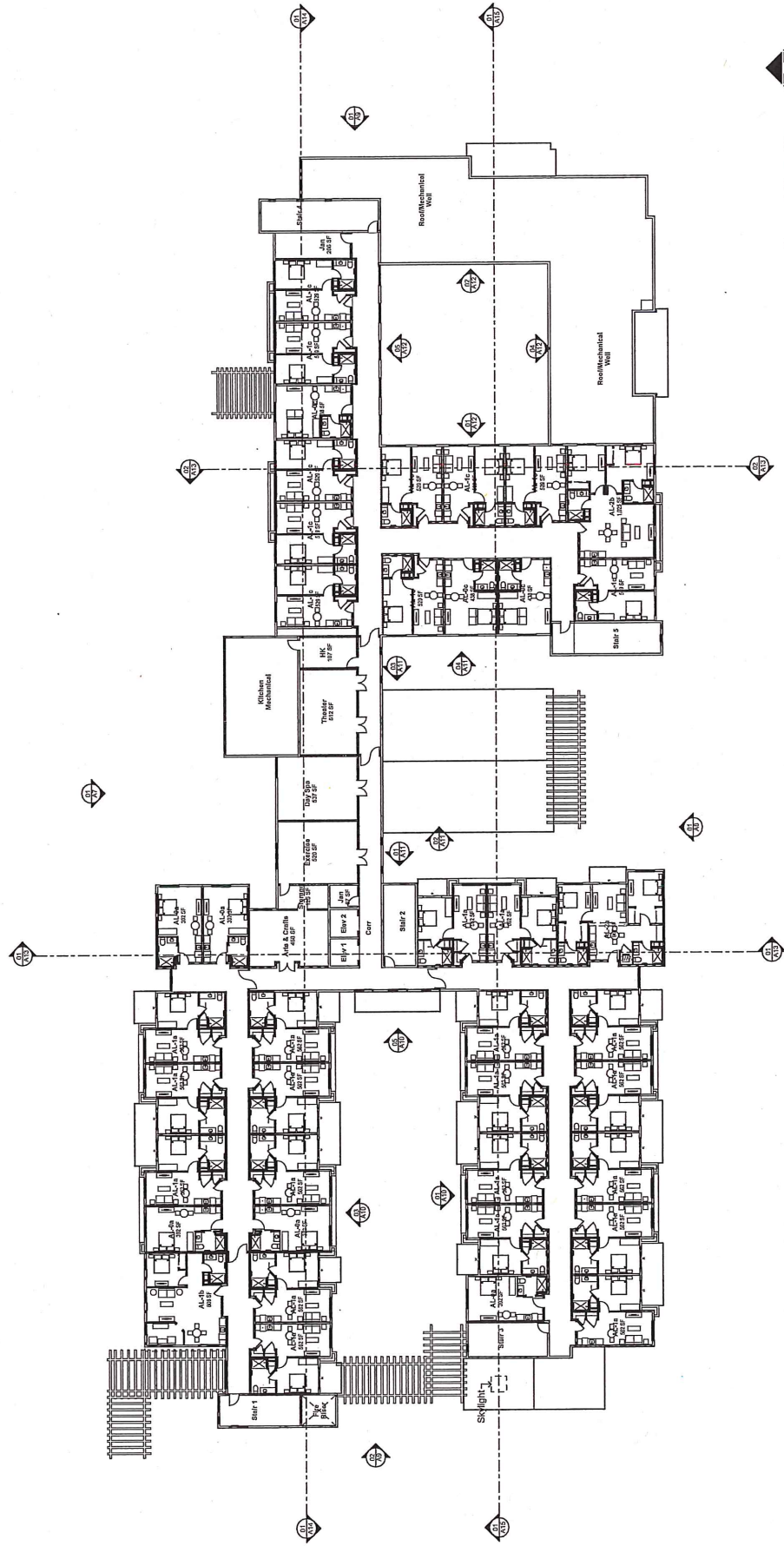


**IPPA** IRWIN PARTNERS  
ARCHITECTS  
245 F STREET, SUITE 200, COSTA MESA, CA 92626  
(714) 557-2446 www.ippa.com  
ARCHITECTURE PLANNING CONSULTING

Tracy Assisted Living and Memory Care  
Summit Senior Living, LLC  
Corral Hollow Rd & Allege Dr, Tracy CA 95376

