

Wednesday, October 26, 2022, 7:00 P.M.

Tracy City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

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

THE CITY OF TRACY REMAINS UNDER A LOCAL EMERGENCY FOR COVID-19 AND IS NOW CONDUCTING TELECONFERENCE MEETINGS PURSUANT TO STATE LAW. TELECONFERENCED LOCATIONS MAY INCLUDE VARIOUS LOCATIONS INCLUDING TRACY CITY HALL. IN ACCORDANCE WITH THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GUIDELINES, UNIVERSAL MASKING IS RECOMMENDED FOR ALL PERSONS REGARDLESS OF VACCINATION STATUS AND SOCIAL DISTANCING PROTOCOLS WILL BE IN PLACE FOR TRACY CITY HALL.

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

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

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

Remote Public Comment:

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

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following
 - **Event Number:** 2550 292 0387 and **Event Password:** Planning
 - **If you would like to participate in the public comment anonymously**, you may submit your comment in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - **Join by phone by dialing +1-408-418-9388,,25502920387#75266464#** Press *3 to raise the hand icon to speak on an item.
- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "New Business" or "Items from the Audience" portions of the agenda:*
 - *Listen for the Chair to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the "New Business" or "Items from the Audience" portions of the agenda will be accepted until the public comment for that item is closed.*

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

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

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

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

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

challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

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

MEETING AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES

DIRECTOR'S REPORT REGARDING THIS AGENDA

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

1. NEW BUSINESS

- 1.A STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) APPROVING A DEVELOPMENT REVIEW PERMIT (D19-0021) FOR A NEW 25,000 SQUARE FOOT MULTI-TENANT BUILDING AND RELATED SITE IMPROVEMENTS LOCATED AT APN 212-270-21 (DIRECTLY WEST OF THE DEPARTMENT OF MOTOR VEHICLES, 2785 AUTO PLAZA DRIVE AND APPROXIMATELY 170 FEET EAST OF POWER ROAD); AND 2) GRANTING A CONDITIONAL USE PERMIT (CUP21-0003) FOR VEHICLE SERVICE USES ON A VACANT SITE LOCATED AT APN 212-270-21 (DIRECTLY WEST OF THE DEPARTMENT OF MOTOR VEHICLES, 2785 AUTO PLAZA DRIVE AND APPROXIMATELY 170 FEET EAST OF POWER ROAD); 3) EXTENDING THE TIME PERIOD TO ESTABLISH THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO 2 YEARS TO BE CONSISTENT WITH THE DEVELOPMENT REVIEW PERMIT APPROVAL TIME PERIOD; AND 4) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANTS ARE BARYALAI AND MASOOD FEROZ AND THE PROPERTY OWNER IS TRACY AUTO PLAZA INVESTORS PTP

- 1.B STAFF RECOMMENDS THAT THE PLANNING COMMISSION RECEIVE AN INFORMATIONAL REPORT REGARDING STATE LAW CHANGES TO THE PERMITTING OF ACCESSORY DWELLING UNITS AND PROVIDE DIRECTION REGARDING PROPOSED AMENDMENTS TO THE CITY'S ACCESSORY DWELLING UNIT REGULATIONS TO BETTER ALIGN WITH STATE LAW CHANGES
- 1.C CONDUCT A WORKSHOP TO DISCUSS EXISTING ZONING REGULATIONS APPLICABLE TO CANNABIS DISPENSARIES IN THE CITY, AS SET FORTH IN TRACY MUNICIPAL CODE SECTION 10.08.3196, AND POTENTIAL AMENDMENTS TO SUCH REGULATIONS
2. ITEMS FROM THE AUDIENCE
3. DIRECTOR'S REPORT
4. ITEMS FROM THE COMMISSION
5. ADJOURNMENT

Posted: October 20, 2022

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

**MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
OCTOBER 12, 2022, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, and WebEx during the meeting.

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

Chair Hudson led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner Augustus, Commissioner Boakye-Boateng, Vice Chair Orcutt and Chair Hudson present. Commissioner Atwal was not present at time of roll call. Also present were: Bill Dean, Assistant Director of Development Services; Kimberly Matlock, Associate Planner; Genevieve Federighi, Associate Planner; Al Gali, Associate Engineer; Bijal Patel, City Attorney; Gina Peace, Executive Assistant; and Miranda Aguilar, Administrative Assistant.

MINUTES

Chair Hudson introduced the Regular Meeting Minutes from the August 24, 2022, and the September 28, 2022, meetings.

ACTION: It was moved by Commissioner Augustus and seconded by Commissioner Boakye-Boateng to approve the August 24, 2022, and the September 28, 2022 Planning Commission Regular meeting minutes. A voice vote found all in favor. Passed and so ordered; 5-0-0-0.

DIRECTOR'S REPORT REGARDING THIS AGENDA

None.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

DEVIATION

- B. STAFF RECOMMENDS PLANNING COMMISSION ADOPT A RESOLUTION 1)
GRANTING A CONDITIONAL USE PERMIT (CUP22-0004) FOR A CANNABIS
STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD,**

APNS 238-600-37 & 238-190-22 AND 2) APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0009) FOR EXTERIOR MODIFICATIONS TO THE BUILDING; 3) EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND 4) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS MIKE SOUZA AND THE PROPERTY OWNERS ARE RT & JT, LLC AND J T STORAGE, LP.

Kimberly Matlock, Associate Planner, presented the staff report.

Mike Souza and Zoe Schreiber, Applicant, addressed the Commission and presented a PowerPoint presentation.

Chair Hudson opened the Public Hearing at 7:36 p.m.

Alice English addressed the Commission.

Chair Hudson closed the Public Hearing at 7:39 p.m.

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

1. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT;
2. GRANTING A CONDITIONAL USE PERMIT (CUP22-0004) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22;
3. APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0009) FOR EXTERIOR MODIFICATIONS TO THE BUILDING;
4. EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS;
5. ENSURING THAT ALL BALLARDS ARE REPAIRED; AND
6. STRIKING OUT CONDITION G1 AND MOVING G2 TO G1.

A roll call vote found all in favor. Passed and so ordered; 5-0-0-0.

A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) APPROVING A DEVELOPMENT REVIEW PERMIT (D21-0034) FOR A 3,400 SF BUILDING AND ASSOCIATED SITE IMPROVEMENTS AT 316 & 320 W. ELEVENTH STREET, APNS 235-040-05 & 06 AND 2) GRANTING A CONDITIONAL USE PERMIT (CUP21-0009) TO OPERATE A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT THIS SITE; 3) EXTENDING THE

**TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE
CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND
4) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS
COMMUNITY VETERANS OF TRACY, LLC AND THE PROPERTY OWNERS ARE
SAAD PATTAH AND REO CAPITAL INVESTMENTS & ASSET MANAGEMENT.**

Kimberly Matlock, Associate Planner, presented the staff report.

Cane Berry, Applicant, addressed the Commission.

Chair Hudson opened the Public Hearing at 8:06 p.m.

Alice English addressed the Commission in opposition of the Project.

Charlena Berry, Applicant, addressed the public via Webex.

Chair Hudson closed the Public Hearing at 8:15 p.m.

Chair Hudson re-opened the Public Hearing at 8:21 p.m.

Charlena Berry, Applicant, addressed the public via Webex.

Alice English addressed the Commission in opposition of the Project.

Chair Hudson closed the Public Hearing at 8:29 p.m.

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

1. POSTPONING THIS PROJECT UNTIL WE HAVE CERTIFIED THAT THE SURROUNDING RESIDENTS HAVE BEEN NOTIFIED OF THE NEW BUSINESS;
2. RE-NOTICING PROJECT USING CERTIFIED MAIL; AND
3. EXTENDING THE NOTIFICATION RADIUS FROM 300 FEET TO 600 FEET.

A roll call vote found Commissioners Atwal and Orcutt in favor, Commissioners Hudson, Augustus, and Boakye-Boateng opposed. Motion fails; 2-3-0-0.

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

1. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT;

2. APPROVING A DEVELOPMENT REVIEW PERMIT (D21-0034) FOR AN APPROXIMATELY 3,400 SF BUILDING AND ASSOCIATED SITE IMPROVEMENTS AT 316 & 320 W. ELEVENTH STREET, APNS 235-040-05 & 06;
3. GRANTING A CONDITIONAL USE PERMIT (CUP21-0009) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT THIS SITE; AND
4. EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS.

A roll call vote found Commissioners Hudson, Augustus, and Boakye-Boateng in favor. Commissioners Atwal and Orcutt opposed. Passed and so ordered; 3-2-0-0.

C. PUBLIC HEARING TO SOLICIT COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE TRACY COSTCO DEPOT ANNEX PROJECT LOCATED AT 16000 WEST SCHULTE ROAD IN UNINCORPORATED SAN JOAQUIN COUNTY

Genevieve Federighi, Associate Planner, presented the staff report and addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 8:47 p.m.

Abe Luna with the Sheet Metal Workers commented requesting Costco utilize local workers.

Chair Hudson closed the Public Hearing at 8:50 p.m.

No action was taken.

D. ITEMS FROM THE AUDIENCE

None.

E. DIRECTOR'S REPORT

William Dean thanked the Planning Commissioners for attending the APA Planning Conference, as it is a great educational and networking opportunity. Mr. Dean announced the promotion of Kellie Jones from Administrative Assistant to Planning Technician and introduced Miranda Aguilar as the new Administrative Assistant.

F. ITEMS FROM THE COMMISSION

Each of the commissioners congratulated Ms. Jones on her promotion and welcomed Ms. Aguilar.

Commissioner Atwal inquired about the Ordinance discussed a couple of meetings ago, when it would be expected, and what efforts are being made with regards to the Ordinance.

Bill Dean responded that the team is developing presentation materials and we hope to bring these to the October 26th meeting as the first session regarding the Ordinance.

G. ADJOURNMENT

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

A voice vote found all in favor. Passed and so ordered; 5-0-0-0.

Time: 8:58 p.m.

CHAIR

STAFF LIAISON

October 26, 2022

Agenda Item 1.A

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) APPROVING A DEVELOPMENT REVIEW PERMIT (D19-0021) FOR A NEW 25,000 SQUARE FOOT MULTI-TENANT BUILDING AND RELATED SITE IMPROVEMENTS LOCATED AT APN 212-270-21 (DIRECTLY WEST OF THE DEPARTMENT OF MOTOR VEHICLES, 2785 AUTO PLAZA DRIVE AND APPROXIMATELY 170 FEET EAST OF POWER ROAD); AND 2) GRANTING A CONDITIONAL USE PERMIT (CUP21-0003) FOR VEHICLE SERVICE USES ON A VACANT SITE LOCATED AT APN 212-270-21 (DIRECTLY WEST OF THE DEPARTMENT OF MOTOR VEHICLES, 2785 AUTO PLAZA DRIVE AND APPROXIMATELY 170 FEET EAST OF POWER ROAD); 3) EXTENDING THE TIME PERIOD TO ESTABLISH THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO 2 YEARS TO BE CONSISTENT WITH THE DEVELOPMENT REVIEW PERMIT APPROVAL TIME PERIOD; AND 4) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANTS ARE BARYALAI AND MASOOD FEROZ AND THE PROPERTY OWNER IS TRACY AUTO PLAZA INVESTORS PTP

EXECUTIVE SUMMARY

Through this item, staff recommends that the Planning Commission approve a Development Review Permit and grant a Conditional Use Permit to construct a 25,000 square foot, multi-tenant building and related site improvements while also allowing vehicle services uses on a vacant site located on the north side of Auto Plaza Drive, approximately 170 feet east of Power Road, directly west of the Department of Motor Vehicles located at 2785 Auto Plaza Drive (APN 212-270-21). Attachment A shows a map of the vicinity of the proposed project.

BACKGROUND

On June 6, 2019, the applicant submitted an application for a Development Review Permit to construct a 25,000 square foot, multi-tenant building with twelve proposed tenant spaces. Upon initial review of the proposed project, it was discovered that the applicant was proposing that eight of the twelve tenant spaces be used for vehicle service uses/auto uses. Under the Tracy Municipal Code (TMC), this land use requires a Conditional Use Permit in order to operate in the I-205 Corridor Specific Plan, Service Commercial land designation in which the site is located. Subsequently, the applicant submitted an application for a Conditional Use Permit on April 1, 2021, requesting approval of this land use. Both applications have been reviewed by staff and meet all required City Standards, as discussed below.

ANALYSIS

Project Proposal

The applicant proposes to construct and operate a 25,000 square foot building consisting of 12 tenant spaces. It is assumed that four tenant spaces (approx. 9,600 sf) will be retail or office, and the remaining eight spaces (approx. 15,012 sf) will be some form of vehicle

service use. Currently, there are no known tenants.

The retail and office uses are located at the front of the building (the south of the site) and the vehicle service uses will be located to the rear of the building. This design is favorable because the retail and office spaces have enhanced architecture including brick veneer, decorative awnings, and many windows, whereas the vehicle service uses to the rear include metal roll-up doors which are less desirable to present to the adjacent right-of-way, Auto Plaza Drive. Other architectural features incorporated into the design include variation in both the vertical and horizontal relief of the structure including pop-outs and varying parapet heights. Decorative light fixtures, various complimentary colors, and a decorative exterior brick band throughout most of the structure have also been incorporated to aid in providing visual interest. A parapet wall is included to ensure all roof-mounted equipment is fully screened. The project also has decorative landscaping at the business entries to soften the appearance of the structure and add focus to the business entries. All the features mentioned above allow the project to meet the City of Tracy Design Goals and Standards. The site plan, elevations, floor plan, and landscape plan can be viewed in Attachment B.

The applicant has applied for a Conditional Use Permit for vehicle service uses. As noted above, under the Tracy Municipal Code (TMC), the proposed land use requires a Conditional Use Permit in order to operate in the I-205 Corridor Specific Plan, Service Commercial land designation in which the site is located. Requisite findings the Planning Commission must make for a CUP and staff's analysis of the evidentiary support for such are articulated below.

The project site is currently vacant, with no existing landscaping. Condition B.6 (Attachment D). requires that at least 20 percent of the parking area to be landscaping, as well as 40 percent canopy tree coverage in the parking area. A preliminary landscape plan is included in Attachment B which demonstrates that both requirements will be satisfied through the proposed improvements. Among these improvements, the applicant is proposing to install approximately 25 new trees around the perimeter of the site, ranging from 40 feet to 60 feet in width at maturity.

The project site includes a small parcel to the north of the main site that will be merged prior to developing the project. The parcel can be seen on the site plan in Attachment B. Condition of Approval B.23 requires these parcels to be merged prior to building permit issuance. Without the use of the lot to the north, the on-site circulation would not be able to accommodate the proposed development. Additionally, the small parcel to the north would potentially remain unusable in perpetuity if not incorporated with this development.

Retail, office, and vehicle service uses are consistent land uses support by the site's General Plan designation of Commercial. The site is within the I-205 Corridor Specific Plan and has a land use designation of Service Commercial within the specific plan. This land use designation permits retail and office and conditionally permits vehicle service uses. Additionally, the proposed use is harmonious with the surrounding neighborhood which includes a mix of offices and auto services.

Findings

CUPs must meet the requirements set forth in TMC Section 10.08.4250, which requirements apply to conditional uses in all zoning districts in the City. Under these requirements, the Planning Commission can grant a CUP on the basis of the application and evidence submitted, subject to making all of the following findings:

- (a) That there are circumstances or conditions applicable to the land, structure, or use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right;
- (b) That the proposed location of the conditional use is in accordance with the objectives of this [Chapter 10.08 – Zoning Regulations] and the purposes of the zone in which the site is located;
- (c) That 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; and
- (d) That the proposed use will comply with each of the applicable provisions of this [Chapter 10.08 – Zoning Regulations].

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

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

Staff recommends that the Planning Commission make the requisite findings for this project based on the evidence in the record, including, without limitation, the evidence set forth in the Statement of Findings attached to the proposed resolution:

Conditional Use Permit Findings

- (a) There are circumstances applicable to the use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right because a conditional use permit is necessary for the operation of vehicle service uses in the Service Commercial land use designation of the I-205 Corridor Specific Plan. The proposed project meets the intent of the Service Commercial land use designation of the I-205 Corridor Specific Plan and otherwise complies with development regulations of the zone.
- (b) The proposed location of the use and the conditions under which it would be operated or maintained is in accordance with the objectives of Tracy Municipal Code Chapters 10.08. The use of retail, office, and auto service uses is complementary to the surrounding commercial area and is permitted through the Service Commercial land use designation of the I-205 Corridor Specific Plan.
- (c) The project will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use, or to the general welfare of the City. The site improvements have incorporated the

design of enhanced landscaping and architecture which will improve the currently vacant use of the lot. The proposed land uses are harmonious to the surrounding neighborhood and located in a desirable location as any potential visual impacts from the vehicle service uses are mitigated by being on a less traveled road, the doors are located in the rear portion of the building, and the design with roll-up doors is common in several other designs in the surrounding neighborhood.

(d) The project is consistent with the zoning and other elements of the Tracy Municipal Code the City of Tracy General Plan, the Design Goals and Standards, City Standards, The project has met all requirements of the Service Commercial land use designation of the I-205 Corridor Specific Plan including parking, design, height, lot coverage, etc. Additionally, architectural features including an exterior decorative brick band, many windows, decorative light fixtures, and decorative awnings have been included to meet the City's Design Goals and Standards.

Development Review Permit Findings

(a) The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the new building has been designed in accordance with the City's Design Goals and Standards, including using enhanced materials and providing visual interest throughout the entirety of the structure. The new improvements will ensure the site is regularly maintained and provide additional services for the citizens of Tracy.

(b) The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes. The project has met all city requirements for both the land use and physical improvements that are proposed.

CUP Expiration

Per TMC Section 10.08.4350, CUP approvals are valid for six months following fifteen days from the date of approval, unless a building permit, if required, is issued and construction is commenced, or the use is established. The TMC also permits the Planning Commission to grant a greater time limit to establish a use pursuant to their conditional use permit (TMC Section 10.08.4360).

Staff is suggesting that the standard timeframe of six months to establish the conditional use is extended to two years which is consistent with the Development Review Permit approval time period, as stated in Condition of Approval A.7 (Attachment D). The reason this project would benefit from the extended approval period is that the site plan is reliant on the fact that eight of the twelve tenant spaces are reserved for vehicle services uses/auto shops. Tracy Municipal Code Section 10.08.3480 minimum parking requirement for vehicle service or auto shop land uses requires one parking space for every six hundred square feet rather than one parking space for every 250 square feet required for retail or office space. Without approval of the conditional use approval, the site would likely not meet the parking required for most non-vehicle service land uses. Because of this, allowing the Conditional Use Permit the same approval time period as the Development Review Permit would ensure the viability of the project and if the approval period lapses,

the project could then be redesigned and re-evaluated to ensure all City standards, including minimum parking requirements, have been met.

Therefore, staff recommends that the Planning Commission grant two years to establish the CUP operations, as further described in project Condition of Approval A.9.

PUBLIC OUTREACH/ INTEREST

A public hearing notice for the project was mailed to all property owners within a 300-foot radius of the project site, posted on the City website, and also published in the Tracy Press on October 14, 2022. The Planning Commission agenda packet was posted on the City website and can be accessed at City Hall and the Tracy Branch Library as of October 21, 2022.

COORDINATION

The project was reviewed by various City departments and other agencies, including the City's Development Services Department, Police Department, and South San Joaquin County Fire Authority. All comments received were incorporated into the project plans, conditions of approval, or otherwise addressed. This staff report was prepared by the Development Services Planning Division.

CEQA DETERMINATION

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332 because the project is characterized as in-fill development and (1) is consistent with the General Plan designation of Commercial and all applicable General Plan policies, as well as consistent with the Service Commercial land designation of the site within the I-205 Corridor Specific Plan and with all applicable zoning regulations, (2) occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses, (3) has no value as habitat for endangered, rare or threatened species, (4) would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (5) can be adequately served by all required utilities and public services. Therefore, no further environmental review is necessary.