FIRST FLOOR PLAN  
A3

PROJECT NO: 18000  
PLOT DATE: 9/20/2019  
18000 Tracy SD.jn



01 Second Floor Plan  
SCALE: 1/8" = 1'-0"

**Tracy Assisted Living and Memory Care**  
Summit Senior Living, LLC  
Corral Hollow Rd & Alsegre Dr Tracy CA 95376

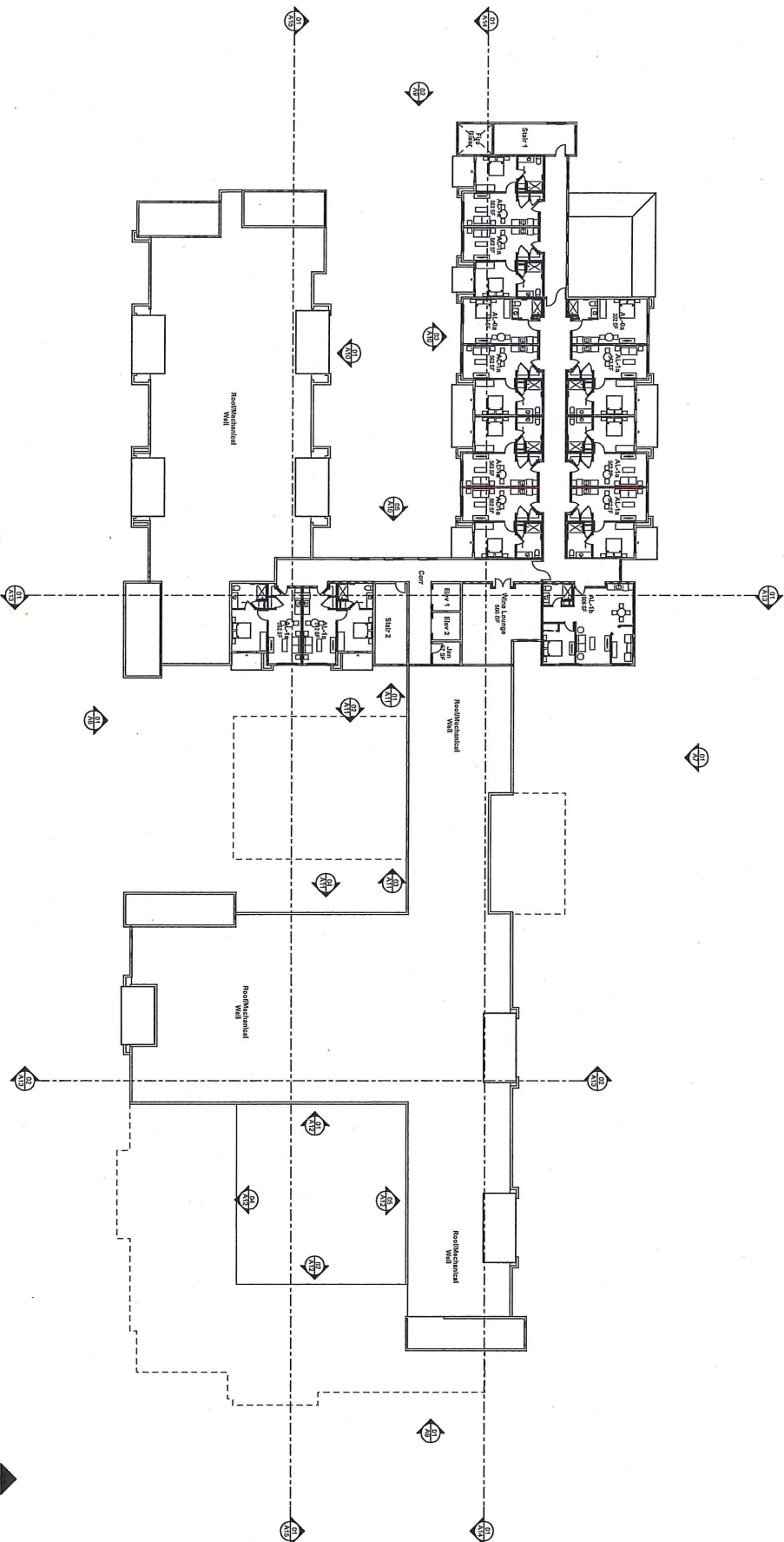
**SECOND FLOOR PLAN**  
A4

PROJECT NO: 19090  
PLOT DATE: 8/20/2019  
19000 Tracy SD.pln

**IRWIN PARTNERS ARCHITECTS**  
245 Fletcher Avenue, Suite B-2 Costa Mesa CA 92626  
(714) 557 2448 www.jwac.com  
ARCHITECTURE PLANNING CONSULTING