ACTION REQUESTED OF THE PLANNING COMMISSION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

- 1. APPROVING A DEVELOPMENT REVIEW PERMIT (D19-0021) FOR A NEW MULTI-TENANT BUILDING AND RELATED SITE IMPROVEMENTS LOCATED AT APN 212-270-21 (DIRECTLY WEST OF THE DEPARTMENT OF MOTOR VEHICLES, 2785 AUTO PLAZA DRIVE AND APPROXIMATELY 170 FEET EAST OF POWER ROAD);**
- 2. GRANTING A CONDITIONAL USE PERMIT (CUP21-0003) FOR VEHICLE SERVICE USES ON A VACANT SITE LOCATED AT LOCATED AT APN 212-270-21 (DIRECTLY WEST OF THE DEPARTMENT OF MOTOR VEHICLES, 2785 AUTO PLAZA DRIVE AND APPROXIMATELY 170 FEET EAST OF POWER ROAD) APN 212-270-21;**
- 3. EXTENDING THE TIME PERIOD TO ESTABLISH THE CONDITIONAL USE**

PERMIT FROM SIX MONTHS TO TWO YEARS; AND

**4. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

Prepared by: Genevieve Federighi, Associate Planner
Reviewed by: Bill Dean, Assistant Development Services Director
Approved by: Kris Balaji, Development Services Director

Attachments:

Attachment A – Vicinity Map
Attachment B – Site Plan, Floor Plans Landscape Plans
received on August 15, 2022
Attachment C – Planning Commission Resolution (Including Exhibit 1 – Statement
of Findings)
Attachment D – Conditions of Approval



PLANNED UNIT DEVELOPMENT COMMERCIAL SHELL BUILDING & SITE IMPROVEMENTS

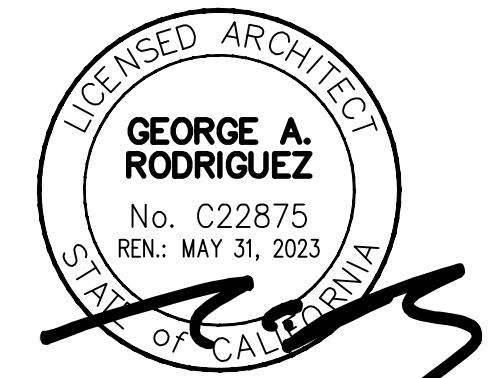
APN: 212-270-21
AUTO PLAZA DRIVE
TRACY, CA 95304

RECEIVED
August 15, 2022
City of Tracy
Development Services

**GRA
Architects &
Associates, Inc.**
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343 E. Main St., Suite 721
Stockton, CA 95202
◆
Phone: (209) 462-8410
Email: GRA22875@gmail.com

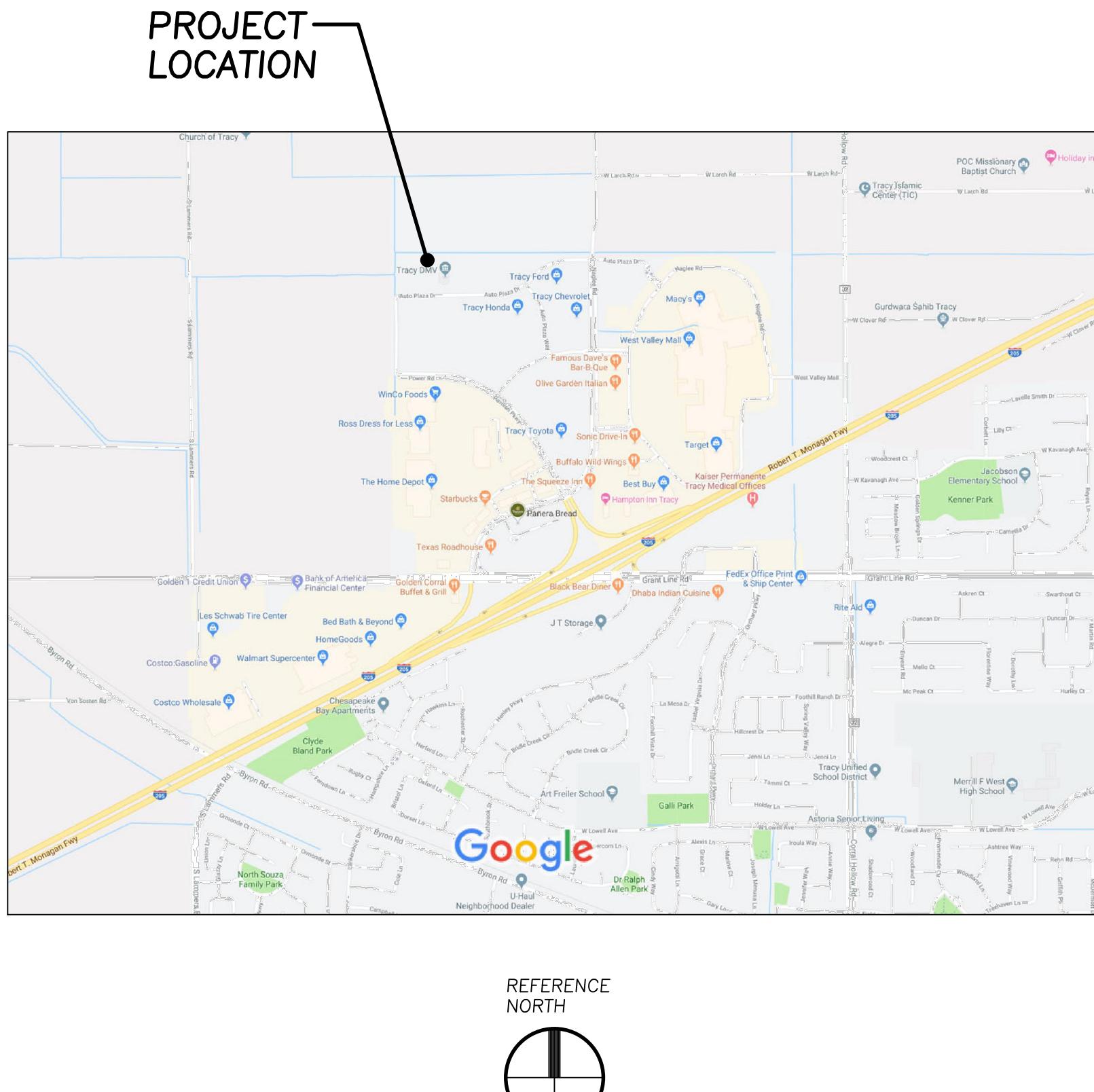
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VICINITY MAP



PROJECT DATA

APN:

212-270-21
AUTO PLAZA DRIVE
TRACY, CA 95304

PROJECT DESCRIPTION:

PLANNED UNIT DEVELOPMENT OF A GREENFIELD SITE FOR THE CONSTRUCTION OF A COMMERCIAL SHELL BUILDING, ON-SITE IMPROVEMENTS, & FUTURE TENANT IMPROVEMENTS FOR LEASEHOLD TENANTS. FUTURE TENANTS SHALL PRIMARILY CONSIST OF OFFICE, RETAIL, RETAIL FOOD, & MINOR AUTOMOTIVE REPAIR & MAINTENANCE SHOPS.

JURISDICTION(S):

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

CODES & STANDARDS:

1. CITY OF TRACY PLANNING & ZONING ORDINANCE, & BUILDING REGULATIONS, TRACY MUNICIPAL CODE TITLES 9 & 10
2. TITLE 24 OF THE CALIFORNIA CODE OF REGULATIONS
 - A. PART 2. 2019 CALIFORNIA BUILDING CODE W/ LATEST AMENDMENTS.
 - B. PART 3. 2019 CALIFORNIA ELECTRICAL CODE W/ LATEST AMENDMENTS.
 - C. PART 4. 2019 CALIFORNIA MECHANICAL CODE W/ LATEST AMENDMENTS.
 - D. PART 5. 2019 CALIFORNIA PLUMBING CODE W/ LATEST AMENDMENTS.
 - E. PART 9. 2019 CALIFORNIA ENERGY CODE W/ LATEST AMENDMENTS.
 - F. PART 9. 2019 CALIFORNIA FIRE CODE W/ LATEST AMENDMENTS.
 - G. PART 11. 2019 CALIFORNIA GREEN BUILDING CODE W/ LATEST AMENDMENTS.
 - H. PART 12. 2019 CALIFORNIA STATE REFERENCED STANDARDS CODE.

ZONING:

PUD (PLANNED UNIT DEVELOPMENT), I-205 CORRIDOR SPECIFIC PLAN, SERVICE COMMERCIAL

AREAS:

BUILDING SHELL = 25,000 SF (31.0% BLDG. COVERAGE)	PARCEL = 72,703 SF
	PARCEL TO BE MERGED = 7,923 SF
TOTAL = <u>80,626 SF</u>	

OCCUPANCY GROUP(S):

'B' (OFFICES & SMALL RETAIL FOOD), 'M' (MERCANTILE/RETAIL), & 'S-1' (MOTOR VEHICLE REPAIR & MAINTENANCE)

TYPE OF CONSTRUCTION:

'V-B', FIRE SPRINKLERED

ALLOWABLE AREA:

PER CBC TABLE 506.2, BASIC ALLOWABLE OF 36,000 SF > 25,000 SF (PROPOSED): OK

BUILDING HEIGHT:

ONE STORY; 29' HEIGHT, OK

ALLOWABLE HEIGHT:

PER CBC TABLES 504.3 & 504.4, BASIC ALLOWABLE HEIGHT 60' & 2 STORIES;

PER CITY OF TRACY I-205 SPECIFIC PLAN, MAX. HTS. BASED ON USE ARE;

RETAIL = 40'

AUTO SHOP = 40'

OFFICE = 25' W/ 15% MAX. EXEMPTION; TOTAL POSSIBLE LINEAL FT. OF FAÇADE FOR OFFICE USE = 325', TOTAL LINEAL FT. OF FAÇADE ABOVE 25' HT. = 43' (13.2% < 15%, OK)

FIRE SPRINKLERS:

YES

PARKING:

PARKING

AUTO SHOP: 15,012 GSF/600 = 25 STALLS
(EXCLUDING OFFICE AREA)

RETAIL/OFFICE: 9,600 GSF/250 = 39 STALLS
(INCLUDES AUTO R&M SPACES
OFFICE AREA @ 150 SF EACH)

TOTAL REQUIRED = 64 STALLS

TOTAL PROPOSED:
STANDARD SIZE (9'x18.5') = 44 STALLS
(W/ 2' PLANTER O/H)
COMPACT SIZE (8'x16') = 20 STALLS
(W/ 2' PLANTER O/H)
ACCESSIBLE (ADA, 9'x18.5') = 4 STALLS
(W/ 2' PLANTER O/H)

68 STALLS

SHEET INDEX

ARCHITECTURAL/ELECTRICAL/PLUMBING

PR0.0	COVER SHEET
PR1.0	SITE PLAN
PR2.0	BUILDING PLAN
PR2.1	FLOOR PLAN - SOUTH HALF
PR2.2	FLOOR PLAN - NORTH HALF
PR3.0	EXTERIOR ELEVATIONS
PR3.1	EXTERIOR RENDERING
PR3.2	TRASH ENCLOSURE PLAN & EXTERIOR ELEVATIONS
PR4.0	SECTIONS
PR5.0	PHOTOGRAPHS
PR6.0	ELECTRICAL/PLUMBING SITE PLAN

CIVIL

C1	TOPOGRAPHY SURVEY
C2	GRADING PLAN
C3	EXHIBITS

LANDSCAPE

L1.1	LANDSCAPE PLAN
L1.5	LANDSCAPE DETAILS

CONSULTANTS

CIVIL

CONTI & ASSOCIATES, INC.
971 N. COVENANT VIEW WAY
EAGLE, ID 83616
PHONE: (209) 712-7011

MPE

SACRAMENTO ENGINEERING
CONSULTANTS
10555 OLD PLACERVILLE RD.
SACRAMENTO, CA 95827
PHONE: (916) 368-4468

LANDSCAPE

BRECKON LAND DESIGN
6661 N. GLENWOOD ST.
GARDEN CITY, ID 83714
PHONE: (208) 376-5153

Project For

Baryalai Feroz &
Masood Feroz

Project

Planned Unit Development
Commercial Shell Building &
Site Improvements
APN: 212-270-21
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Sheet Contents

Cover Sheet

DRAWING STATUS

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RE-ISSUED	05-23-22
RE-ISSUED	08-03-22

PERMIT NO.: TBD

DRAWN BY: NEO KLAYBO

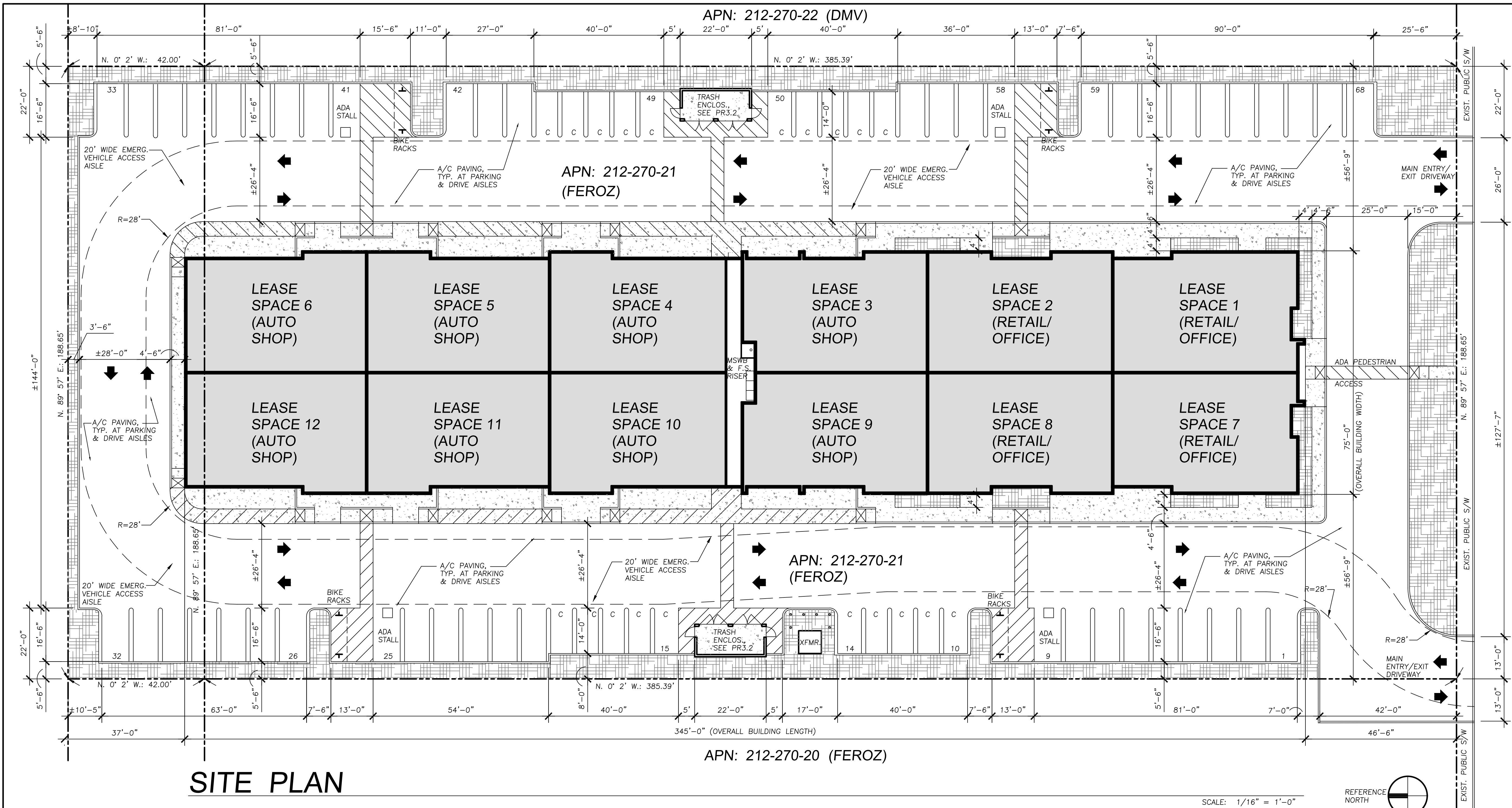
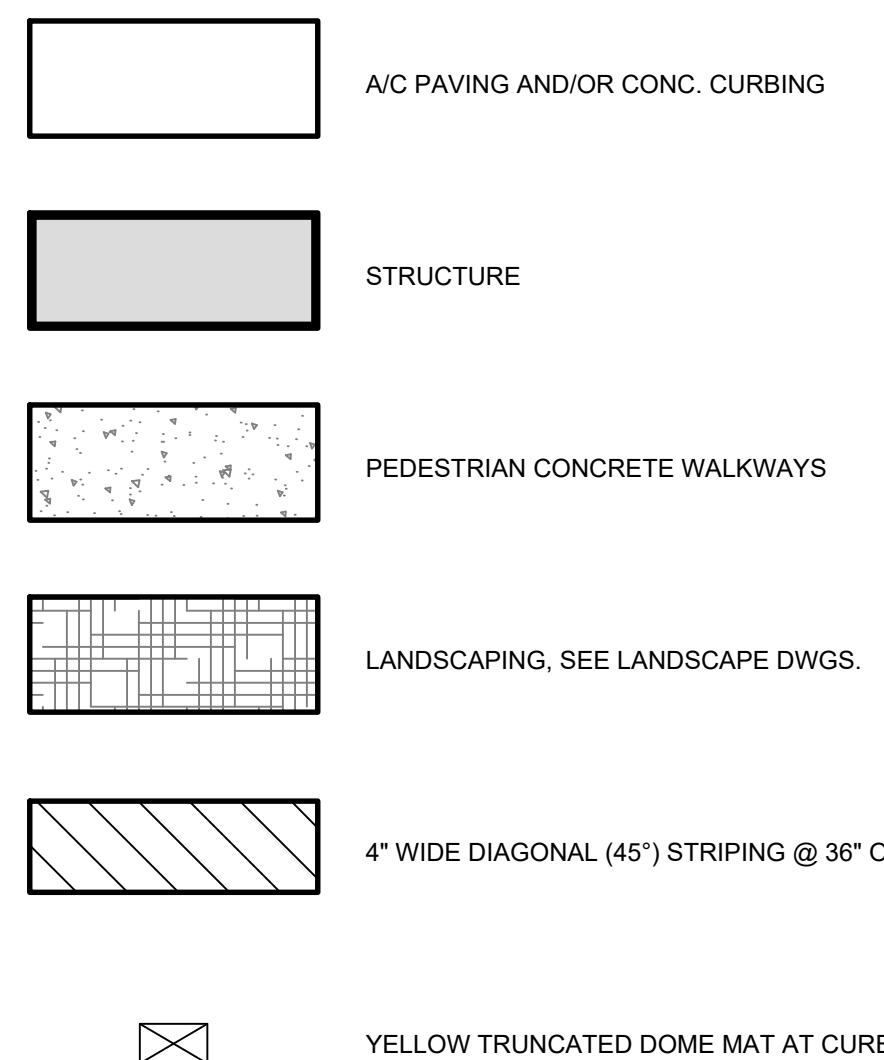
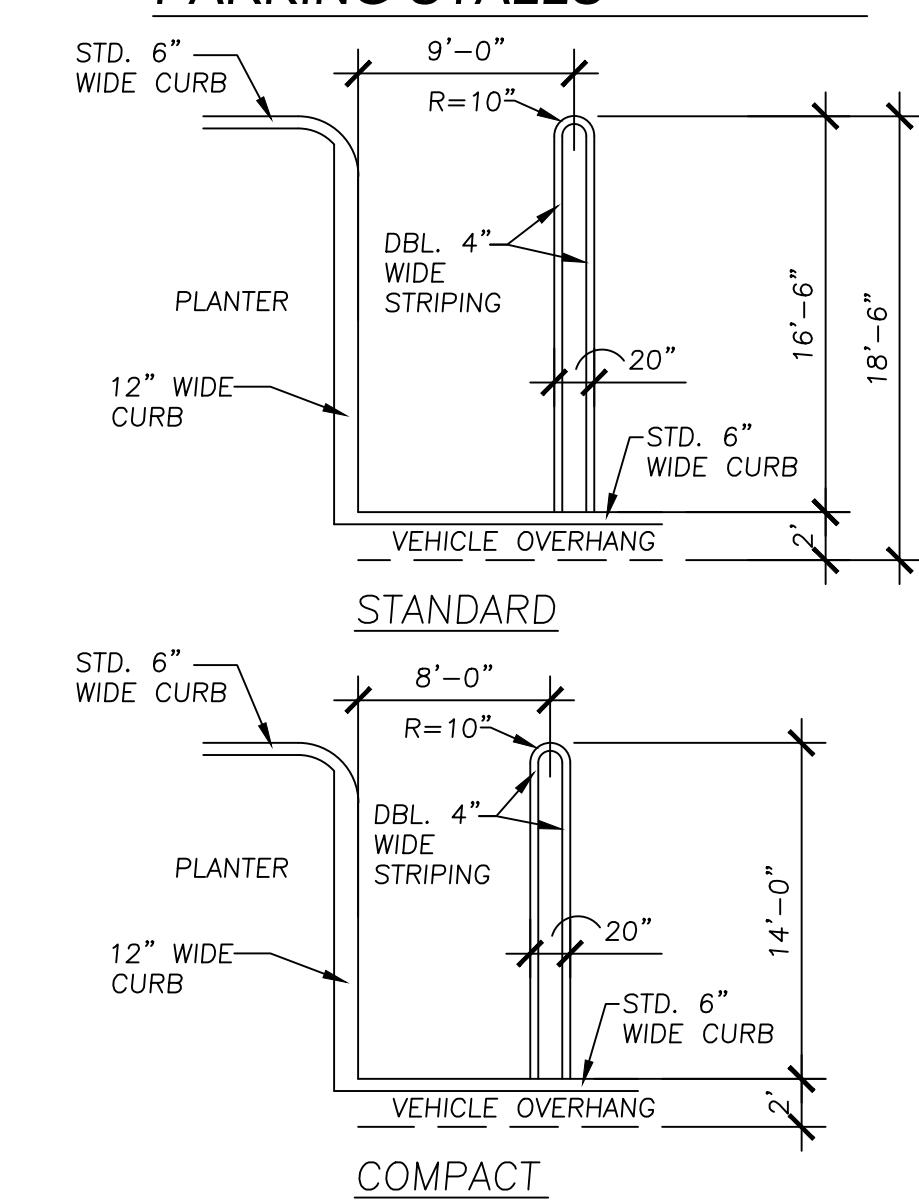
CHECKED BY: GRA

SCALE: AS NOTED

PROJECT NO.: FRZ-22101002

SHEET:

PR0.0

**LEGEND****PARKING STALLS****PARKING DATA**

LEASE SPACE 1:	2,096 GSF
LEASE SPACE 2:	2,103 GSF
LEASE SPACE 3:	2,039 GSF
LEASE SPACE 4:	2,000 GSF
LEASE SPACE 5:	2,040 GSF
LEASE SPACE 6:	2,028 GSF
LEASE SPACE 7:	2,096 GSF
LEASE SPACE 8:	2,103 GSF
LEASE SPACE 9:	2,039 GSF
LEASE SPACE 10:	2,000 GSF
LEASE SPACE 11:	2,040 GSF
LEASE SPACE 12:	2,028 GSF
TOTAL:	

PARKING
AUTO SHOP: 15,012 GSF/600 = 25 STALLS
(EXCLUDING OFFICE AREA)

RETAIL/OFFICE: 9,600 GSF/250 = 39 STALLS
(INCLUDES AUTO R&M SPACES
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(W/ 2' PLANTER O/H)

ACCESSIBLE (ADA, 9'x18.5') = 4 STALLS

(W/ 2' PLANTER O/H)

68 STALLS

LANDSCAPING DATA

PAVED PARKING AREA = 39,536 SF
(PARKING STALLS & DRIVE AISLES)

MIN. LANDSCAPING AREA = 7,907 SF
(20% OF PAVED PARKING AREA)

PROPOSED LANDSCAPING AREA = 8,400 SF

BICYCLE PARKING

AT 5% OF 70 STALLS = 3.5; SAY 4 REQD.