**IPAC**





01 Third Floor Plan  
SCALE 1/8" = 1'-0"



Tracy Assisted Living and Memory Care

Summit Senior Living, LLC  
Corral Hollow Rd & Alegre Dr Tracy CA 95376

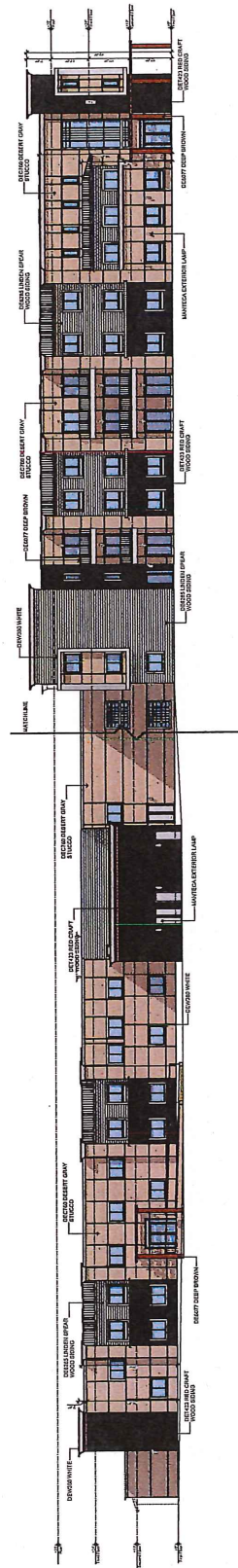
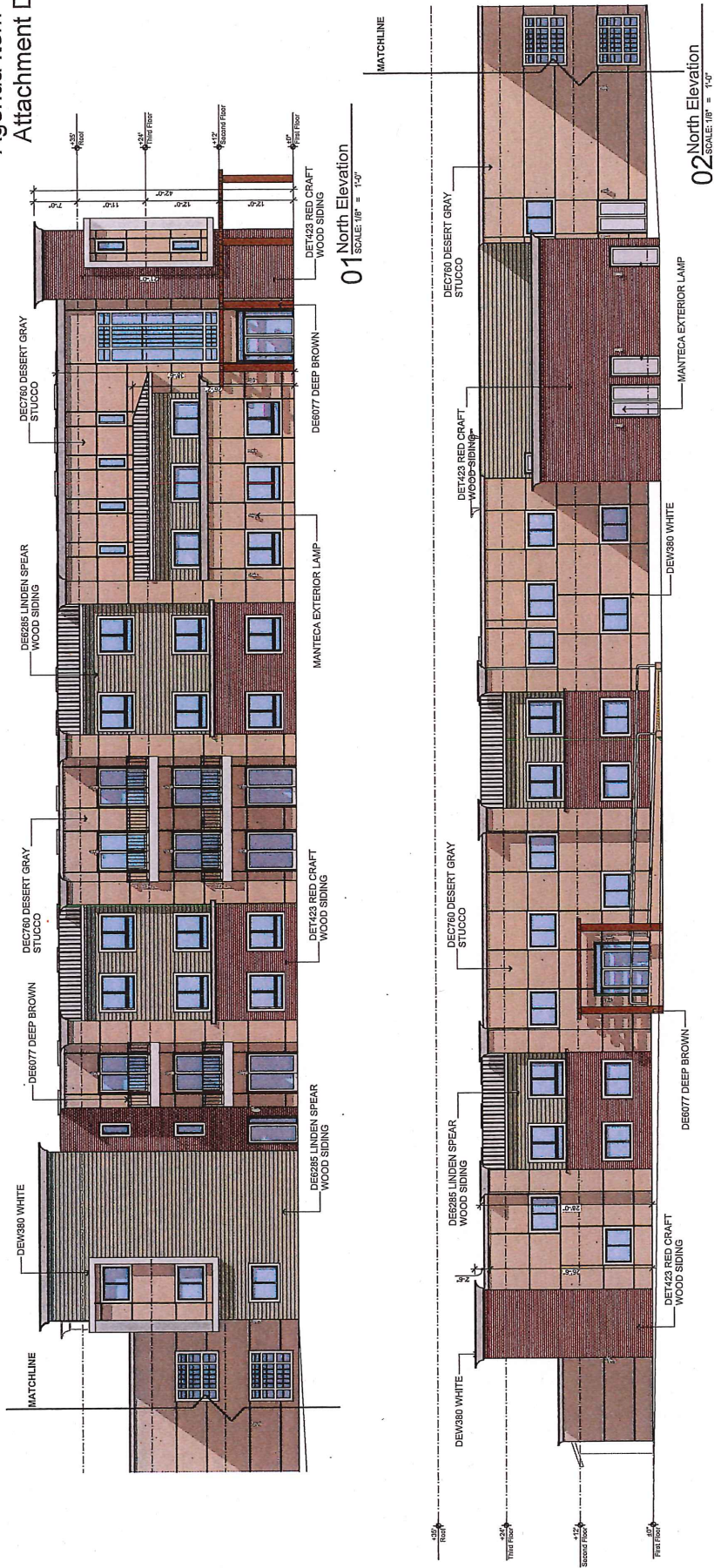
THIRD FLOOR PLAN  
A5

**JMIPA** IRWIN PARTNERS  
ARCHITECTS

205 Fisher Avenue, Suite B-2 Costa Mesa CA 92626  
(714) 557 2448 www.jmipa.com  
ARCHITECTURE PLANNING CONSULTING

PROJECT NO: 19000  
PLOT DATE: 8/20/2019  
18000 Tracy SD.ph

## Attachment D



02 North Elevation-Overall  
SCALE: 1/16" = 1'-0"

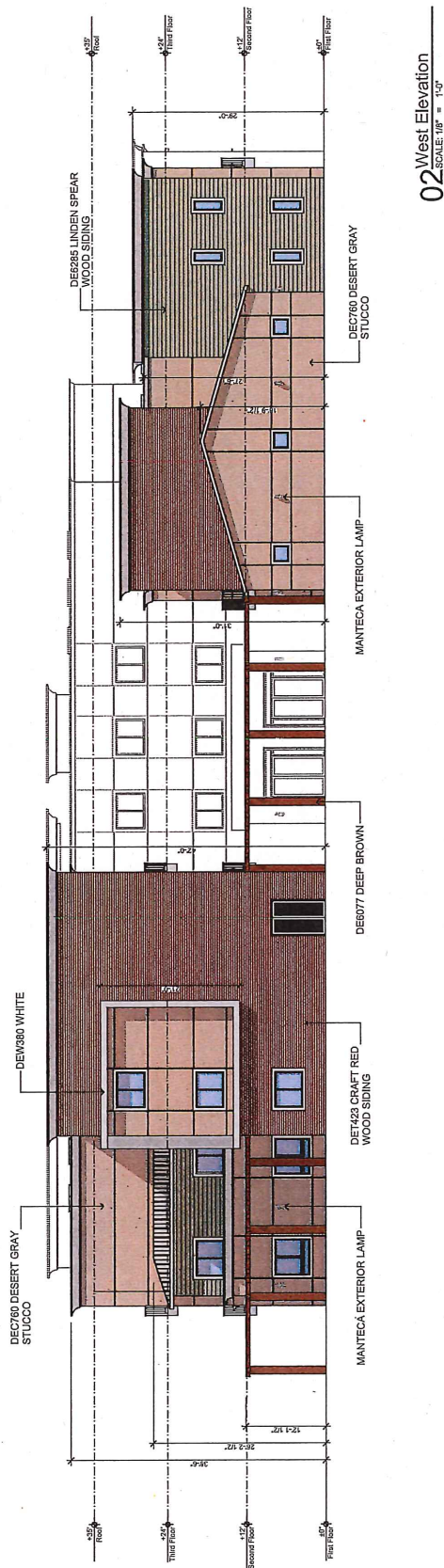
**Tracy Assisted Living and Memory Care**  
Summit Senior Living, LLC  
Corral Hollow Rd & Alegre Dr Tracy CA 95376

EXTERIOR ELEVATIONS  
A7

PROJECT NO: 19000  
PLOT DATE: 8/20/2019  
19000 Tracy SD.pln



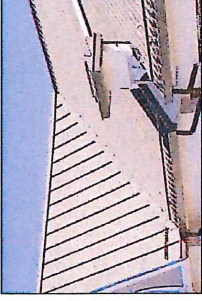




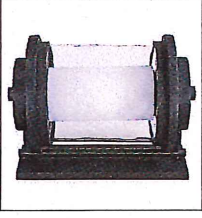








The Garland Company  
Standing Seam Roof



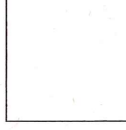
Mantecca Lighting  
Lighthouse Outdoor Light



DET 423  
Red Craft  
Horizontal Siding



DE 6077  
Deep Brown  
Wood Trim



DEW 380  
White  
Accent Trim &  
Window Trim



DE 6285  
Linden Spear  
Horizontal Siding



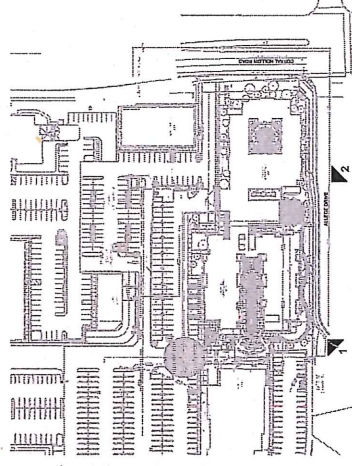
DEC 760  
Desert Gray  
Base Stucco



1



2



01 Neighborhood View Key  
SCALE: 1" = 100'



NEIGHBORHOOD VIEWS & MATERIALS  
A19

Tracy Assisted Living and Memory Care  
Summit Senior Living, LLC  
Corral Hollow Rd & Alegre Dr Tracy CA 95376