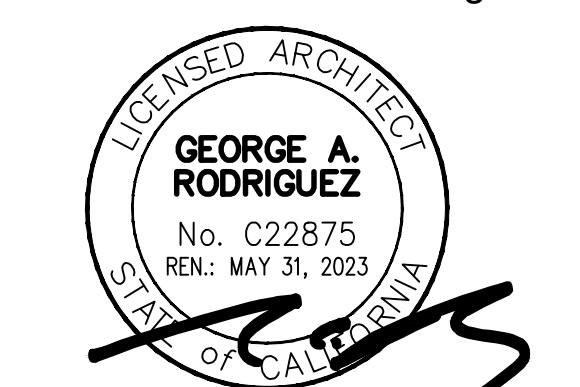
TOTAL PROPOSED: 16

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Sheet Contents
Site Plan

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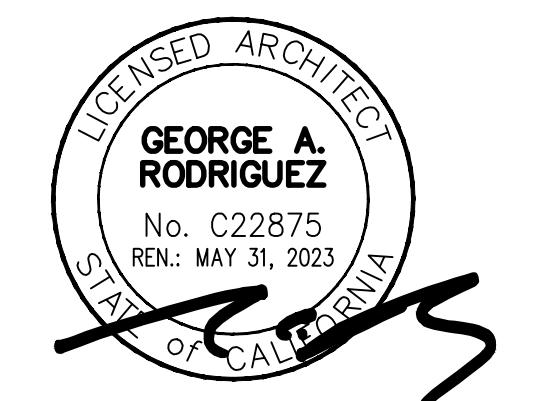
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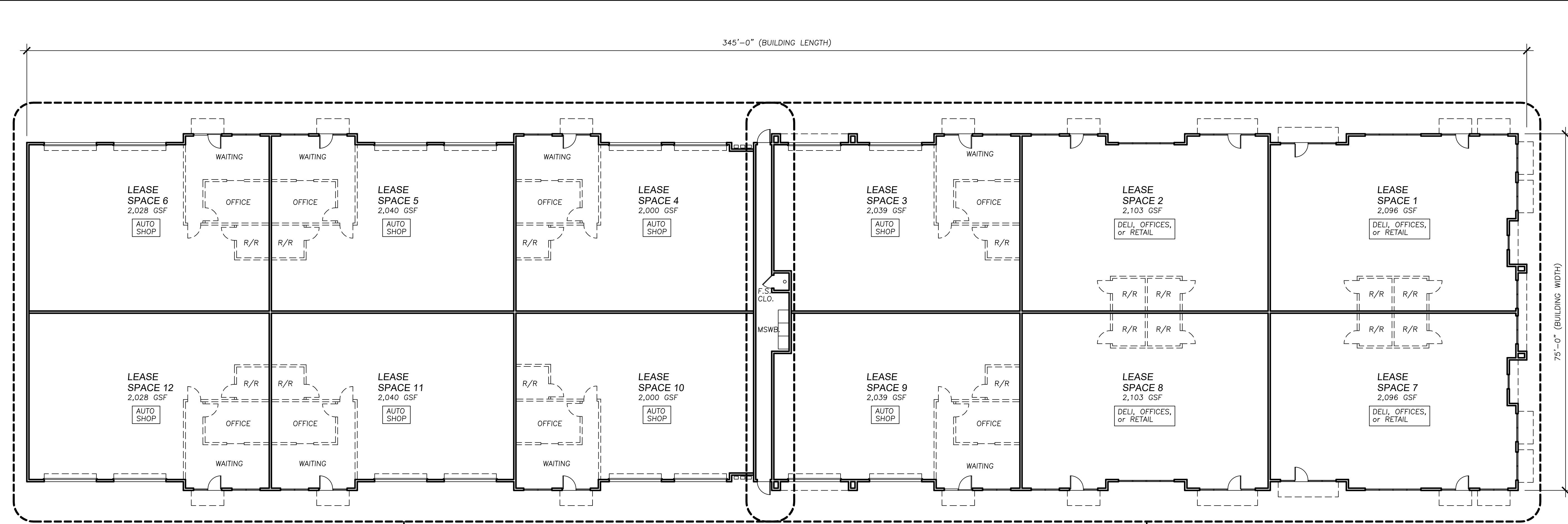
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Masood Feroz

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Sheet Contents
Building Plan



NOT TO SCALE



BUILDING PLAN

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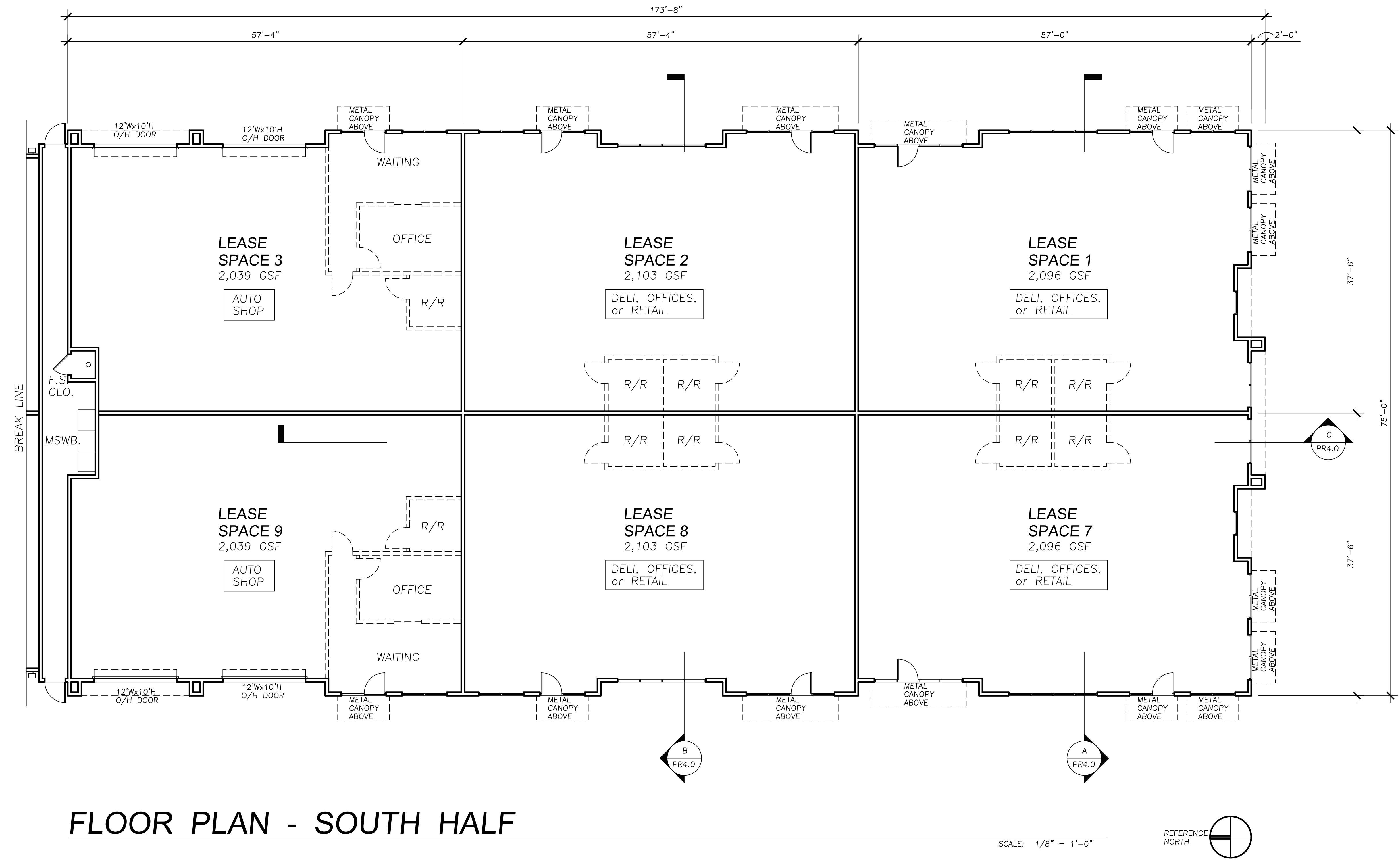
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Sheet Contents

Floor Plan - South Half



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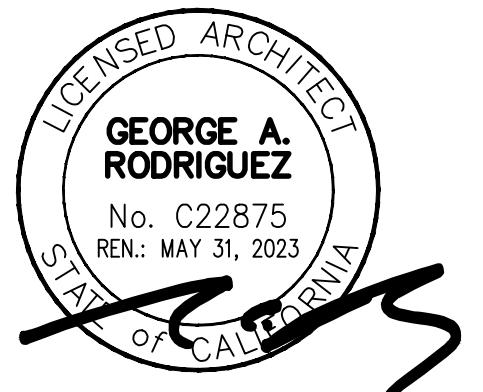
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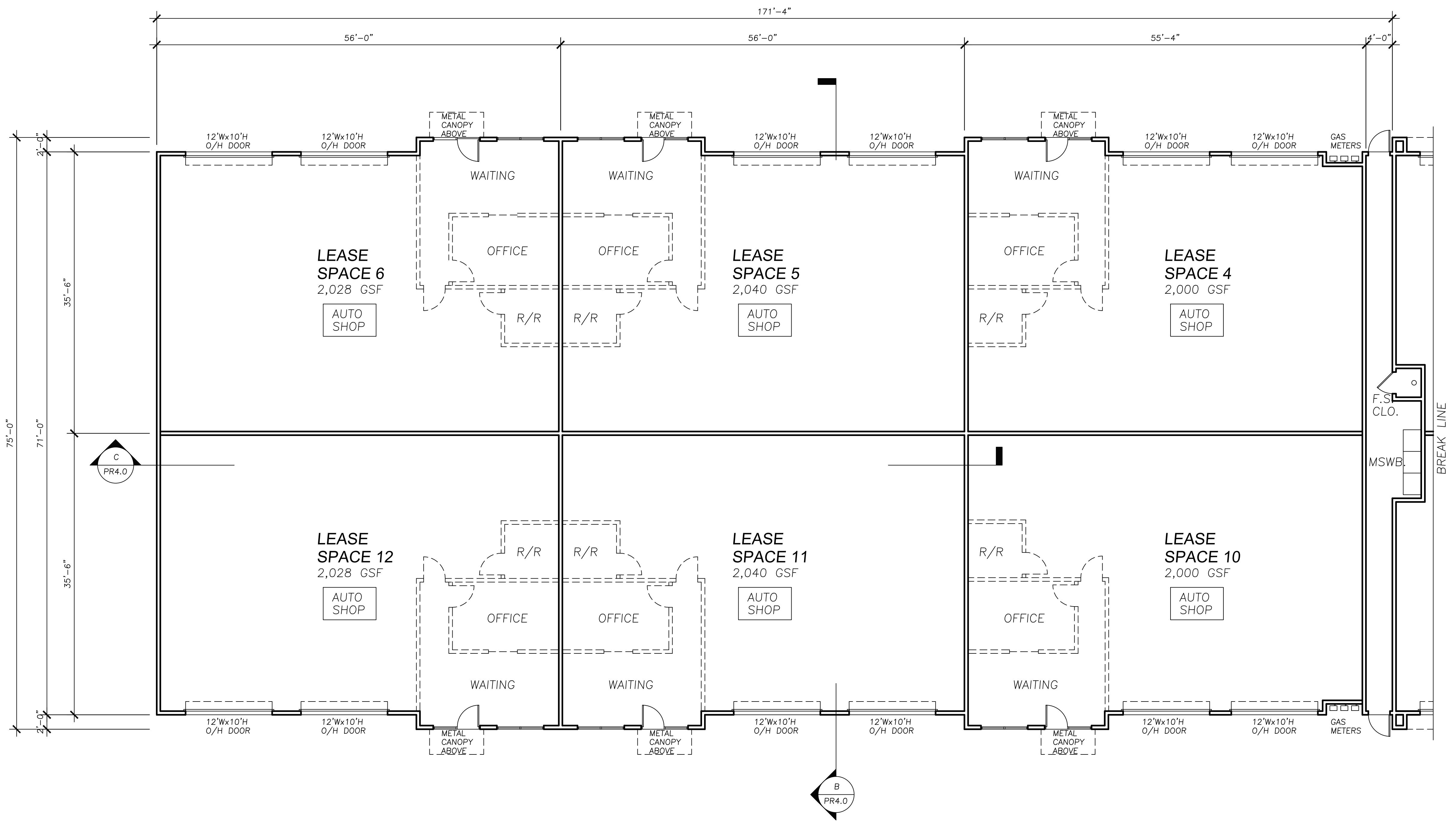
Project

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Sheet Contents

Floor Plan - North Half

North Half



FLOOR PLAN - NORTH HALF

SCALE: 1/8" = 1', 0"



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SCALE:	AS NOTED
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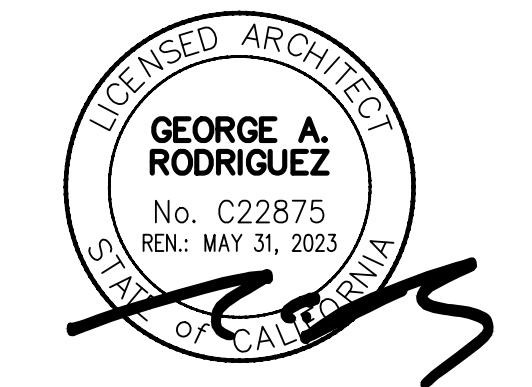
PR2.2

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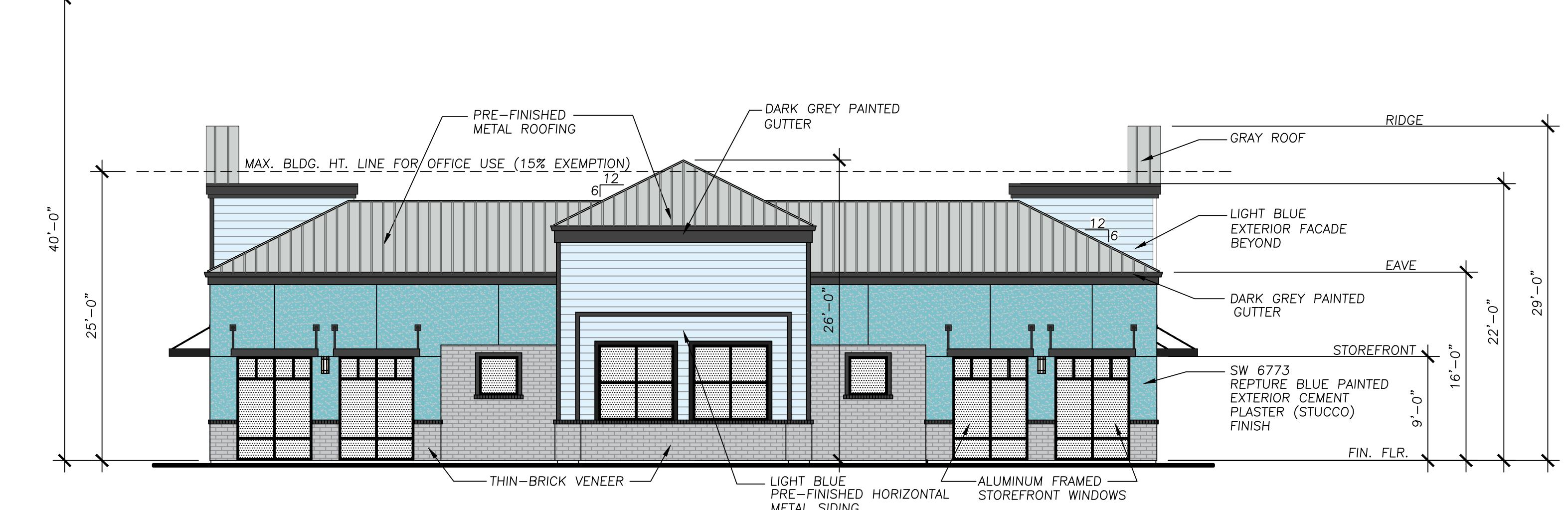
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PRELIMINARY FRONT (STREET-SIDE) ELEVATION

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

MAX. BLDG. HT. LINE FOR AUTO REPAIR SHOP USE



Project For
Barylai Feroz &
Masood Feroz

Project
Planned Unit Development
Commercial Shell Building &
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Sheet Contents
Exterior Elevations

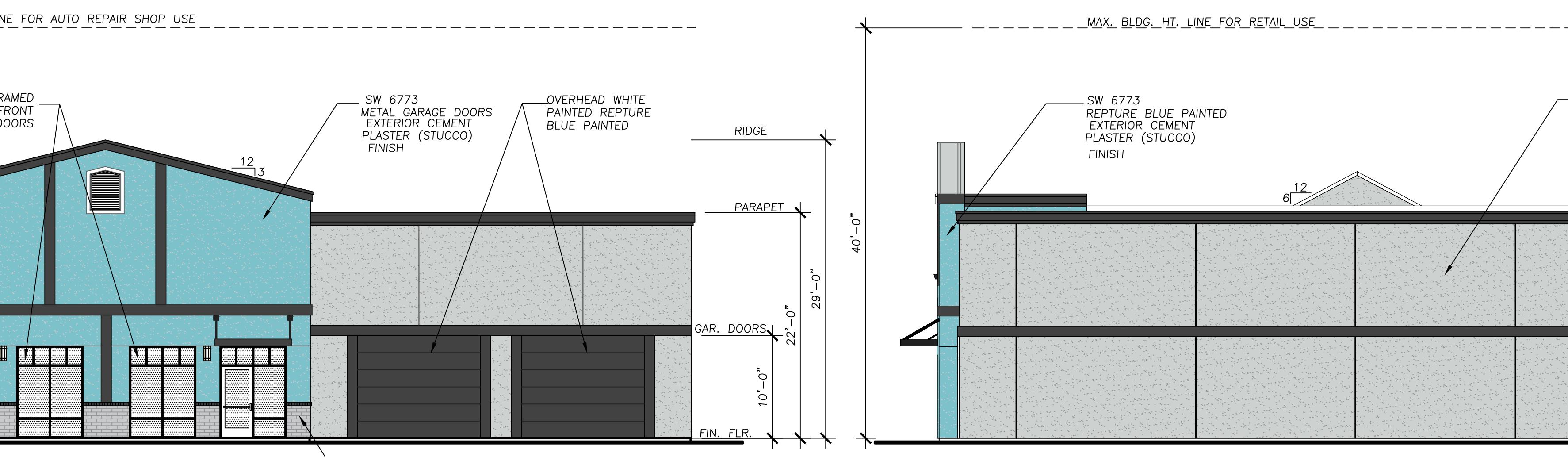
PRELIMINARY RIGHT SIDE ELEVATION (LEFT SIDE MIRRORED)

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

MAX. BLDG. HT. LINE FOR AUTO REPAIR SHOP USE

RIGHT SIDE ELEVATION - CONTINUED
(LEFT SIDE MIRRORED)

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



PRELIMINARY REAR ELEVATION

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

LEGEND:

SW 6773 RUPERT BLUE PAINTED EXTERIOR CEMENT PLASTER (STUCCO) FINISH

SW 7015 REPOSE GRAY PAINTED EXTERIOR CEMENT PLASTER (STUCCO) FINISH

LIGHT BLUE PRE-FINISHED HORIZONTAL METAL SIDING

THIN-BRICK VENEER

PR3.0

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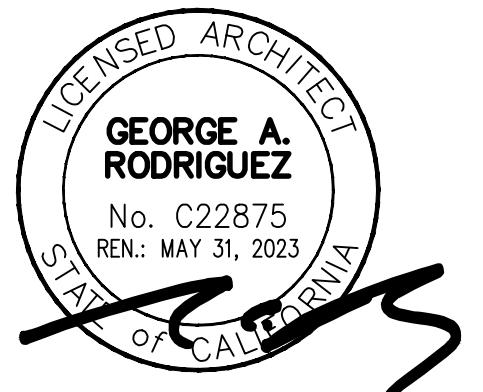


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EXTERIOR RENDERING - 1



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Sheet Contents
Exterior Renderings

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EXTERIOR RENDERING - 2

LEGEND:

SW 6773
REPTURE BLUE PAINT

SW 7015
REPOSE GRAY PAINT

LIGHT BLUE

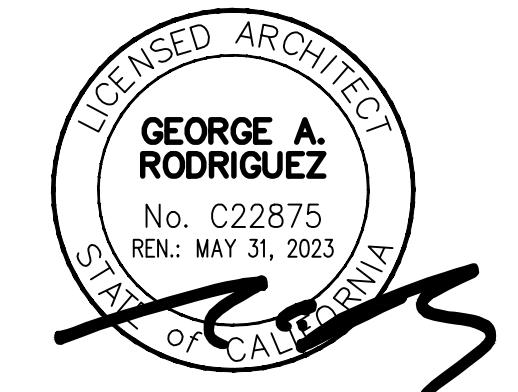
THIN BRICK
VENEER

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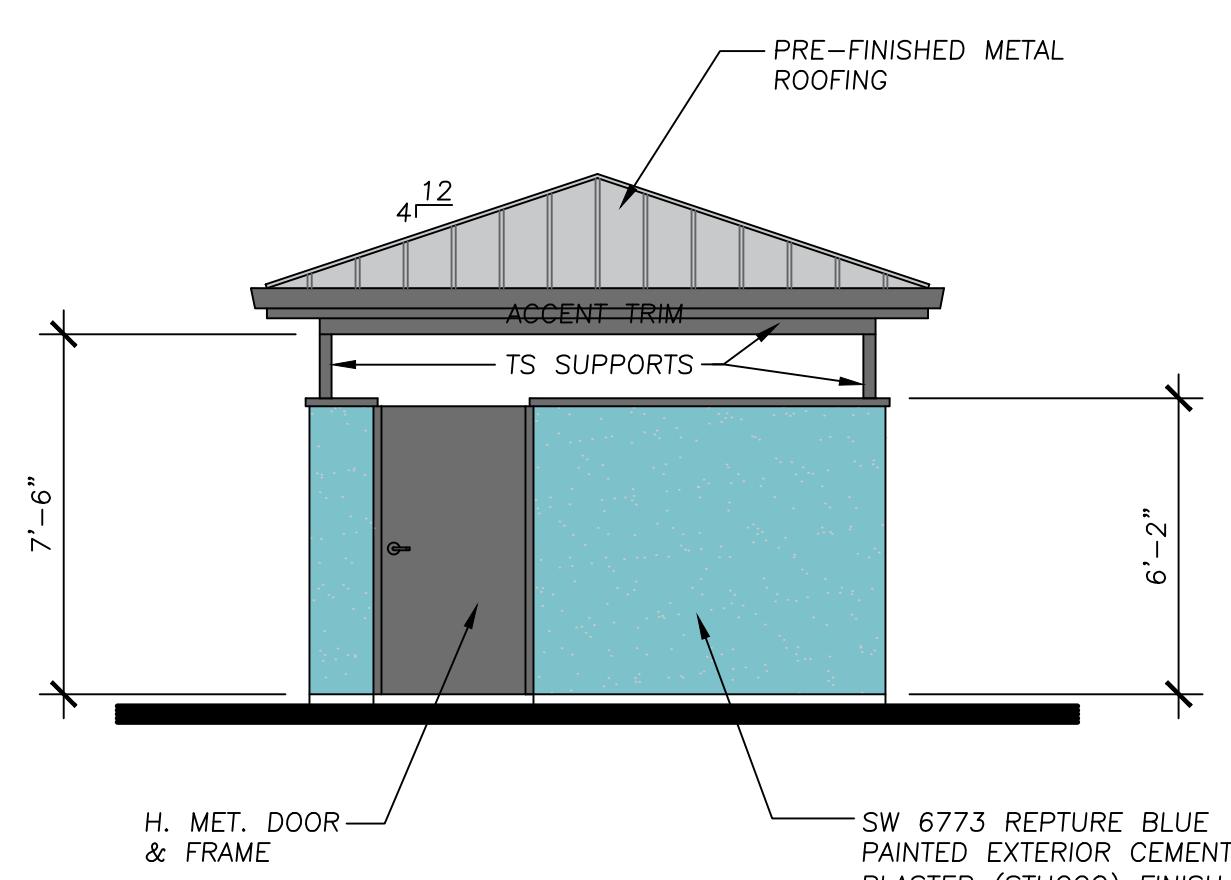
Project
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Sheet Contents
Trash Enclosure Plan &
Exterior Elevations

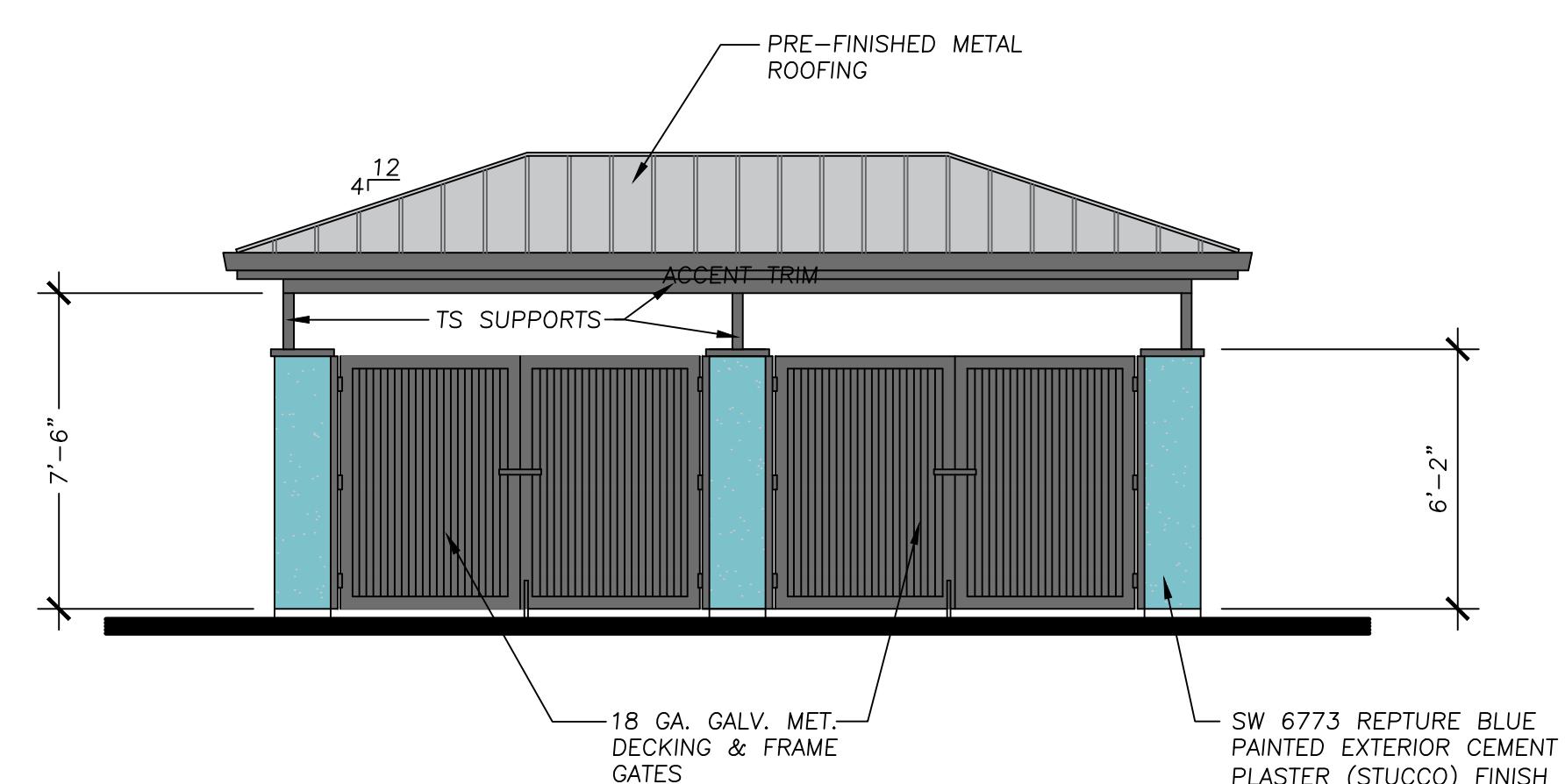
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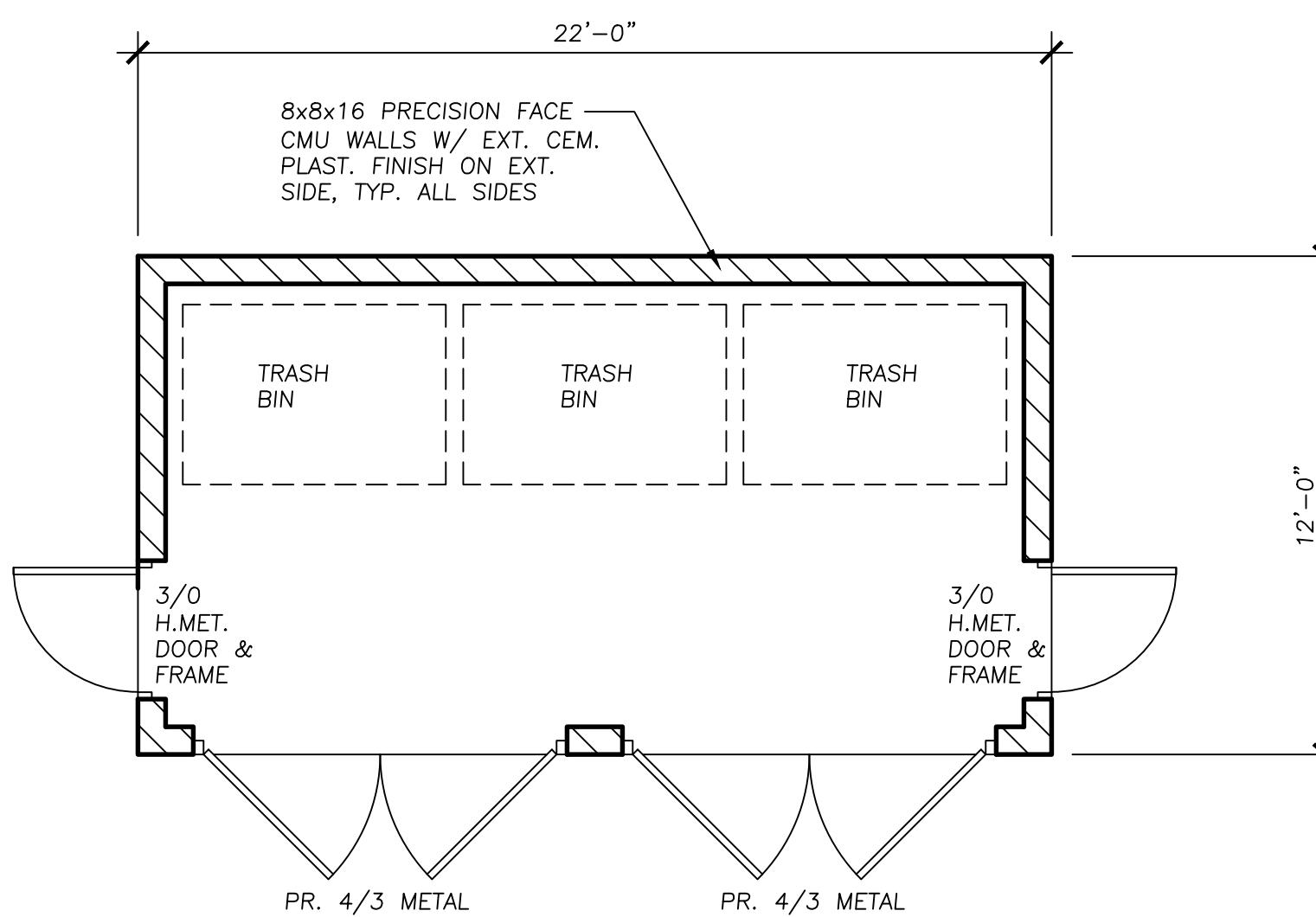
PR3.2



SIDE ELEVATION



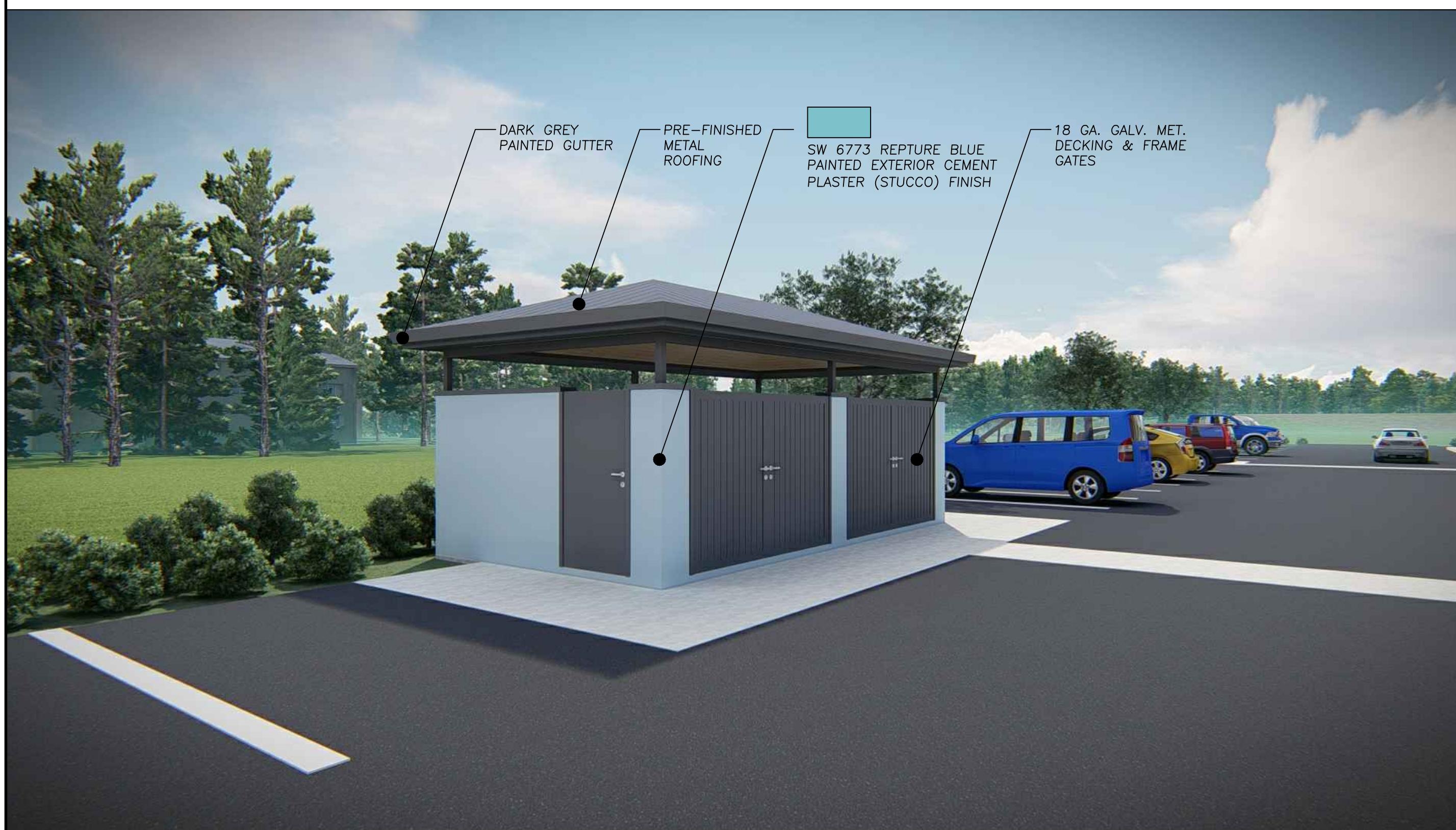
FRONT ELEVATION



PLAN VIEW

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

TRASH ENCLOSURE PLAN & ELEVATIONS



TRASH ENCLOSURE RENDERING



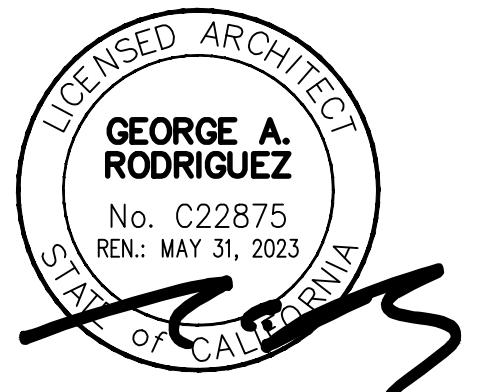
LEGEND:
SW 6773 RUPERT BLUE PAINT DARK GREY COLOUR

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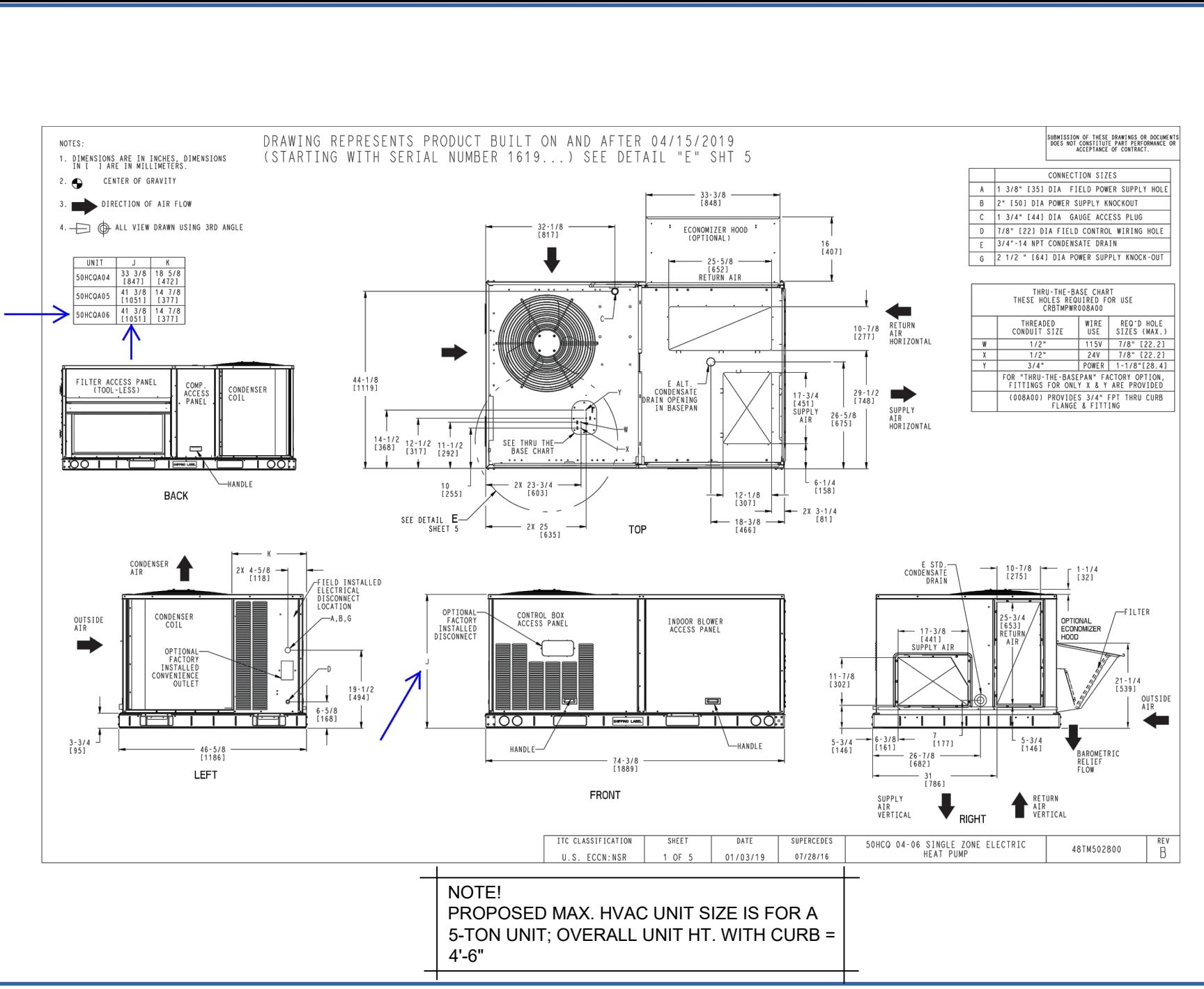
Project
Planned Unit Development
Commercial Shell Building & Site Improvements
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Auto Plaza Drive
Tracy, CA 95304

Sheet Contents

Sections

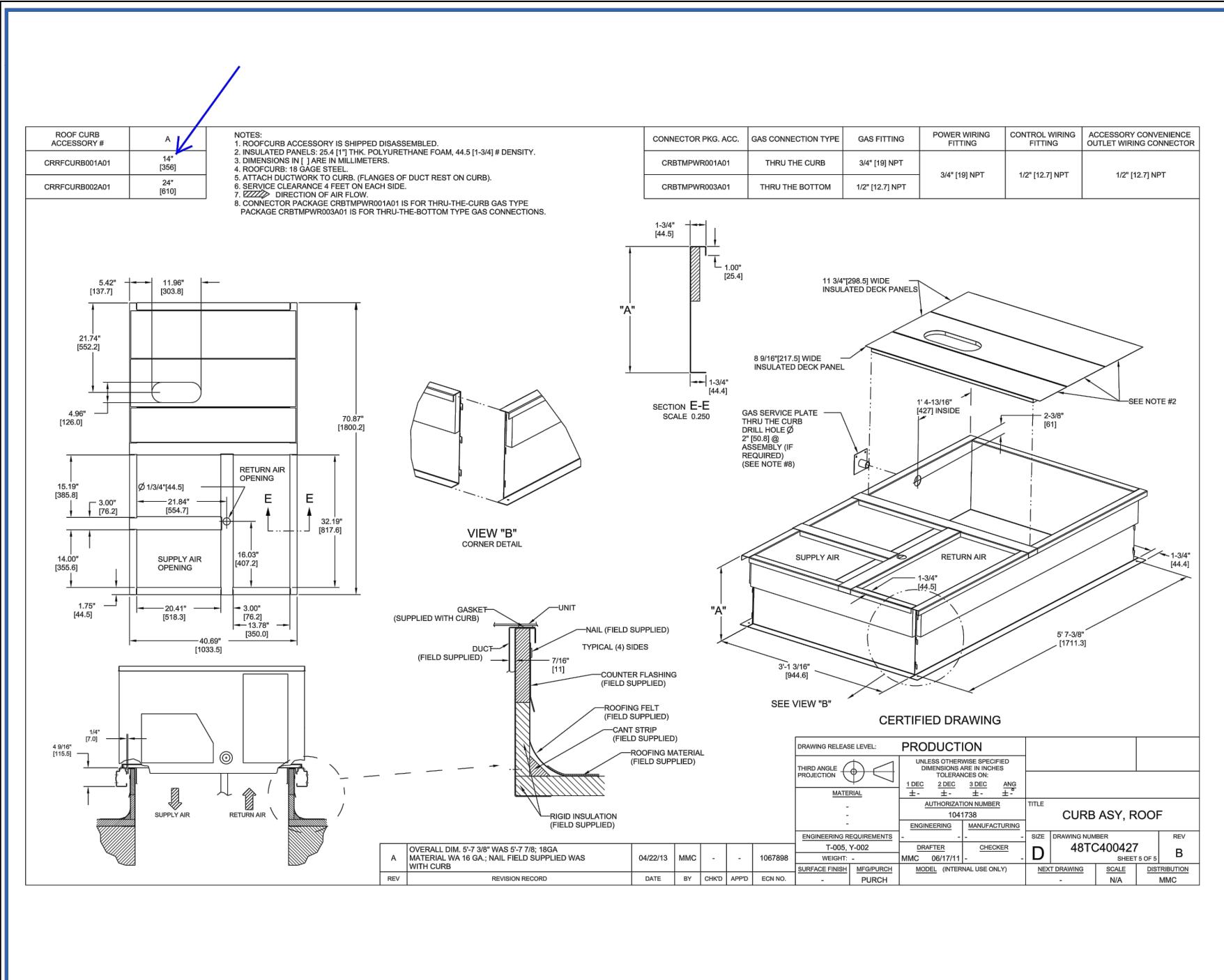
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PR4.0