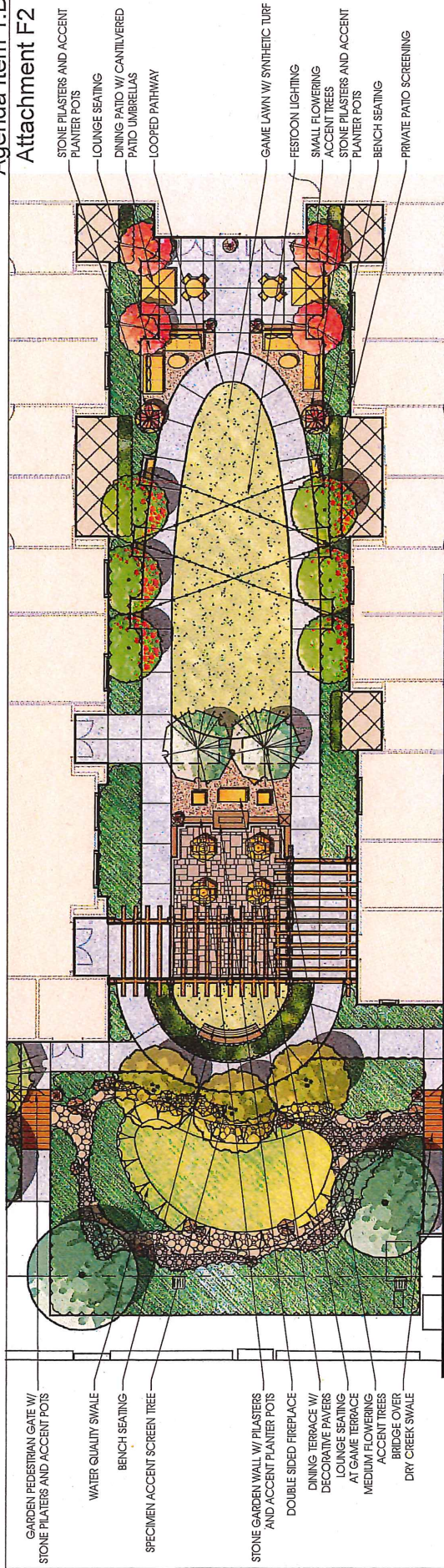


## SUMMIT SENIOR LIVING

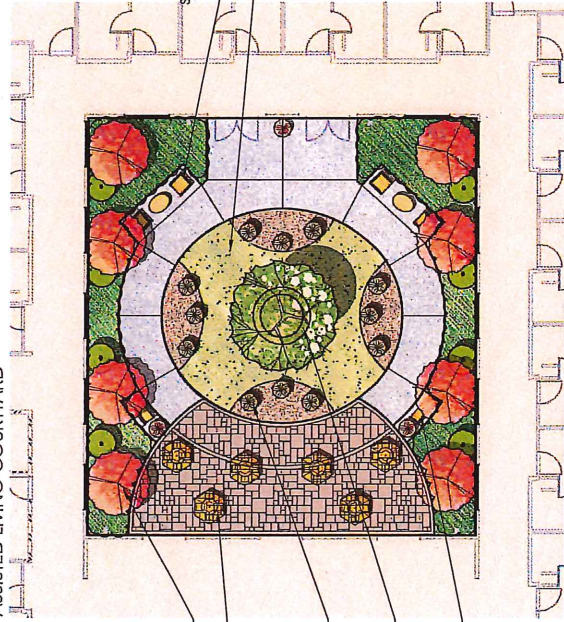




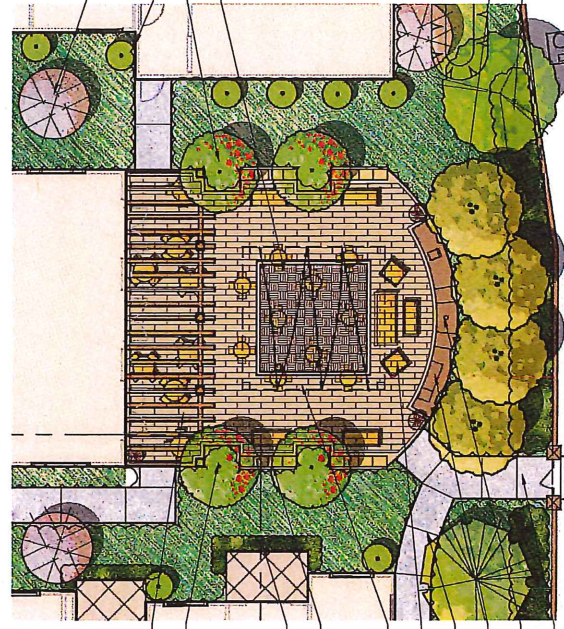
# Agenda Item 1.D Attachment F2



ASSISTED LIVING COURTYARD



MEMORY CARE COURTYARD



ASSISTED LIVING DINING TERRACE

CONCEPTUAL LANDSCAPE PLAN

CORRAL HOLLOW ASSISTED LIVING & MEMORY CARE  
TRACY, CA



SUMMIT SENIOR LIVING

conceptual design & planning company  
10000 N. 10th Ave., Suite 100  
Denver, CO 80231  
www.conceptualdesign.com  
CONCEPTUAL DESIGN & PLANNING COMPANY





RESOLUTION 2019-\_\_\_\_\_

RECOMMENDING APPROVAL OF AN AMENDMENT TO THE  
RESIDENTIAL AREAS SPECIFIC PLAN – PERMITTED USES WITHIN THE  
GENERAL HIGHWAY COMMERCIAL ZONE – SECTION 4.1.2.2.  
THE APPLICANT IS SUMMIT SENIOR LIVING. APPLICATION NUMBER SPA19-0003

WHEREAS, The City Council adopted the 1,472-acre, Residential Areas Specific Plan (RSP) on June 2, 1987 (Resolution 87-114), and

WHEREAS, Since 1987, the City Council has amended the RSP from time to time in response to market changes or to improve implementation of the RSP, and

WHEREAS, Summit Senior Life, LLC has submitted an application to amend the RSP to allow a dependent living facility on a vacant site within the GHC Zone at 2050 W. Grant Line Road (near the southwest corner of Grant Line Road and Corral Hollow Road, APNs 238-190-25 and -26), and

WHEREAS, The RSP includes mostly residential property, and also includes two sites zoned General Highway Commercial (GHC) (the commercial center at the southwest corner of Grant Line Road and Corral Hollow Road (with Chili's Restaurant), and the Gateway Plaza Shopping Center (with Food Maxx) at the southeast corner of Eleventh Street and Corral Hollow Road), and

WHEREAS, The proposal is consistent with the General Plan because the General Plan designation of the subject property is Office, which provides for medical/hospital, daycare centers, and similar uses, such as dependent living facilities, and

WHEREAS, The proposal is consistent with the improvement requirements of the City infrastructure master plans, will pay its fair share of development impact fees, and its proportionate, thereby, its proportionate cost of the infrastructure master plans, and

WHEREAS, The GHC Zone of the RSP is well suited for dependent living facilities as the Zone includes a broad range of retail, office (medical and non-medical), and consumer services, consistent with parking, visitor hours of operation, and similar characteristics of dependent living facilities, and

WHEREAS, The project does not increase the development density established by the City's General Plan (regarding traffic, parking, utilities, or other impacts), and therefore, in accordance with CEQA Guidelines Section 15183, no further environmental assessment is required, and

WHEREAS, The Planning Commission conducted a public hearing to review the project on October 23, 2019;

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission recommends that the City Council approve an amendment to the Residential Areas Specific Plan, Section 4.1.2.2, adding the following permitted use in the General Highway Commercial Zone: "Dependent living facility – adult care which requires personnel who are licensed to provide medical care in a commercially operated care facility including but not limited to assisted living, skilled nursing, and memory care."