Base unit dimensions

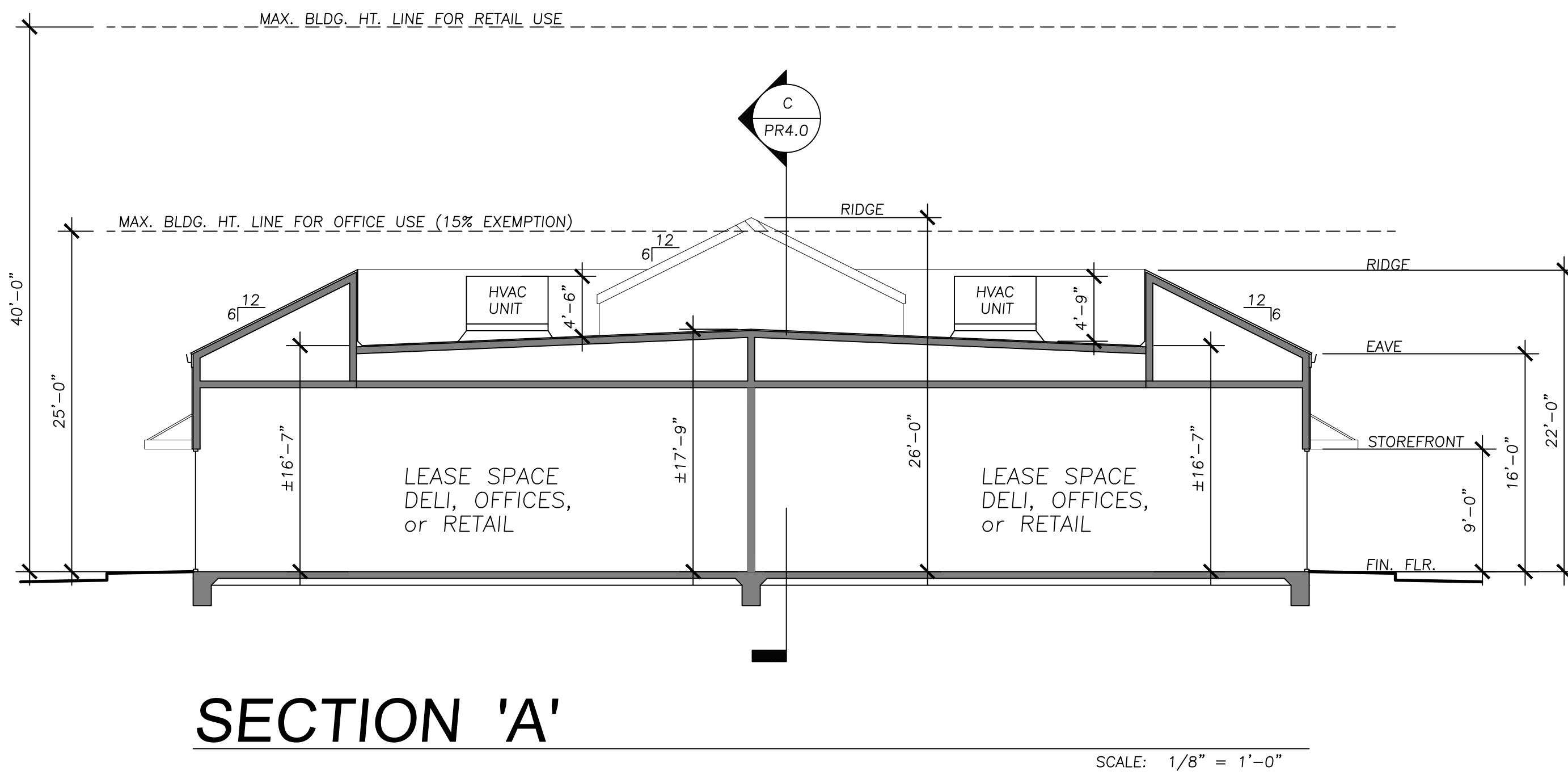
Carrier



Accessory dimensions

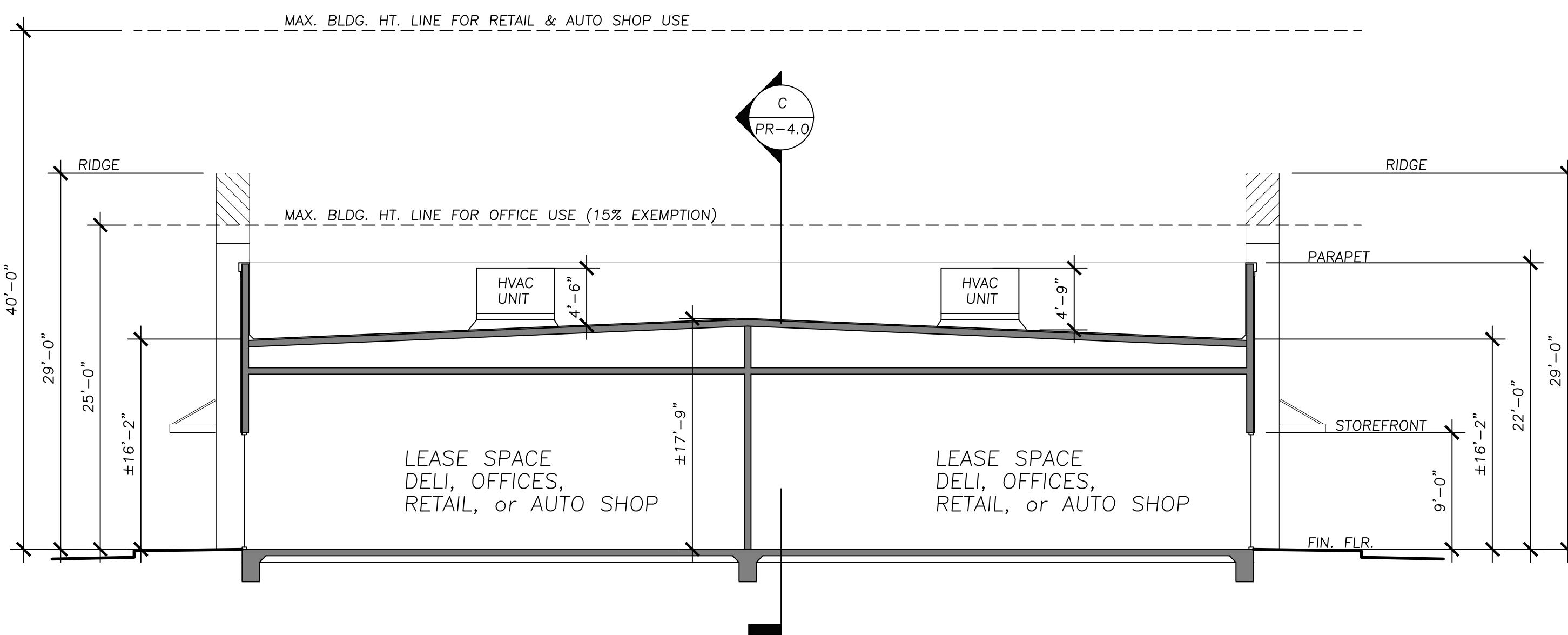
Carrier

PROPOSED ROOFTOP HVAC UNIT DIMENSIONS



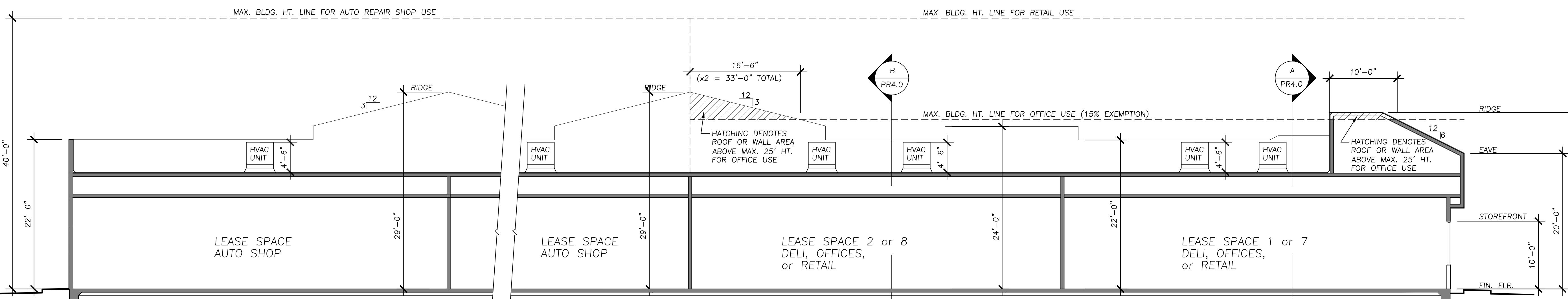
SECTION 'A'

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SECTION 'B'

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



SECTION 'C'

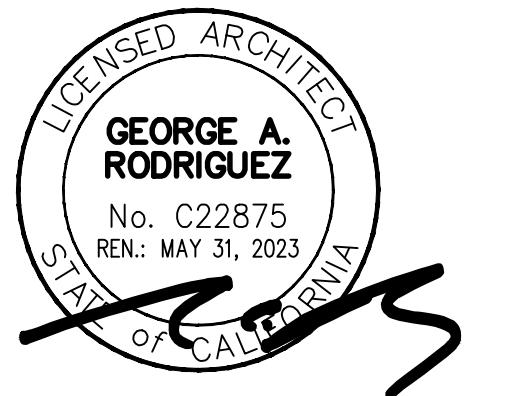
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Project For
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Photographs

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PR5.0



SITE PHOTO

NOT TO SCALE



SITE PHOTOS KEY PLAN

NOT TO SCALE



①

②

③



④

⑤

⑥

⑦

⑧



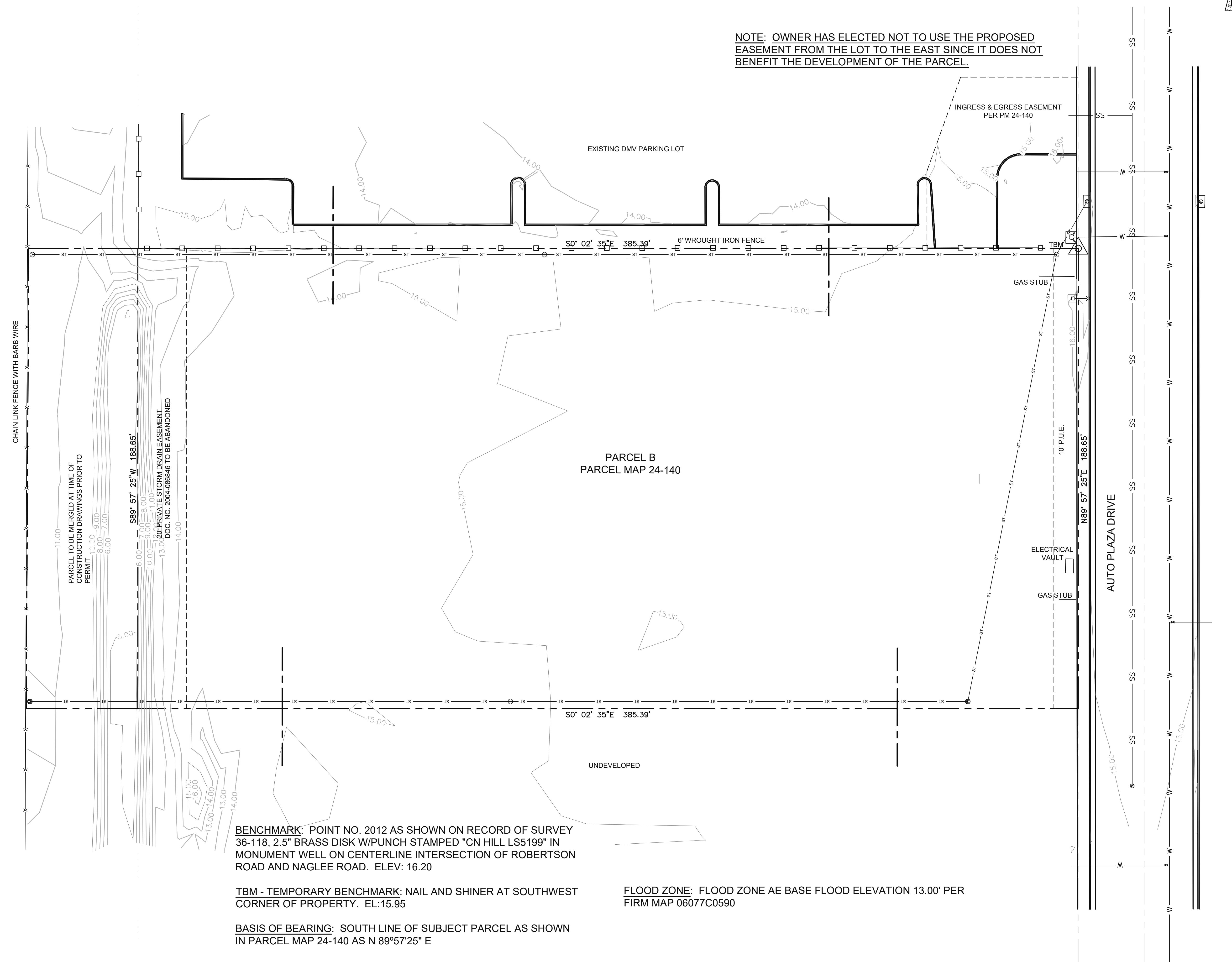
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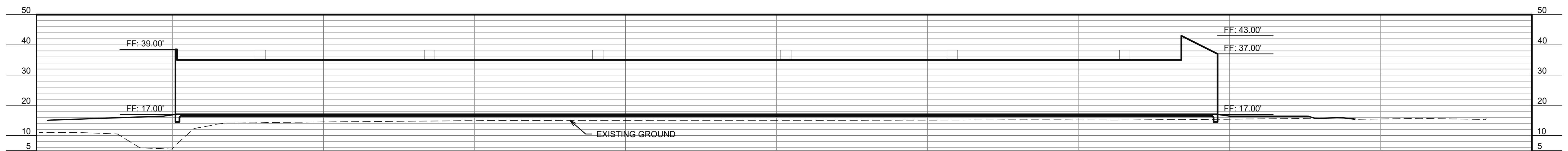
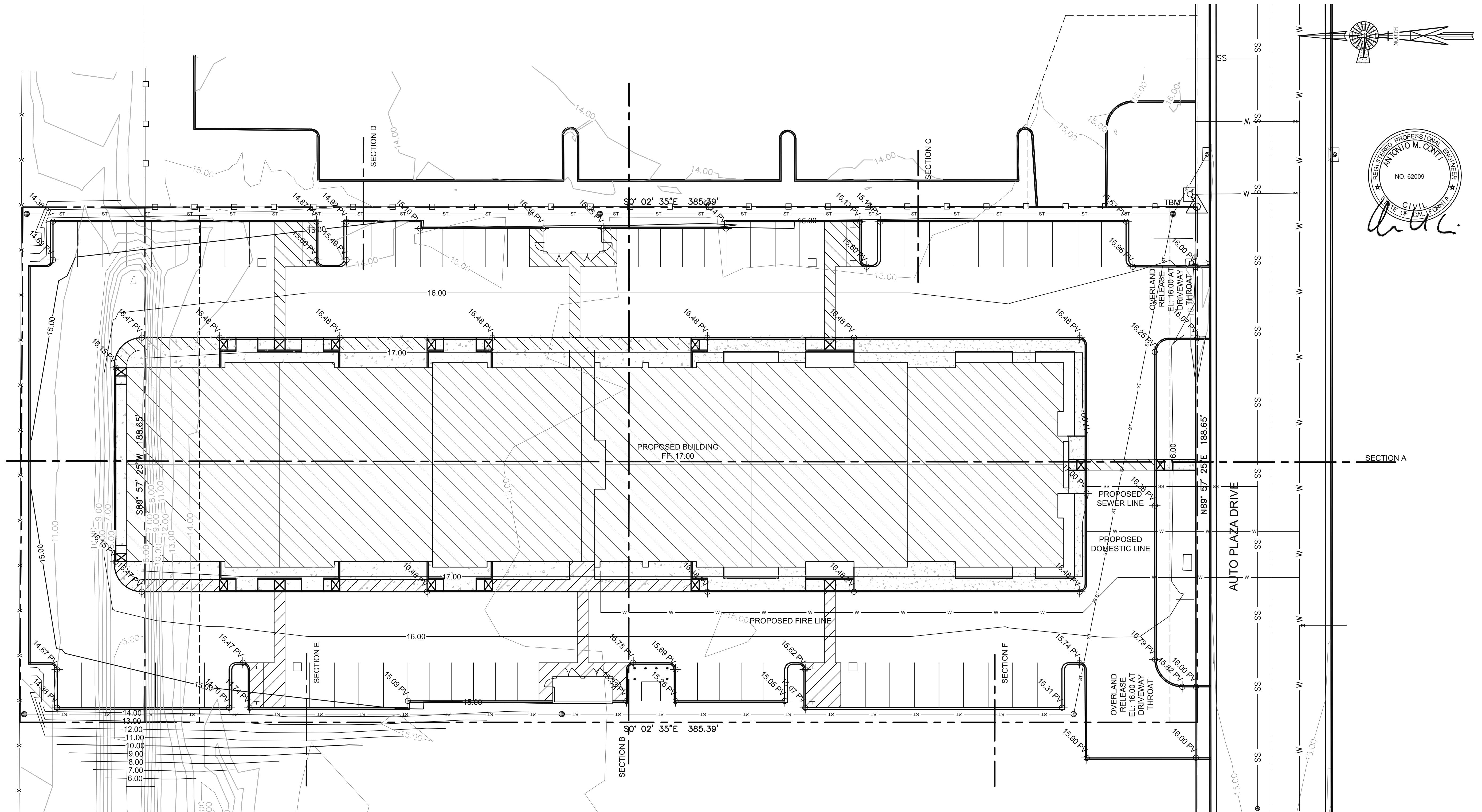
PRELIMINARY GRADING PLAN

CONTI & ASSOCIATES, INC.

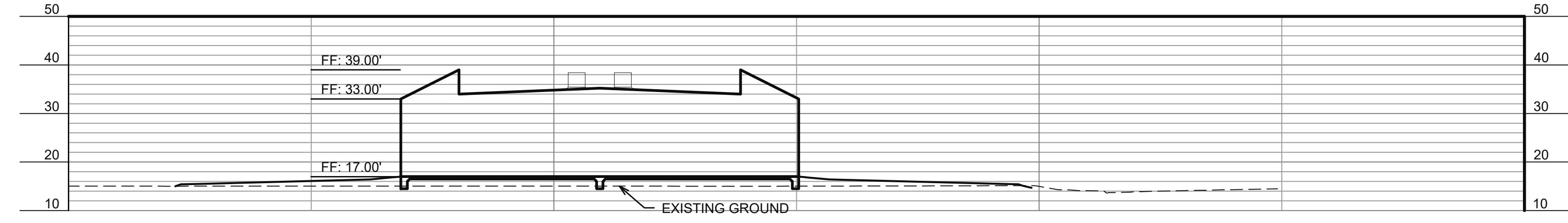
ENGINEERING SERVICES
971 N Covenant View Way, Eagle, ID 833616
209.712.7011 aconti@contieng.com

CONTI & ASSOCIATES, INC.

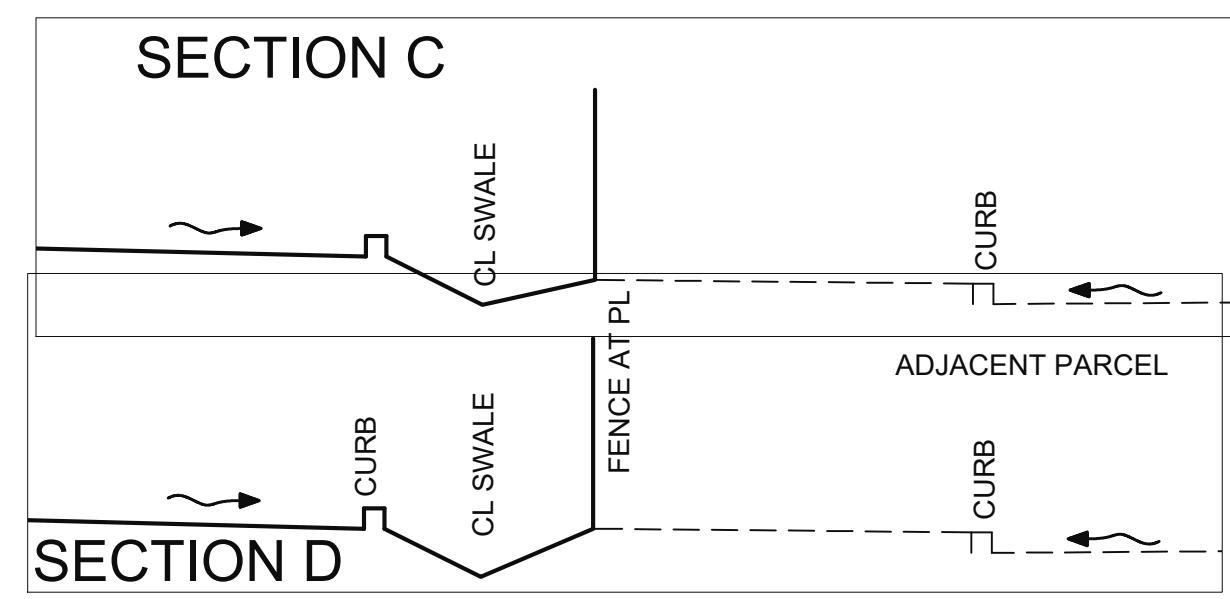
ENGINEERING SERVICES
971 N Covenant View Way, Eagle, ID 833616
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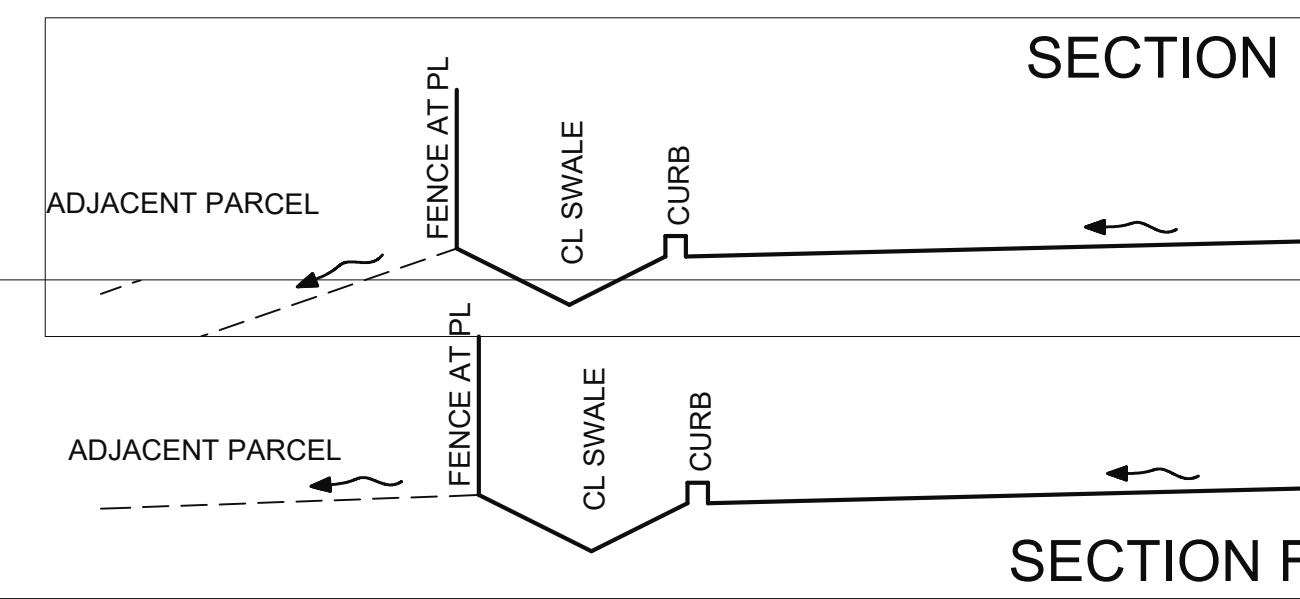
SECTION A



SECTION B



SECTION D



SECTION F

Design
AMC

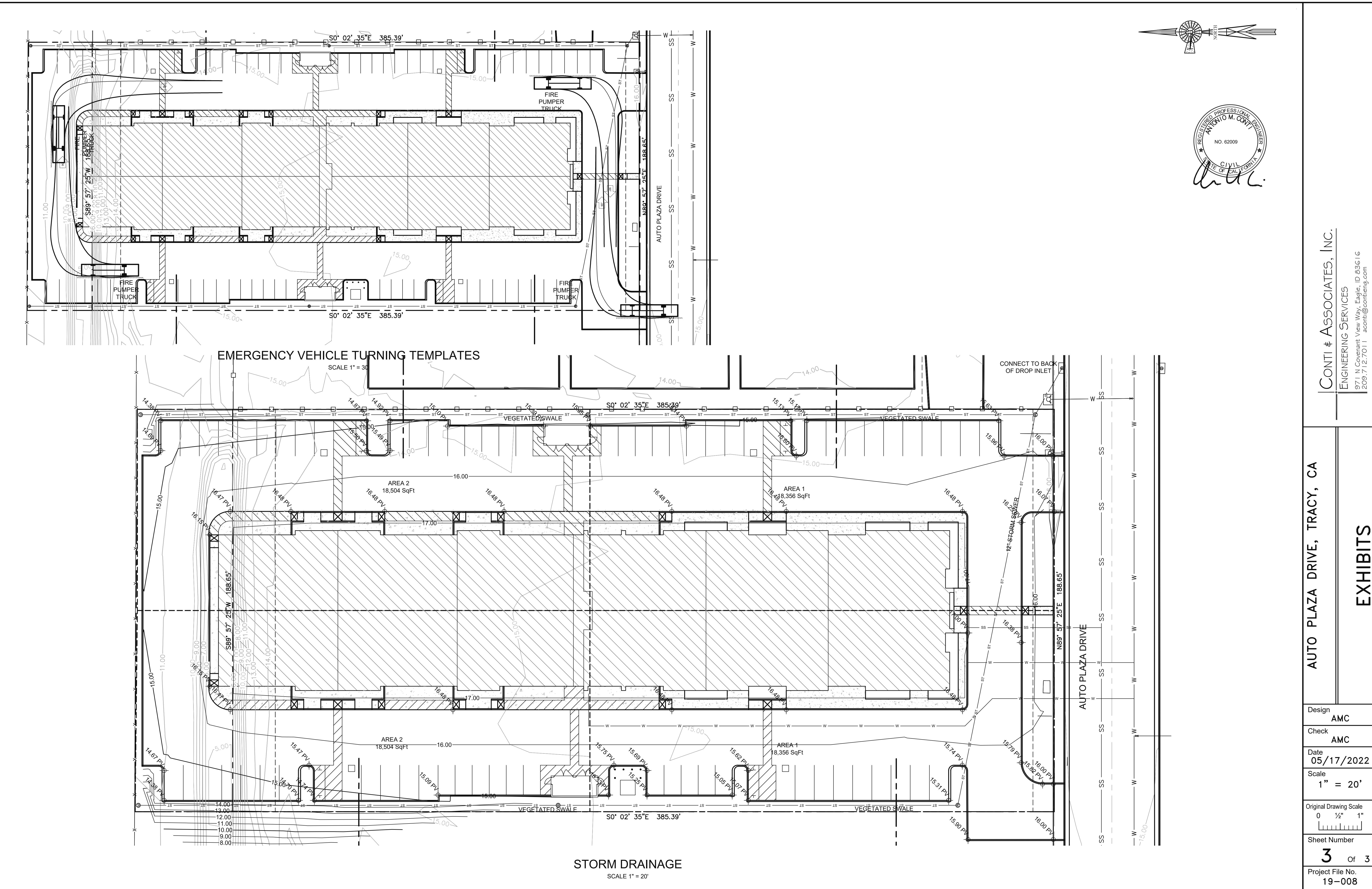
Check
AMC

Date
05/17/2022

E Scale
1" = 20'

Original Drawing Scale
0 $\frac{1}{2}$ " 1"


Sheet Number
2 Of 3
Project File No.
19-008



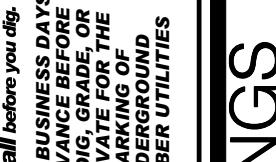


Landdesign
BRECKON

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criminal prosecution.

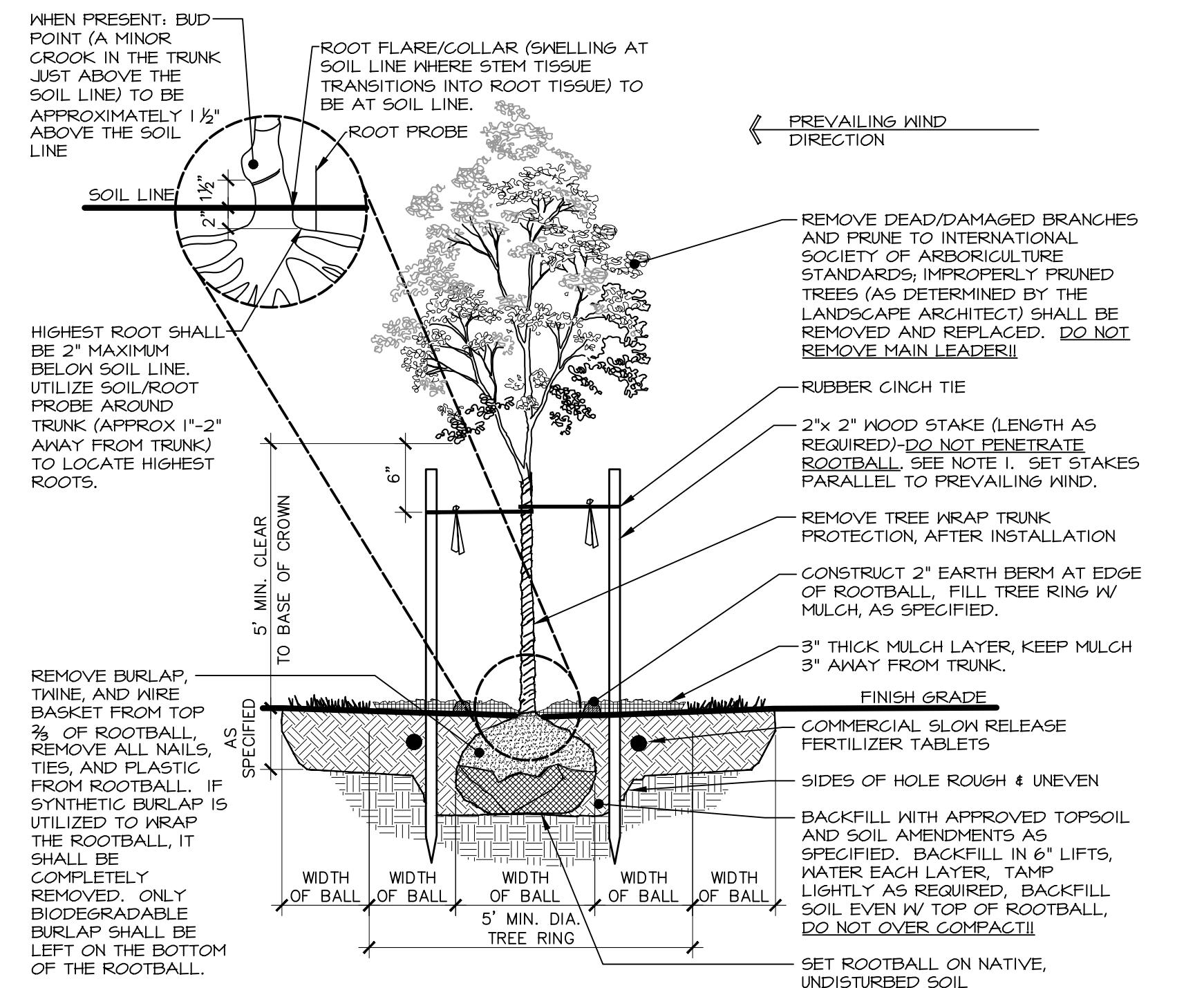
SHELL PLANNED UNIT DEVELOPMENT AUTO PLAZA DRIVE TRACY, CALIFORNIA 95304

PRELIMINARY DRAWINGS



REVISIONS		
No.	Date	Description

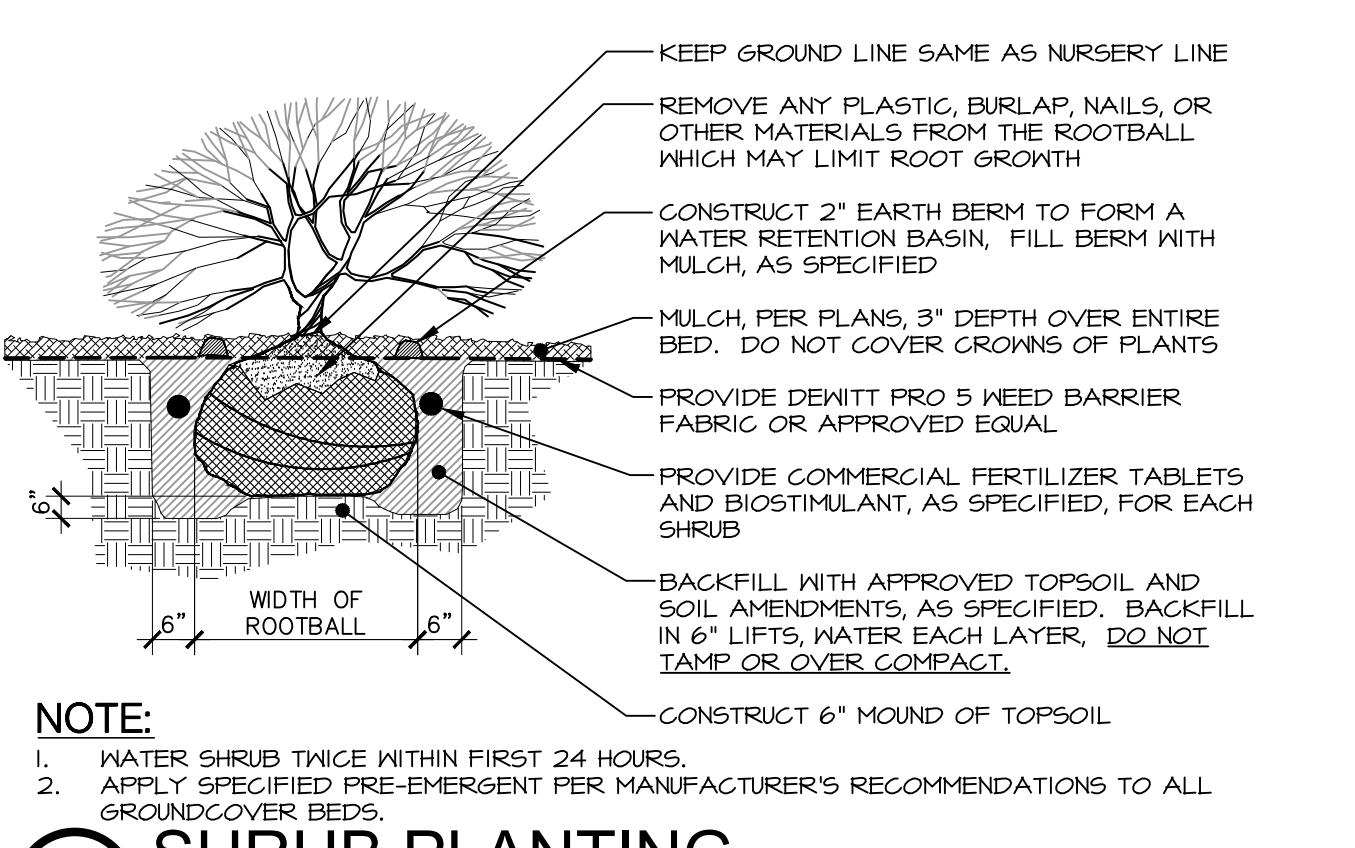
PROJECT NO.: 19028
DRAWN BY: CW
CHECKED BY: JB
DATE: 08/03/2022
SHEET NUMBER: L1.5



NOTES:

1. THE STAKING OF TREES IS TO BE THE CONTRACTOR'S OPTION, HOWEVER, THE CONTRACTOR IS RESPONSIBLE TO INSURE THAT ALL TREES ARE PLANTED STRAIGHT AND THAT THEY REMAIN STRAIGHT FOR LENGTH OF WARRANTY PERIOD OR 1 YEAR AFTER SUBSTANTIAL COMPLETION WHICHEVER IS GREATER. ALL STAKING SHALL BE REMOVED AT THE END OF THE WARRANTY PERIOD.
2. IN THE EVENT OF A QUESTION OR LACK OF CLARITY ON THE DRAWINGS, THE CONTRACTOR IS TO NOTIFY THE LANDSCAPE ARCHITECT BEFORE PROCEEDING.
3. LANDSCAPE CONTRACTOR IS TO NOTIFY THE LANDSCAPE ARCHITECT AND OWNER PRIOR TO INSTALLATION OF ANY MATERIALS.
4. WRAP RUBBER CINCH TIES AROUND THE TREE TRUNKS AND STAKES USING EITHER THE STANDARD OR FIGURE EIGHT TYING METHOD. SECURE THE TIES TO THE STAKES WITH GALVANIZED NAILS TO PREVENT SLIPPAGE.
5. WATER TREE TWICE WITHIN THE FIRST 24 HOURS.
6. IN THE EVENT HARDPAN SOILS PREVENT TREE PLANTING AS DETAILED, NOTIFY THE LANDSCAPE ARCHITECT IMMEDIATELY.
7. FOR TREES LOCATED WITHIN ROADSIDE PLANTERS LESS THAN 8'-0" IN WIDTH, PROVIDE TREE ROOT BARRIER (DEEPROOT #24-2 OR APPROVED EQUAL). LOCATE ROOT BARRIER AT BACK OF CURB AND EDGE OF SIDEWALK. ALL TREE INSTALLATIONS SHALL CONFORM TO ALL AGENCY APPROVAL REQUIREMENTS, CONTRACTOR SHALL VERIFY PRIOR TO ANY INSTALLATIONS.

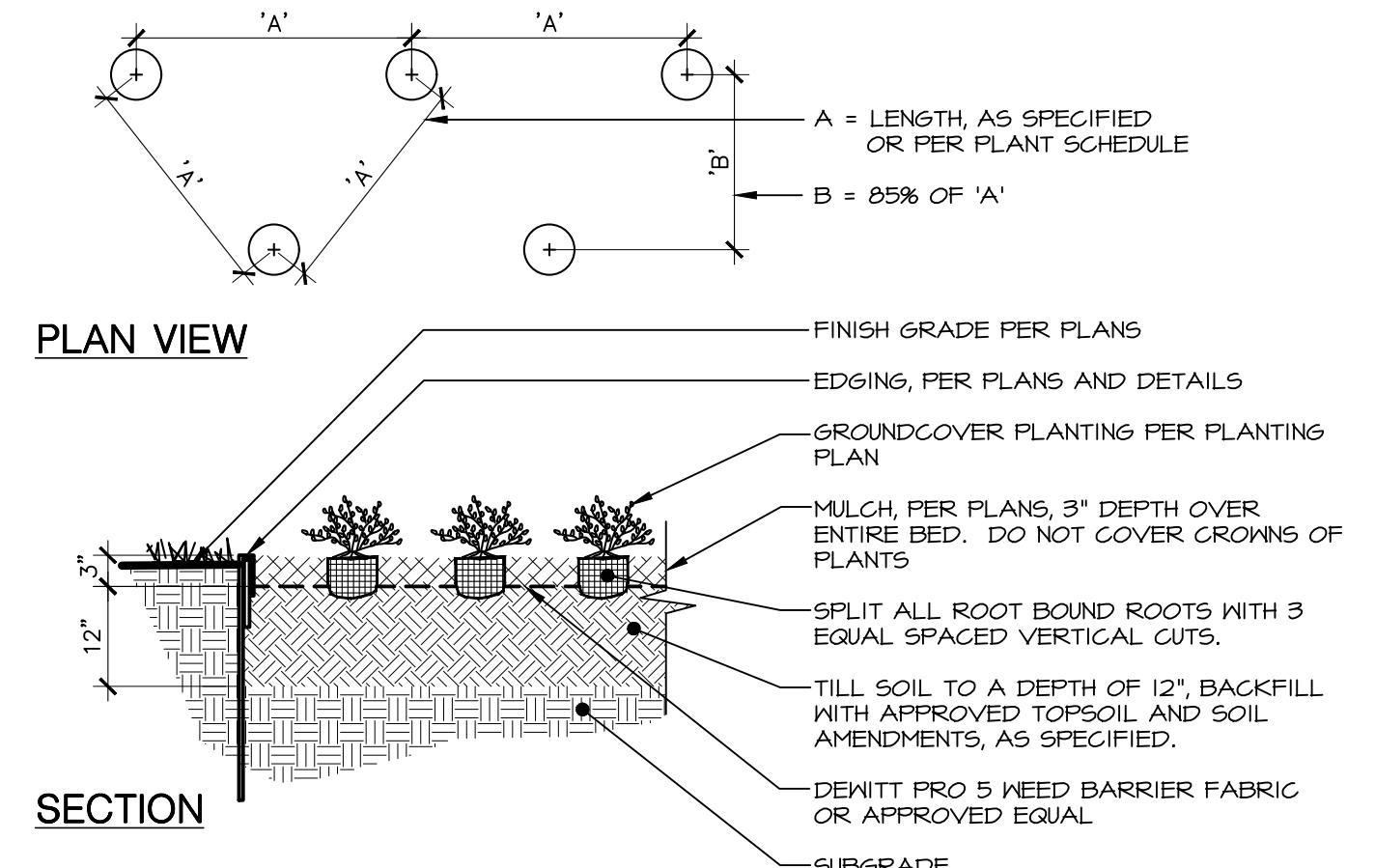
1 DECIDUOUS TREE PLANTING



NOTE:

1. WATER SHRUB TWICE WITHIN FIRST 24 HOURS.
2. APPLY SPECIFIED PRE-EMERGENT PER MANUFACTURER'S RECOMMENDATIONS TO ALL GROUNDCOVER BEDS.