\*\*\*\*\*

The foregoing Resolution 2019-\_\_\_\_\_ was adopted by the Planning Commission on the 23<sup>rd</sup> day of October, 2019, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
STAFF LIAISON



RESOLUTION 2019-\_\_\_\_\_

APPROVING DEVELOPMENT REVIEW APPLICATION NUMBER D19-0019  
FOR TRACY ASSISTED LIVING AND MEMORY CARE  
LOCATED ON APPROXIMATELY 2.73 ACRES  
AT THE NORTHWEST CORNER OF CORRAL HOLLOW ROAD AND ALEGRE DRIVE,  
(2050 W. GRANT LINE ROAD, ASSESSOR'S PARCEL NUMBERS 238-190-25 AND -26)

WHEREAS, Summit Senior Life, LLC submitted a Development Review Permit Application (D19-0019) to construct an approximately 87,107 square foot Assisted Living and Memory Care facility at the northwest corner of Grant Line Road and Corral Hollow Road (2050 W. Grant Line Road, Assessor's Parcel Numbers 238-190-25 and -26), and

WHEREAS, The approximately 2.73-acre property is located within the General Highway Commercial Zone of the Residential Areas Specific Plan, and

WHEREAS, The project is an infill development, on a site of less than five acres, substantially surrounded by urban uses, can be served by all required utilities and public services, and therefore, is categorically exempt from CEQA review in accordance with Guidelines Section 15332, and

WHEREAS, The Planning Commission conducted a public hearing to review the project on October 23, 2019;

NOW, THEREFORE BE IT RESOLVED, That the Planning Commission recommends that the City Council approve Development Review Application Number D19-0019 for Tracy Assisted Living and Memory Care facility on approximately 2.73 acres at the northwest corner of Corral Hollow Road and Alegre Drive (2050 W. Grant Line Road, Assessor's Parcel Numbers 238-190-25 and -26), subject to the conditions contained in Exhibit 1 and based on the following findings:

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.

The project involves the construction of an approximately 84,107 square foot Assisted Living and Memory Care facility with 59 off-street parking spaces, associated landscaping, irrigation, utilities, and site work.

The facility and site design is compatible with the single-family home neighborhood to the south of the project site because the Assisted Living and Memory Care facility will have less traffic than retail, restaurant, or consumer-service businesses of comparable size (also permitted at the site), and therefore, less traffic noise, light and glare that could affect the adjacent residential neighborhood; vehicle driveways, loading parking, and other circulation will occur on the north, east, and west sides of the building, directed away from the adjacent residential neighborhood, thus minimizing traffic noise and other effects of the project on adjacent residences. The proposed building, located within an existing commercial center, is at the rear of the site, has very limited visibility from Grant Line Road, and therefore, is well suited for this low-impact, destination land use that does not rely on pass-by traffic for marketing, as would a retail or consumer-oriented use. The

building architecture is consistent with building materials and color themes of surrounding uses, and includes meaningful exterior glazing, trim, accent features, and vertical and horizontal relief to create an attractive building for this site.

2. The proposal conforms to Tracy Municipal Code Chapter 10.08, the General Plan, the Design Goals and Standards, and the City's Infrastructure Master Plans.

The subject property is designated Office by the City's General Plan and General Highway Commercial within the Residential Areas Specific Plan (RSP). The Assisted Living and Memory Care facility is a permitted use within the General Plan and zoning of the site. The project documents compliance with the City's landscaping, parking, requirements and architectural guidelines; and the storm drainage, water, wastewater, traffic and other improvements are consistent with the utility and requirements of the infrastructure master plans.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was adopted by the Planning Commission on the 23<sup>rd</sup> day of October, 2019, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
STAFF LIAISON



**Tracy Assisted Living and Memory Care  
Conditions of Approval  
Application Number D19-0019  
Planning Commission  
October 23, 2019**

These Conditions of Approval shall apply to the real property described as Tracy Assisted Living and Memory Care, Development Review Application Number D19-0019. The approximately 2.73-acre subject property is located at the northwest corner of Corral Hollow Road and Alegre Drive, 2050 W. Grant Line Road (Assessor's Parcel Numbers 238-190-25 and -26).

A. The following definitions shall apply to these Conditions of Approval:

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "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.
3. "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 (the Streets and Utilities Standard Plans, Design Standards, Parks and Streetscape Standard Plans, Standard Specifications, Multi-Agency Post-Construction Stormwater Standards Manual, and Relevant Public Facilities Master Plans).
4. "Conditions of Approval" shall mean the conditions of approval applicable to the Tracy Assisted Living and Memory Care facility, Development Review Application Number D19-0019.
5. "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.
6. "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.

B. General Conditions of Approval:

1. Unless specifically modified by these Conditions of Approval, the Project shall comply with all City Regulations.
2. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all mitigation measures identified in the General Plan Environmental Impact Report, dated February 1, 2011.

3. 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.
4. Except as otherwise modified by these Conditions of Approval, all construction shall be consistent with the plans received by the Development Services Department on August 22, 2019.
5. Prior to the issuance of a building permit, the applicant shall provide a detailed landscape and irrigation plan consistent with City landscape and irrigation standards, including, but not limited to Tracy Municipal Code Section 10.08.3560, and the City's Design Goals and Standards, to the satisfaction of the Development Services Director, and consistent with the applicable Department of Water Resources 2015 Model Efficient Landscape Ordinance on private property and Tracy Municipal Code Chapter 11.28 to the satisfaction of the Utilities Director; and the applicant shall prepare and submit an electronic MWELO Project Information Sheet to the satisfaction of the Utilities Director. Said landscape plans shall include documentation which demonstrates there is no less than 20 percent of the new parking area in landscaping, and 40 percent canopy tree coverage at tree maturity in accordance with City Regulations. Newly planted, on-site trees shall be a minimum size of 24-inch box and shrubs shall be a minimum size of five gallons. Root barriers (two-feet deep by eight feet long) shall be installed along all buildings or edge of planter where a tree is within ten feet of building or edge of planter.
6. Prior to the issuance of a building permit, an Agreement for Maintenance of Landscape and Irrigation Improvements shall be executed and financial security submitted to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements, or \$2.50 per square foot of on-site landscape area.
7. Prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or direct spray of light onto adjacent residential property, to the satisfaction of the Development Services Director.
8. Prior to the issuance of a building permit, the developer shall document compliance with Tracy Municipal Code Chapter 11.34 and the City of Tracy Multi-Agency Post-Construction Stormwater Standards Manual (Manual) to the satisfaction of the Utilities Director, which includes the requirement for Site Design Control Measures, Source Control Measures and Treatment Control Measures under the guidelines in a project Stormwater Quality Control Plan (SWQCP). Compliance with the Manual includes, but is not limited to, addressing outdoor storage areas, loading and unloading areas, trash enclosures, parking areas, any wash areas and maintenance areas. The

SWQCP must conform to the content and format requirements indicated in Appendix D of the Manual and must be approved by the Utilities Director prior to issuance of grading or building permits.

9. All on-site construction activity associated with development of this Tracy Assisted Living and Memory Care facility shall be limited to daylight hours or 7:00 a.m. to 8:00 p.m.
10. No roof mounted equipment, including, but not limited to, HVAC units, fans, antennas, vents, ladders, and dishes whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from Corral Hollow Road, Alegre Drive, Grant Line Road, or any other public right-of-way to the satisfaction of the Development Services Director. The building permit construction documents shall demonstrate that the building's exterior parapet wall is at least as tall as all HVAC units, vents, fans, antennas, or any other roof equipment or utilities.
11. All vents, gutters, downspouts, flashing, electrical conduit, gas meters, electrical panels and doors, and other wall-mounted or building-attached utilities shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.
12. Prior to the issuance of a building permit, bicycle parking spaces shall be provided in accordance with Tracy Municipal Code Section 10.08.3510 to the satisfaction of the Development Services Director.
13. All PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Development Services Director.
14. Prior to the installation of any signs, the applicant shall submit a sign permit application and receive approval from the Development Services Director in accordance with City Regulations.
15. Prior to the issuance of a building permit, the building permit construction documents shall include an enclosure for all trash or recycling receptacles. The trash enclosure exterior wall shall be of masonry construction, finished with stucco material and color to match the existing trash enclosures on site; include solid metal doors painted to match the enclosure; and a solid roof (painted to match the color(s) of the building) to the extent required by City stormwater quality regulations. The enclosure should also contain an interior concrete curb to prevent the trash dumpsters and containers from hitting and damaging the walls.
16. The approximately eight-foot tall, masonry wall along the north side of Alegre Drive shall be reduced in height to approximately four feet tall (excluding where adjacent to the lot at 2193 Misquez Lane, APN 238-140-15). The wall shall include a decorative trim cap along the top of the wall. Prior to the issuance of a building permit, the developer shall include plans detailing how this will be designed, to the satisfaction of the Development Services Director, and the wall shall be completed prior to the

occupancy or final inspection. An opening with a gate shall be installed along the wall in accordance with the California Fire Code standards to the satisfaction of the Fire Marshal.

17. Prior to the issuance of a building permit, the developer shall submit to the City and cause to be recorded, a lot line adjustment or other instrument to effectively merge lots or otherwise relocate property lines, consistent with City standards, to result in no property lines passing through or underneath buildings, to the satisfaction of the Development Services Director. The developer shall prepare and record easement(s), agreement(s), or other instruments to ensure all lots affected by this project have access to utilities, parking, and circulation, to the satisfaction of the Development Services Director.
18. Prior to occupancy or final inspection, all dead or missing trees or other on-site landscaping shall be replaced or restored in accordance with City standards to the satisfaction of the Development Services Director.
19. Developer shall comply with all performance, monitoring, and reporting requirements of the San Joaquin Valley Air Pollution Control District, as identified in APCD correspondence dated July 24, 2019, to the satisfaction of the District.

C. Engineering Division Conditions of Approval

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) Traffic Memorandum prepared by Kimley Horn and Associates dated October 17, 2019.
- 2) Storm Drain Memorandum by Storm Water Consultants dated October 7, 2019.
- 3) Water Supply Memorandum by Black Water Consulting Engineers dated October 17, 2019.
- 4) Sanitary Sewer Memorandum by Black Water Consulting Engineers yet to be completed.