2 SHRUB PLANTING



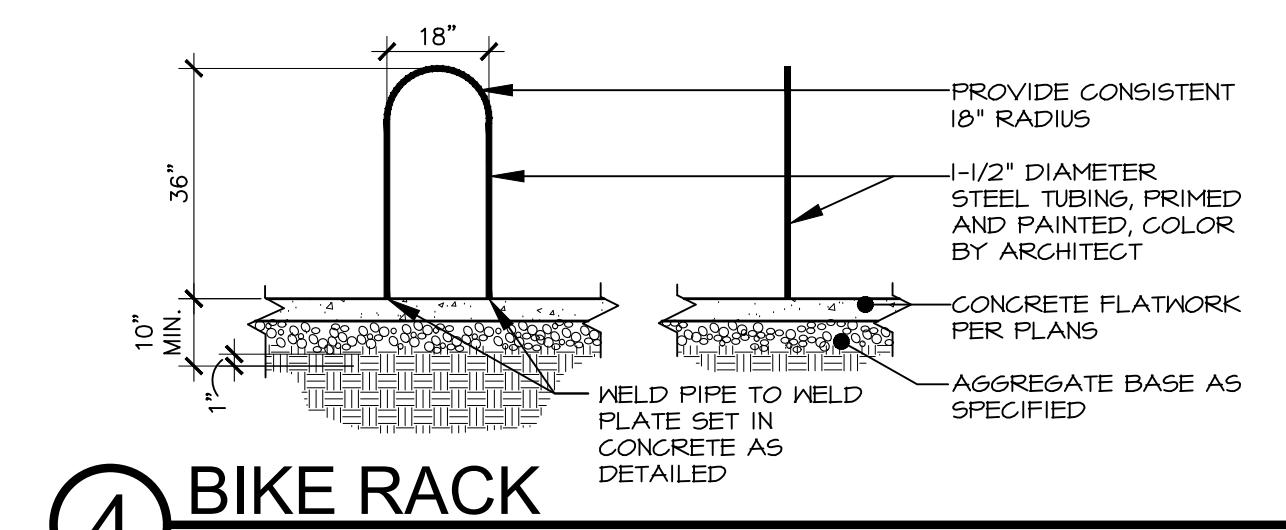
PLAN VIEW

SECTION

NOTES:

1. ALL GROUNDCOVER PLANTS TO BE PLANTED ON CENTER AND IN A TRIANGULAR PATTERN.
2. APPLY SPECIFIED PRE-EMERGENT PER MANUFACTURER'S RECOMMENDATIONS TO ALL GROUNDCOVER BEDS.

3 PERENNIAL & GROUNDCOVER PLANTING



4 BIKE RACK

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION NO. _____

1. APPROVING A DEVELOPMENT REVIEW PERMIT (D19-0021) FOR A NEW MULTI-TENANT BUILDING AND RELATED SITE IMPROVEMENTS LOCATED AT APN 212-270-21 (DIRECTLY WEST OF THE DEPARTMENT OF MOTOR VEHICLES, 2785 AUTO PLAZA DRIVE AND APPROXIMATELY 170 FEET EAST OF POWER ROAD);
2. GRANTING A CONDITIONAL USE PERMIT (CUP21-0003) FOR VEHICLE SERVICE USES ON A VACANT SITE LOCATED AT LOCATED AT APN 212-270-21 (DIRECTLY WEST OF THE DEPARTMENT OF MOTOR VEHICLES, 2785 AUTO PLAZA DRIVE AND APPROXIMATELY 170 FEET EAST OF POWER ROAD);
3. EXTENDING THE TIME PERIOD TO ESTABLISH THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWO YEARS; AND
4. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, The applicant submitted a Development Review Permit application for a new 25,000 square foot, multi-tenant building and a Conditional Use Permit for vehicle service uses on June 6, 2019 and April 1, 2021 respectively; and

WHEREAS, The subject site is designated Commercial in the Tracy General Plan and zoned I-205 Corridor Specific Plan with a land designation of Service Commercial, wherein vehicle service uses are a conditionally permitted use; and

WHEREAS, The Planning Commission can grant a Conditional Use Permit, on the basis of the application and evidence submitted, subject to making all of the requisite findings set forth in TMC Section 10.08.4250; and

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

WHEREAS, the Statement of Findings attached hereto as Attachment C-1 articulates the requisite findings and the evidentiary support for those findings; and

WHEREAS, Conditional Use Permits allow applicants a period of six (6) months to establish the use pursuant TMC Section 10.08.4350; and

WHEREAS, Under TMC 10.08.4360, the Planning Commission may grant extend the period of time for applicants to establish their conditionally permitted uses; and

WHEREAS, The proposed project would benefit from an extended period to establish operations because the site plan is reliant on the fact that eight of the twelve tenant spaces are reserved for vehicle services uses/auto shops, which requirement the applicant cannot meet without a concurrent approval of the conditional use permit; and

WHEREAS, Allowing the Conditional Use Permit the same approval time period as the Development Review Permit would ensure the viability of the project; and

WHEREAS, The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, which pertains to infill development on sites less than 5 acres whose development is consistent with the General Plan and Zoning designations, where all public services and facilities are available and which is not environmentally sensitive; and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the applications on October 26, 2022; now, therefore, be it

RESOLVED: That the Planning Commission of the City of Tracy hereby determines, based on the evidence in the record and its own independent judgment, that the proposed project is categorically exempt from the California Environmental Quality Act pursuant to Guidelines Section 15332 (Infill Development) because the project is characterized as in-fill development and (1) is consistent with the General Plan designation of Commercial and all applicable General Plan policies, as well as consistent with the Service Commercial land designation of the site within the I-205 Corridor Specific Plan and with all applicable zoning regulations, (2) occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses, (3) has no value as habitat for endangered, rare or threatened species, (4) would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (5) can be adequately served by all required utilities and public services; and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the Statement of Findings set forth in Attachment C-1, supporting the approval of a development review permit of a new 25,000 square foot, multi-tenant building, located at APN 212-270-21; and be it

FURTHER RESOLVED: That the Planning Commission, based on the CEQA determination of exemption and the adoption of requisite findings, hereby approves Development Review Permit (D19-0021) for a new 25,000 square foot, multi-tenant building, located at APN 212-270-21 (directly west of the Department of Motor Vehicles, 2785 Auto Plaza Drive and approximately 170 feet east of Power Road); at APN 212-270-21, subject to the Conditions of Approval contained in Attachment D to the staff report and based on the findings in set forth in the Statement of Findings in Attachment C-1; and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the Statement of Findings set forth in Attachment C-1, supporting the grant of a conditional use permit (CUP21-0003) for a vehicle service uses located at APN 212-270-21 (directly west of the Department of Motor Vehicles, 2785 Auto Plaza Drive and approximately 170 feet east of Power Road); at APN 212-270-21.

FURTHER RESOLVED: That the Planning Commission, based upon the CEQA determination of exemption and the adoption of requisite findings, hereby grants a conditional use permit (CUP21-0003) for a vehicle service uses at APN 212-270-21, subject to the Conditions of Approval contained in Attachment D to the staff report; and be it

FURTHER RESOLVED: That the Planning Commission hereby extends the time period to establish the use under CUP21-0003 from six months to two years pursuant to TMC 10.08.4360 and as further described in the Conditions of Approval.

The foregoing Resolution 2022-_____ was adopted by the Planning Commission on October 26, 2022, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

**City of Tracy
Development Review Permit Findings
Application Number D19-0021**

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the façade modification will update the building with decorative entry towers, new paint colors and metal accents, and remove dated and unmatched stone and an orange awning from the building. A red awning and light fixtures over the convenience store entrance will complement the red striping recently installed on the adjacent fueling canopy, and onsite landscaping will be restored and parking spaces restriped to meet City standards.
2. The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes.

**City of Tracy
Conditional Use Permit Findings
Application Number CUP21-0003**

1. There are circumstances applicable to the use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right, because a conditional use permit is necessary for the operation of a cannabis dispensary in the General Highway Commercial zone as required by the Tracy Municipal Code. The proposed project meets the intent of the General Highway Commercial zone and otherwise complies with development regulations of the zone.
2. The proposed location of the use and the conditions under which it would be operated or maintained is in accordance with the objectives of the Tracy Municipal Code Chapter 6.36 and Chapter 10.08. Additionally, the project site is located at least 600 feet away from a parcel containing a school, day care center, or youth center as defined in Chapter 10.08, and the use will be operated wholly indoors. The use is a retail store, which is complementary to the surrounding commercial area.
3. The project will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use, or to the general welfare of the City. The proposed use of a cannabis dispensary will function in a complementary manner to the surrounding retail uses in the vicinity and will comply with City standards. The dispensary will implement all safety and security conditions of approval prepared by the Tracy Police Department.
4. The project is consistent with the zoning, commercial cannabis activity regulations, and other elements of the Tracy Municipal Code the City of Tracy General Plan, the Design Goals and Standards, City Standards, California Building Codes, California Fire Codes, and California cannabis regulations. There will be no odors or similar objectionable impacts to other businesses in the vicinity as all cannabis products will be entirely packaged and stored in accordance with the requirements of Chapter 6.36. The

dispensary will implement odor control to prevent odors from emanating outside the dispensary as outlined in the business's odor control plan.

City of Tracy
Conditions of Approval
Auto Plaza Multi-Tenant Building
Application Numbers D19-0021 and CUP21-0003

A. General Provisions and Definitions.

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

The Project: Auto Plaza Multi-Tenant Building Project, Development Review Permit D19-0021 and Conditional Use Permit CUP21-0003

The Property: APN 212-270-21 located on the north side of Auto Plaza Drive, just east of Power Road.

A.2. Definitions.

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

A.3. Compliance with submitted plans. Prior to the establishment of the use, the project shall be established in substantial compliance with the plans received by the Development Services Department on August 15, 2022 to the satisfaction of the Development Services Director.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all federal, state and local laws, as amended from time to time, related to the development of real property within the Project, including, but not limited to:
 - the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
 - Tracy Municipal Code (TMC) Chapter 10.08 and;
 - the I-205 Corridor Specific Plan
- A.6. Prior to construction, the applicant shall submit construction documents which meet the requirements of the California Building and Fire Codes and the Tracy Municipal Code to the City of Tracy and the South San Joaquin County Fire Authority for review, approval and inspections.
- A.7. This conditional use permit shall expire two years following the date on which the use permit became effective unless, prior to the expiration of two years, the use is established in accordance with this use permit, or a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application.

B. Development Services Department, Planning Division Conditions

Contact: Genevieve Federighi (209) 831-6435 genevieve.federighi@cityoftracy.org

- B.1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, *et seq.*), the Subdivision Map Act (Government Code sections 66410, *et seq.*), the California Environmental Quality Act (Public Resources Code sections 21000, *et seq.*, "CEQA"), and the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 15000, *et seq.*, "CEQA Guidelines").
- B.2. Unless specifically modified by these Conditions of Approval, the Project shall comply with all City Regulations.
- B.3. 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.
- B.4. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
- B.5. Except as otherwise modified herein, all construction shall be consistent with the plans received by the Development Services Department on August 15, 2022.
- B.6. 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, to the satisfaction of the Development Services Director; and with the applicable Department of Water Resources Model Efficient Landscape Ordinance to the satisfaction of the Utilities Director. Said landscape plans shall include documentation which demonstrates there is no less than 20 percent of the parking area in landscaping, 40 percent canopy tree coverage at tree maturity, and canopy shade trees shall be included and evenly distributed throughout the landscape strip along the public right-of-way where compatible with the bio-retention function and in coordination with the location of street trees, 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.
- B.7. Where landscape planters are parallel and adjacent to vehicular parking spaces, the planter areas shall incorporate a 12-inch wide concrete curb along their perimeter that is adjacent to the sides of the parking space in order to allow access to vehicles without stepping into landscape planters.

- B.8. 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 following Project occupancy. 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.
- B.9. No roof mounted equipment, including, but not limited to, HVAC units, fans, antennas, and dishes whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from Auto Plaza Drive, Power Drive, or any other public right-of-way. All roof-mounted equipment shall be screened from view from the public rights-of-way by the exterior parapet walls, to the satisfaction of the Development Services Director.
- B.10. 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.
- B.11. Prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way, to the satisfaction of the Development Services Director.
- B.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.
- B.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.
- B.14. Trash enclosure(s) shall be at least seven feet tall, of masonry construction, with solid metal doors, and exterior colors and materials to match the building exterior to the satisfaction of the Development Services Director. Prior to the issuance of a building permit, the developer shall demonstrate that the trash enclosure contains sufficient space and access for recycled material in accordance with State law and local standards to the satisfaction of the Public Works Director.
- B.15. No signs are approved as part of this development application. 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 the I-205 Corridor Specific Plan.

B.16. Prior to the issuance of a building permit, the developer shall document compliance with the City of Tracy June 2015 Multi-Agency Post Construction Stormwater Standards Manual to the satisfaction of the Utilities Director, which includes submittal of site design and source and treatment controls along with hydromodification. 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 and compliance with Tracy Municipal Code Chapter 11.34 and the California Green Building Standards Code, Chapter 5.

B.17. Prior to issuance of a grading or building permit, the applicant shall submit a Department of Water Resources Model Efficient Landscape Ordinance (MWELO) Project Information Sheet prepared in compliance with City standards to the Utilities Director. The submittal must show compliance with the MWELO by choosing either the Prescriptive or Performance Approach through inclusion in submitted plans and documents. The submittal shall demonstrate compliance with Tracy Municipal Code Chapter 11.28 and California Green Building Standards Chapter 5.

B.18. The project shall comply with all applicable provisions of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, including Incidental Take Minimization Measures applicable at the time of permit and a pre-construction survey prior to ground disturbance, to the satisfaction of San Joaquin Council of Governments..

B.19. All parking spaces and drive aisles shall meet the minimum dimensional requirements of the City of Tracy Standard Plan 154. Two-way drive aisles serving 90-degree parking spaces shall be at least 26 feet wide and 90-degree parking spaces shall be at least nine feet wide by 18.5 feet long. Planters or sidewalks at the head of parking spaces may be constructed two feet into the front of parking spaces. Such two-foot overhang of landscape planters into the head of parking spaces is not included in the minimum area of required landscaping.

B.20. Consistent with General Plan Noise Element Policy 4 (Goal N-1.2), all construction activity producing any noise beyond the site's property line shall not occur after 7:00 p.m. or before 7:00 a.m.

B.21. Prior to the issuance of a building permit, the applicant shall submit detailed plans that demonstrate a minimum of one foot candle throughout the parking area as defined in TMC Section 10.08.3450.

B.22. Prior to final inspection or certificate of occupancy, 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.

B.23 Prior to the issuance of a building permit, the developer shall cause to be recorded a lot line adjustment, lot merger, or other instrument to remove the lot line bisecting the project site (between APNs 212-270-35 and 212-270-21) to the satisfaction of

the Development Services Director.

C. Development Services Department, Engineering Conditions of Approval

Contact: Al Gali (209) 831-6436 al.gali@cityoftracy.org

C.1. Grading Permit

The City will not accept grading permit application for the Project as complete until the Developer has provided all relevant 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.1.1. Grading and Drainage Plans prepared on a 24" x 36" size polyester film (mylar). Grading and Drainage Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil Engineer.
- C.1.2. 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.1.3. Three (3) sets of the Storm Water Pollution Prevention Plan (SWPPP) for the Project with a copy of the Notice of Intent (NOI) submitted to the State Water Quality Control Board (SWQCB) and any relevant documentation or written approvals from the SWQCB, including the Wastewater Discharge Identification Number (WDID#).
 - C.1.3.a. After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB. The Developer shall provide the City with a copy of the completed Notice of Termination.
 - C.1.3.b. The cost of preparing the SWPPP, NOI and NOT, including the filing fee of the NOI and NOT, shall be paid by the Developer.
 - C.1.3.c. The Developer shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the applicable provisions of the City's Storm Water Management Program.
- C.1.4. Two (2) sets of the Project's Geotechnical Report signed and stamped by a licensed Geotechnical Engineer licensed to practice in the State of California, as required in Condition C.3.1.a (i) below. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, percolation rate, and elevation of the highest observed groundwater level.
- C.1.5. A copy of the approved Fugitive Dust and Emissions Control Plan that meets San Joaquin Valley Air Pollution Control District (SJVAPCD)
- C.1.6. Documentation of any necessary authorizations from Regional Water Quality Control Board (RWQCB)

C.1.7. Two (2) sets of Hydrologic and Storm Drainage Calculations for the design of the on-site storm drainage system and for determining the size of the project's storm drainage connection, as required in Conditions C.3.1.b (i) below.

C.2 Encroachment Permit

No application for encroachment permit will be accepted by the City as complete until the Developer provides all relevant documents related to said encroachment 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.2.1. Improvement Plans prepared on a 24" x 36" size 4-mil thick polyester film (Mylar) and these Conditions of Approval. 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.

C.2.2 Two (2) sets of structural calculations signed and stamped by a Structural Engineer licensed in the State of California, as required in Condition C.3.1.a (ii), below.

C.2.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans.

C.2.4. If required, a signed and notarized Offsite Improvement Agreement (OIA) and Improvement Security, to guarantee completion of the identified public improvements that are necessary to serve the Project as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with Section 12.36.080 of the Tracy Municipal Code (TMC), and the OIA. The Developer's obligations in the OIA shall be deemed to be satisfied upon City Council's acceptance of the public improvements and release of the Improvement Security.

C.2.5. Check payment for the applicable engineering review fees which include plan checking, permit and agreement processing, testing, construction inspection, and other applicable fees as required by these Conditions of Approval. The engineering review fees will be calculated based on the fee rate adopted by the City Council on May 16, 2017, per Resolution 2017-098.

C.2.6. Traffic Control Plan signed and stamped by a Registered Traffic Engineer and Tracy's Fire Marshall's signature on the Utility Improvement Plans indicating their approval for the Project's fire service connection and fire and emergency vehicle access. The written approval from the Fire Department required in this section shall be obtained by the Developer, prior to City Engineer's signature on the improvement plans.

C.3. Improvement Plans

Improvement Plans shall contain the design, construction details and specifications of public improvements that is/are necessary to serve the Project. The Improvement Plans shall be drawn on a 24" x 36" size 4-mil thick polyester film (Mylar) and 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. The Improvement Plans shall be completed to comply with City Regulations, these Conditions of Approval, and the following requirements:

C.3.1. Grading and Storm Drainage Plans

C.3.1.a. Site Grading

- (i) Include all proposed erosion control methods and construction details to be employed and specify materials to be used. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Geotechnical Engineer. A copy of the Project's Geotechnical Report must be submitted with the Grading and Storm Drainage Plans.
- (ii) When the grade differential between the Project Site and adjacent property(s) exceeds 12 inches, a reinforced or masonry block, or engineered retaining wall is required for retaining soil. The Grading Plan shall show construction detail(s) of the retaining wall or masonry wall. The entire retaining wall and footing shall be constructed within the Project Site. A structural calculation shall be submitted with the Grading and Storm Drainage Plans.
- (iii) An engineered fill may be accepted as a substitute of a retaining wall, if the grade differential is less than 2 feet and subject to approval by the City Engineer. The Grading and Storm Drainage Plans must show the extent of the slope easement(s). The Developer shall be responsible for obtaining permission from owner(s) of the adjacent and affected property(s). The slope easement must be recorded, prior to the issuance of the final building certificate of occupancy.
- (iv) Site grading shall be designed such that the Project's storm water can surface drain directly to a public street that has a functional storm drainage system with adequate capacity to drain storm water from the Project Site, in the event that the on-site storm drainage system fails or it is clogged. The storm drainage release point is recommended to be at least 0.70 foot lower than the building finish floor elevation and shall be improved to the satisfaction of the City Engineer.

C.3.1.b. Storm Drainage

- (i) The Developer shall design and install the Project's permanent drainage connection(s) to the City's existing storm drainage facility located on Auto Plaza Drive per City Regulations and as approved by the City Engineer. Storm drainage calculations

for the sizing of the on-site storm drainage system must be submitted with the Improvement Plans.

- (ii) The proposed development intends to use a LID vegetated swale. The Developer shall install on-site storm drainage system with catch basin(s) or field inlet(s) and shall ensure the size of the storm drain is properly sized and has adequate flow capacity to handle storm run-offs from the property. The site shall be graded and improved in such a way that storm run-offs will drain to on-site catch basin(s) or field inlet(s). 12" Storm drain line to be connected to Back of Drop inlet on Auto Plaza Drive. The storm drainage connection shall drain by gravity.
- (iii) The design and construction details of the Project's storm drainage connection shall meet City Regulations and shall comply with the applicable requirements of the Multi-Agency Post-Construction Stormwater Standards Manual, dated June 2015, and any subsequent amendments.
- (iv) Prior to the final inspection of the first building to be constructed on the Property, the Developer shall submit a signed and notarized Stormwater Treatment Facilities Maintenance Agreement (STFMA) as a guarantee for the performance of Developer's responsibility towards the repair and maintenance of on-site storm water treatment facilities. Calculations related to the design and sizing of on-site storm water treatment facilities must be submitted with the STFMA and the Grading and Storm Drainage Plans.
- (v) 20' Private Storm Drain Easement located at the northern portion of the Property shall be abandoned.

C.3.2. Sanitary Sewer

C.3.2.a. The Developer will be required to design and install sanitary sewer lateral and cleanout to connect to existing sewer line in Autoplaza drive per City Regulations. The property owner or developer shall be responsible to ensure that proposed sanitary sewer lateral is properly sized and has adequate flow capacity to carry sewage flows from the Project to the city's sanitary sewer main. The City will accept responsibility for the maintenance of the sanitary sewer lateral, if the sanitary sewer cleanout is installed at the proper location or at the location specified in City Standard Plan No 202.

C3.2.b. The Developer shall overlay street pavement for all utility trench cuts as required in Condition C.3.7 below.

C.3.3. Water

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, relocating existing utilities that may be in conflict with the water connection(s), and other improvements shall be paid by the Developer.

If water main shut down is necessary, the City will allow a maximum of 4 hours water supply shutdown. The Developer shall be responsible for notifying residents or business owner(s), regarding the water main shutdown. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least 72 hours before the water main shutdown. Prior to starting the work described in this section, the Developer shall submit a Water Shutdown Plan and Traffic Control Plan to be used during the installation for approval by the City.

C.3.3.a. Domestic and Irrigation Water Services: The Developer shall design and install domestic and irrigation water service connection, including a remote-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 final inspection of the building.

The City shall maintain water lines from the water meter to the point of connection with the water distribution main (inclusive) only. Repair and maintenance of all on-site water lines, laterals, sub-meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer.