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. The City will not accept a Grading Permit application for the Project until Developer provides 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 requirements set forth in this section.
- C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction 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 and Drainage Plans shall be prepared in accordance with the City's Subdivision Ordinance (TMC Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.
- C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick polyester

film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans 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](mailto: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](mailto: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 a Registered Geotechnical Engineer. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, retaining wall recommendations, if necessary, paving recommendations, paving calculations such as gravel factors, gravel equivalence, etc., slope recommendations, and elevation of the highest observed groundwater level.
- 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 and Drainage 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 a California licensed 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 and Drainage 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 and Drainage 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), if applicable.
- 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 If the Project contains overhead utilities, the 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. Exempt from this condition are high voltage power lines along the Project's northerly property line, if any.

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 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.4.16 Per the recommendation of SWC, Developer shall set the building's finish floor at least one (1) foot above a top-of-curb elevation. Please review SWC's technical memorandum for the precise location and other mitigations.

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. The City will not start writing any improvement agreement or schedule any improvement agreement to be approved by City Council for the Project until the Developer provides 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 24-inch x 36-inch size 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.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 Geotechnical/Soils Report, prepared or signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to street pavement thickness, materials, compaction and other pertinent information.
- C.5.1.d. 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 shall construct a storm water quality treatment basin.

Developer and its heirs (i.e. apartment complex owner) shall be responsible for repairing and maintaining the on-site storm water system and treatment basin 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 also construct the recommended mitigations from the sanitary sewer technical memorandum.

C.5.1.g. 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.

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.h. Streets – Developer shall construct their frontage improvements. Frontage improvements include but are not limited to the following: curb, gutter, sidewalk, street widening, landscaping, street lighting, undergrounding of overhead utilities and other 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.

All proposed public street widths and cross sections shall conform to the 2012 Transportation Master Plan (TMP).

Corral Hollow Road

Developer will construct the new commercial driveways per Standard Detail 133. Developer shall dedicate a ten (10) feet wide Public Utility Easement on all public streets if the easement is not present.

Developer shall construct driveways that conform to Section 3.09(F) of the 2008 Design Standards. Driveways shall have one and half (1.5) feet of full-height (i.e. six (6) inches) of vertical curb

from the driveway's edge. Driveways shall be fire truck accessible to the satisfaction of the City Engineer.

Developer shall use existing utility stubs. If the stubs are not present or unusable or additional utility connections are required, the pavement restoration shall conform to C.8.1 of these Conditions.

On the west side of Corral Hollow Road, Developer shall landscape and irrigate the existing area as per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 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. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc. Developer shall also install street trees in the landscaped area between the existing meandering sidewalk and the curb and gutter. On the opposite side of the sidewalk, Developer shall install additional street trees, shrubs, ground cover, and other landscaping as required. The landscaping and irrigation shall conform to MWEL standards. If recommended, Developer shall use structural soil if the street trees' well is narrower than five (5) feet wide. Developer shall also remove existing sign monument and its appurtenances, and any other existing items such as bollards, mailboxes, etc.

- C.5.2. Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and others that will be located within the twenty-four (24) feet wide to forty-six (46) feet wide [the width varies] PUE 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). If necessary, the Developer shall

dedicate twenty-two (22) feet wide PUE for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.

- C.5.3. 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.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 ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.

C.5.7. 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.5.8 On-site Private Improvements - Prior to the Developer commencing construction of on-site, in-tract public and private improvements, Developer shall possess a fully executed Grading Permit. Developer shall also complete all of the following requirements to the satisfaction of the City Engineer:

Developer has received City signed improvement plans.

Developer has paid all required processing fees including plan check and inspection fees.

~~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. Monumentation Bonds shall be seven hundred fifty (\$750.00) dollars multiplied by the total number of street centerline monuments plus one hundred twenty-five (\$125) dollars multiplied by the total number of legal lots that are shown on the Final Map.~~

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

C.5.9 Off-site Public Improvements - Prior to the Developer commencing construction of off-site public improvements, Developer shall possess a fully executed Off-site Improvement Agreement (OIA). Developer shall also

complete all of the following requirements to the satisfaction of the City Engineer:

Developer has received City signed improvement plans.

Developer has paid all required processing fees including plan check and inspection fees.

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

No building permit within the Project boundaries will be approved by the City until the Developer demonstrates, 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 completed all requirements set forth in Condition C.1, through C.5, above.
- C.6.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, and City Regulations.

#### C.7 Acceptance of Public Improvements

Public improvements will not be considered for City Council's acceptance until after the Developer demonstrates to the reasonable satisfaction of the City Engineer, completion of the following:

- C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.
- C.7.2 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" 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. Developer shall also provide the Project's CADD files to the City.
- C.7.5 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.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.



- C.7.7 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.
- C.7.8 Release of Security – Release of improvement security shall be in accordance with the requirements of Title 12 of the TMC. Monumentation Bond will be released to the Developer after City Council's acceptance of the public improvements and if the Developer meets the terms set in Section 66497(c) of the Subdivision Map Act. All survey monuments shown on the Final Map must be installed. 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.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 2008 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 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 Developer shall obtain an account for the water service to the Project and register the water meter with the Finance Department. Developer shall prepare and submit a map depicting the location of the water meter on a 8.5-inch X 11-inch sheet to Finance Department.
- C.8.5 Project Entrance: As stipulated by Section 5.17 of the 2008 Design Standards, a PCC valley gutter is prohibited in the City's right-of-way.