C.3.3.b. Fire Service Line: The Developer shall design and install fire hydrants at the locations approved by the City's Fire Safety Officer and Chief Building Official. Prior to the approval of the Improvement Plans, the Developer shall obtain written approval from the City's Fire Safety Officer and Chief Building Official, 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 to serve the Project.

C3.3.c. the Developer shall overlay street pavement for all utility trench cuts as required in Condition C.3.7 below.

C.3.4. Street Improvements

C.3.4.a. Frontage Improvements on Auto Plaza Drive: The Developer shall design and install improvements on Auto Plaza Drive which shall include replacement of damaged or disturbed curb, gutter and sidewalk, installation of driveways, storm drains, manholes and other improvements as determined by the City Engineer. Developer shall design and install landscape improvements with automatic irrigation system behind the sidewalk. In addition, the Developer shall overlay street pavement for all utility trench cuts as required in Condition C.3.7 below.

C.3.4.b. All roadway improvements described in these Conditions of Approval must be designed and constructed by the Developer to

meet the applicable requirements of the latest edition of the California Department of Transportation Highway Design Manual (HDM) and the California Manual of Uniform Traffic Control Devices (MUTCD), all applicable City Regulations, and these Conditions of Approval, prior to final inspection of the first building to be constructed within the Property.

C.3.4.c. Developer shall record joint/mutual access easement on the portion of westerly driveway that encroaches onto the adjacent parcel (APN 212-270-20) for joint access.

C.3.5. Traffic Control Plan

The Developer shall submit a Traffic Control Plan, to show the method and type of construction signs to be used for regulating traffic at the work areas within Auto Plaza Drive. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.

C.3.6. Joint Utility Trench Plans

Developer shall prepare joint trench plans in compliance with utility companies' requirements and City regulations and obtain approval of the plans. All private utility services to serve Project such as electric, telephone and cable TV to the building must be installed underground, and to be installed at the location approved by the respective owner(s) of the utilities.

C.3.7. Pavement cuts or utility trench(s) on existing street(s) for the installation of water distribution main, storm drain, sewer line, electric, gas, cable TV, and telephone will require the application of 2" asphalt concrete overlay and replacement of pavement striping and marking that are disturbed during construction. The limits of asphalt concrete overlay shall be 25 feet from both sides of the trench, and shall extend over the entire width of the adjacent travel lane(s) if pavement excavation encroaches to the adjacent travel lane or up to the street centerline or the median curb. If the utility trench extends beyond the street centerline, the asphalt concrete overlay shall be applied over the entire width of the street (to the lip of gutter or edge of pavement, whichever applies).

C.4. Building Permit

No building permit 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.4.1. Payment of the San Joaquin County Facilities Fees as required in Chapter 13.24 of the TMC, and these Conditions of Approval.
- C.4.2. Payment of the Agricultural Conversion or Mitigation Fee as required in Chapter 13.28 of the TMC, and these Conditions of Approval.
- C.4.3. Payment of the Regional Transportation Impact Fees (RTIF) as required in Chapter 13.32 of the TMC, and these Conditions of Approval.

- C.4.4. The Project is within The Core Fee Program. Payment of applicable development impact fees (a.k.a. capital in-lieu fees) as specified in the Core Fee Program including the Swainson Hawk Mitigation Fee and all fees in these Conditions of Approval.
- C.4.5. The Developer shall also pay to the City the Project's fair share of the cost of the Non-program Streets and Non-program Traffic Signals within the I-205 Specific Plan Area in accordance with I-205 North Roadway Funding Study approved by the City.
- C.4.6. All fees shall be calculated based on the total site area (shown as 1.85 acres) and total building area (shown as 25,000 sf) on the Preliminary/Final Development Plan dated 06/15/2022 which includes the public property acquisition outlined in Condition C.10.4 below.

C.5. Acceptance of Public Improvements

Public improvements will not be accepted by the City Council until after the Developer completes construction of the relevant public improvements, and also demonstrates to the City Engineer satisfactory completion of the following:

- C.5.1. Correction of all items listed in the deficiency report prepared by the assigned Engineering Inspector relating to public improvements subject to City Council's acceptance.
- C.5.2. Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City shall temporarily release the originals 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.6. Temporary or Final Building Certificate of Occupancy

No Temporary or Final Building Certificate of Occupancy will be issued by the City until after the Developer provides reasonable documentation which demonstrates, to the satisfaction of the City Engineer, that:

- C.6.1. The Developer has satisfied all the requirements set forth in Condition C.5, above.
- C.6.2. The Developer has completed construction of all required public facilities for the building for which a certificate of occupancy is requested and all the improvements required in these Conditions of Approval. 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. Improvement Security

The Developer shall provide improvement security for all public facilities, as required by the OIA and these Conditions of Approval. The form of the improvement security may be a surety bond, letter of credit or other form in accordance with section 12.36.080 of the TMC. The amount of improvement security shall be as follows:

- C.7.1. Faithful Performance (100% of the estimated cost of constructing the public facilities),
- C.7.2. Labor & Materials (100% of the estimated cost of constructing the public facilities), and
- C.7.3. Warranty (10% of the estimated cost of constructing the public facilities)

C.8. Release of Improvement Security

Improvement Security(s) described herein shall be released to the Developer after City Council's acceptance of public improvements, and after the Developer demonstrates, to the satisfaction of the City Engineer, compliance of these Conditions of Approval, and completion of the following:

- C.8.1. Improvement Security for Faithful Performance, Labor & Materials, and Warranty shall be released to the Developer in accordance with Section 12.36.080 of the TMC.
- C.8.2. Written request from the Developer and a copy of the recorded Notice of Completion.

C.9. Benefit District

The Developer may make a written request to the City for the formation of a Benefit District, prior to the approval of improvement plans for the public facility(s) considered to be oversized that benefits other property(s) or development(s). Reimbursement request(s) will be processed in accordance with Chapter 12.60 of the TMC.

C.10. Special Conditions

- C.10.1. The Developer shall comply with all applicable requirements of the I-205 Corridor Specific Plan, approved by the City Council on August 21, 1990, pursuant to Resolution No. 90-328, and the I-205 Corridor Specific Plan Amendment, approved by the City Council on July 6, 1999, pursuant to Resolution No. 99-240.
- C.10.2. All streets and utilities improvements within City's right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design documents including the City's Facilities Master Plan for storm drainage, roadway, wastewater and water adopted by the City, or as otherwise specifically approved by the City.
- C.10.3. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Developer shall be responsible for all costs associated with the

abandonment or removal of the existing well(s) including the cost of permit(s) and inspection. The 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.10.4. The Developer shall accomplish acquisition of the approximately 42' wide strip of land adjacent to the northerly property boundary from the City, and record Grant Deeds with the County Recorder's Office.
- C.10.5. The 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.10.6. 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 Grading Permit, Encroachment Permit, Building Permit, Improvement Plans, OIA, and DIA, 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 design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

D. Development Services Department, Building Division Conditions

Contact: Jesse Canright (209) 831-6412 jesse.canright@cityoftracy.org

D.1. At time of Building Permit Submittal, applicant to include Title 9 for Building Division Regulations as referenced code.

D.2. Proposed site is located in flood zones. At time of building permit submittal and grading permit submittal, applicant to show compliance with City of Tracy Municipal code 9.52.150, which requires the finished floor to be 1 foot above the base flood level. The property is also located in the 200 year flood plain, which requires providing a study that demonstrates design will meet the Urban Level of Flood Protection. See definitions of City of Tracy Municipal Code and 9.52.060(b)(4)(ii). All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities which are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. TMC 9.52.

D.3. At building permit, a sand and oil separator maybe required for the repair garage. CPC 1016.0 At building permit, a gravity interceptor or hydromechanical grease interceptors for food retail locations. CPC 1014

D.4. At time of grading permit submittal and building permit submittal, applicant to clarify if private storm drain easement will be abandoned.

D.5. Per Municipal Code 9.52.200, per sheet 13 engineered fill is placed within the property, certification by a registered professional engineer or architect is required to demonstrate that the encroachment shall not result in any increase in flood levels during the occurrence of base flood discharge. At time of grading permit submittal, applicant to indicate method of mitigation such as permanent retention basin if intending to provide engineered fill. By filling in the existing private storm drain easement, you will be displacing the flood waters and require method of mitigation.

D.6. At time of building permit submittal, applicant to clarify location of water pretreatment methods per CPC chapter 10, clarify compliance with addressing requirements as per City of Tracy Municipal Code 9.40.050, indicate of there will be any storage of hazardous materials and provide hazardous materials inventory report by a qualified individual to justify quantity, clarify a continuous accessible path of travel to all facilities and justify building area based on construction type and occupancy as per CBC Table 506.2, CBC 508 and show any rated wall and wall assemblies as per CBC 706. At time of building permit submittal, applicant to justify building area based on construction type and occupancy as per CBC Table 506.2, CBC 508 and show any rated wall and wall assemblies as per CBC 706.

D.7. At time of building permit submittal, applicant to provide appropriate plumbing fixtures as per CPC Chapter 4 for minimum plumbing facilities based on occupancy of suites. Currently, the proposed lease areas indicate single user restrooms. However, based on the tenant layout and occupancy types, the area may require additional plumbing facilities and fixtures to support type of occupancy.

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

Contact: Karin Schnaider (209) 831-6841 karin.schnaider@cityoftracy.org

E.1 Streets and Streetlights

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

- a. Community Facilities District (CFD). Developer shall enter into an agreement with the City, to be signed by the Finance Director, which shall be recorded against

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

Or

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

Or

- c. Direct funding. Developer shall enter into an agreement with the City, which shall be recorded against the Property, which requires that prior to approval of final inspection, Developer shall deposit with the City an amount necessary, as

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

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

E.2. Landscaping Maintenance

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

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

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, the Developer must do the following:

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

Or

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

October 26, 2022

Agenda Item 1.B

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION RECEIVE AN INFORMATIONAL REPORT REGARDING STATE LAW CHANGES TO THE PERMITTING OF ACCESSORY DWELLING UNITS AND PROVIDE DIRECTION REGARDING PROPOSED AMENDMENTS TO THE CITY'S ACCESSORY DWELLING UNIT REGULATIONS TO BETTER ALIGN WITH STATE LAW CHANGES

EXECUTIVE SUMMARY

City regulations regarding Accessory Dwelling Units (ADUs) were last updated in 2018. Since then, changes to State law have been enacted which affect or are now inconsistent with some of the City's regulations. This agenda item is to discuss proposed updates to the City's ADU regulations in response to State law changes and to help encourage the production of ADUs.

BACKGROUND AND LEGISLATIVE HISTORY

An Accessory Dwelling Unit (ADU) is a residential dwelling on the same lot as a single-family home. It may be attached to or detached from the single-family home. An ADU contains complete, independent living facilities (kitchen, bathroom(s), bedroom(s)) for one or more persons and is limited in size to a maximum of 1,200 square feet, if detached from the primary unit, and 30 percent of the living area of the primary unit if attached. A Junior Accessory Dwelling Unit (JADU) is an ADU of 500 square feet or less and, in accordance with State law, must be contained within the walls of the primary dwelling unit or attached garage of the primary dwelling.

Tracy Municipal Code (TMC) Section 10.08.3180 (Attachment A) contains Tracy's existing regulations for ADUs in Tracy and incorporates State law requirements enacted through 2018. Attachment A also contains the TMC's existing definition of an ADU (codified in TMC Section 10.08.052).

State legislation enacted since 2018 has modified requirements for ADUs. Such legislation includes AB 3182, AB 68, AB 881, SB 13, AB 587, AB 670, and AB 671. This legislation amended Government Code 65852.2 and 65852.22 which impose limits on a City's ability to regulate ADUs and JADUs. The intent of the State legislature has been to remove regulatory barriers, reduce costs, streamline the approval process, and expand the potential capacity for ADUs.

Importantly, State law regarding ADUs is in effect whether or not a City has a local ordinance, or if that ordinance is inconsistent with State requirements.

ANALYSIS

Cities in California are not required to have their own ADU regulations but may adopt them in order to establish standards more lenient than State requirements or to clarify ADU standards. The value of establishing and maintaining a local ADU ordinance in Tracy is to provide clear

standards for residents, property owners, developers, and City staff.

The proposed regulations include clarifying details regarding parking, setbacks, distance between structures, and other items.

Attachment B contains a draft TMC section to replace the City's existing ADU development standards.

Following is a summary of existing (Attachment A) and proposed (Attachment B) ADU development standards:

Current and Proposed ADU Standards

Development Standard	Existing TMC Standard	Proposed TMC Standard
Where Allowed	Residential Zones	Unchanged
Maximum Number of ADUs per Lot	One ADU per lot containing a single-family home	<ul style="list-style-type: none">-One ADU per lot with a single-family home and up to one JADU-On multifamily lots:<ul style="list-style-type: none">-up to 25% of the number of primary units when non-habitable building area is converted to an ADU; and-up to two detached ADUs
ADU Size	If detached, up to 1,200 square feet; if attached, up to 50% of primary dwelling size	Unchanged
Height	Same as the zone district, typically 45 feet max	16 feet limit within the zone's normal side or rear setback area; and as allowed for any structure in the zone outside of normal setback area, typically 45 feet
Lot Coverage	As prescribed in the zone district, typically 45% max	50% of the lot, except a "Statewide Exemption ADU" has no max lot coverage or open space requirement.
Setbacks	Meet setbacks of zone	Minimum 4 feet to side and rear property lines; must meet front yard setback
Distance between ADU and Primary Dwelling	6 feet minimum	4 feet minimum
Junior ADU	No separate category for JADU	Includes separate category for a JADU: must be constructed within the walls of the Primary Dwelling on a single-family home lot
Parking	One parking space required	No parking spaces required for ADUs

	unless the lot is w/in one-half mile of a bus stop, a car share vehicle stop is w/in one block, or existing living area is converted to an ADU; off-street parking lost due to garage conversion does not need to be replaced	or JADUs; off-street parking lost due to garage conversion does not need to be replaced
Landscaping requirements on multifamily sites	ADUs not allowed on multifamily sites	The amount of required landscaping (up to 20% of the parking area) may not be reduced to less than the minimum required by the TMC
Duration of Tenancy	No explicit requirement	Shall be longer than 30 days
California Building Code	Shall be consistent with CBC	Unchanged

FISCAL IMPACT

This agenda item does not request any expenditure of funds. City consultant costs to help prepare these regulations are paid by an SB 2 Planning Grant received by the State through the State Department of Housing and Community Development. City staff time to work on this project is included in the City's 2022/2023 Fiscal Year Budget.

COORDINATION

Notice of this Planning Commission meeting regarding proposed changes to the City's ADU regulations was sent to local contractors, property owners, designers, and others who have developed or otherwise expressed interest in ADUs. This notice will be republished once a Planning Commission meeting date is finalized.

FOLLOW-UP

Following Planning Commission review and feedback regarding proposed ADU regulation changes, City staff will schedule a public hearing for the Planning Commission to consider a formal recommendation to the City Council regarding amendments to the Tracy Municipal Code.

STRATEGIC PLAN

This item relates to City Council Strategic Priority Goal Number 4.5: Amend Accessory Dwelling Unit (ADU) ordinance and develop "off-the-shelf" ADU example designs.

ACTION REQUESTED OF THE PLANNING COMMISSION

Staff recommends that the Planning Commission receive an informational report regarding

State law changes to the permitting of Accessory Dwelling Units and provide direction regarding proposed amendments to the City's Accessory Dwelling Unit regulations to better align with State law changes. Based on the foregoing input, City staff will schedule a public hearing in the future for the Planning Commission to consider a formal recommendation to the City Council.

Prepared by Alan Bell, Senior Planner
Approved by Bill Dean, Assistant Director of the Development Services Department

Attachments:

Attachment A – Existing TMC ADU Development Standards and Definition – 10.08.052
and 10.08.3180

Attachment B – Proposed TMC ADU Development Standards – 10.08.3180

10.08.3180 - Accessory dwelling units.

(a) *Accessory dwelling unit.* One accessory dwelling unit is permitted on any residentially zoned lot having one existing single-family dwelling (the "primary dwelling") if the proposed unit complies with the standards in subsection b. (See definition at TMC section 10.08.052.) An accessory dwelling unit is not permitted if there is more than one single-family dwelling, a duplex, or multi-family dwelling on the lot. An accessory dwelling unit may be attached or detached from the primary dwelling and may be created by the conversion of a portion of, or an addition to, the primary dwelling, accessory structure, or by the construction of a new structure.

(b) *Standards.* These standards apply to an accessory dwelling unit.

- (1) *One unit.* There may be only one accessory dwelling unit on a lot. The accessory dwelling unit may not be sold separately from the primary dwelling.
- (2) *Primary dwelling required.* The primary dwelling must be a permitted use in the zoning district, and the lot must contain only one existing single-family dwelling.
- (3) *Size.* The total area of floor space of a detached accessory dwelling unit shall not exceed 1,200 square feet of living area. The total area of floor space of an attached accessory dwelling unit shall not exceed fifty (50) percent of the living area of the primary dwelling or 1,200 square feet, whichever is less. (Living area means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or an accessory structure.)
- (4) *Zoning requirements.* The accessory dwelling unit shall conform to the height, setback, lot coverage, and other zoning requirements of the zoning district in which it is located.
 - (i) *Setback requirements.*
 - a. A setback of five feet from the side and rear yards is required for an accessory dwelling unit that is constructed above a garage. (See also Government Code section 65852.2 (a)(1)(D)(vii).)
 - b. Accessory dwelling units must conform to the setback requirement of the primary dwelling. However, no setback shall be required for an existing garage that is converted to an accessory dwelling unit.
- (5) *Building code requirements.* The proposed unit shall conform to the building code requirements that apply to detached dwellings.
- (6) *Distance; Access.* The minimum distance between an accessory dwelling unit and a primary dwelling or an accessory building is six (6) feet. An attached accessory dwelling unit may have either an exterior or interior access.
- (7) *Parking.* One additional off-street parking space is required per accessory dwelling unit. The space may be tandem parking, or parking in the setback area. If any required garage or covered parking structure is demolished or converted in conjunction with the construction of

an accessory dwelling unit, the number of required parking spaces for the primary dwelling shall be replaced and replacement parking space(s) may be located in a garage, covered, uncovered, or tandem spaces anywhere on the same lot as the accessory dwelling unit.

However, the parking requirement for an accessory dwelling unit does not apply if one of the following apply:

- (i) the unit is located within one-half mile of a City of Tracy Tracer or San Joaquin RTD bus stop;
- (ii) the unit is located within the existing space of the existing primary dwelling or an existing, accessory structure, and not constructed as additional living area of an attached or detached accessory dwelling unit; or
- (iii) there is a car share vehicle designated pick up and drop off located within one block of the accessory dwelling unit.

(c) *Authority.* This section is adopted under the requirements of Government Code section 65852.2.

(Prior code § 10-2.2316)

(Ord. No. 1202, Exh. A § 20, 12-1-2015; Ord. No. 1254, § 2, 5-1-2018)

Proposed Tracy ADU Development Standards

Attachment B

10.08.3180 - Accessory dwelling units

Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) shall be permitted pursuant to the following provisions:

- (a) Residential Zoning. ADUs and JADUs are only permitted in zoning districts where the primary dwelling unit or multifamily dwelling on the same lot as the ADU or JADU is a permitted or conditionally permitted use.
- (b) No more than one (1) ADU may be allowed per lot except for ADUs with multifamily dwellings as described in section 10.08.3180(3) and a JADU may be allowed with an ADU as described in section 10.08.3180(4).
- (c) Density Calculation. An ADU or JADU shall not be included in calculation of residential density for the purpose of determining zoning or general plan density conformance.
- (d) An ADU or JADU may not be sold or otherwise conveyed separately from the primary residence; and the term of any ADU or JADU rental shall be longer than 30 days.
- (e) Building Code Requirements. ADUs shall be constructed in accordance with Title 9 of the Tracy Municipal Code.
- (f) Development Standards. ADUs and JADUs shall be constructed in conformance with the standards established in Sections 10.08.3180.2 through 10.08.3180.5.
- (g) Zoning Requirements. Unless otherwise specified in this section, ADUs and JADUs shall comply with the regulations of the zone in which it is developed.

1. Definitions. The following definitions apply only to this Section 10.08.3180.

- (a) Accessory Dwelling Unit. An Accessory Dwelling Unit (ADU) is a dwelling unit that provides complete independent living facilities (sleeping, eating, cooking, and sanitation) for one or more persons. An ADU is a dwelling unit on a lot in addition to a primary dwelling unit. Any reference in this zoning ordinance to a "second unit" or a "secondary residential unit" means "accessory dwelling unit".
- (b) Accessory Conversion ADU. An Accessory Conversion ADU is an ADU resulting from the conversion of an accessory structure on a property, such as a shed or garage.
- (c) Accessory Structure. An Accessory Structure is an accessory structure as otherwise defined in this Chapter 10.08, may be conforming or nonconforming (as defined in Section 10.08.3340), and which was lawfully constructed in conformance with the City's Zoning Regulations and California Building Code.
- (d) Attached ADU. An Attached ADU is an ADU that is attached to the primary dwelling.
- (e) Detached ADU. A Detached ADU is an ADU constructed separately from the primary dwelling.
- (f) Home Conversion ADU. A Home Conversion ADU is an ADU or JADU resulting from the interior conversion of existing area within a single-family dwelling or attached garage.
- (g) Junior Accessory Dwelling Unit. A Junior Accessory Dwelling Unit (JADU) is an ADU of no more than 500 square feet and contained within the walls of the primary dwelling unit or attached garage of the primary dwelling unit.
- (h) Multifamily Dwelling. A Multi Family Dwelling is a building with two or more attached dwellings on a single lot.

- (i) Non-Habitable Building Area. Non-Habitable Building Area refers to an area of a building not intended for human habitation, such as the space between structural supports, internal walls or permanent partitions; garages attached to multifamily dwellings; elevator shafts; stairwells and service ducts.
- (j) Non-Habitable Building Area Conversion ADU. A Non-Habitable Building Area Conversion ADU is an ADU resulting from the conversion of existing non-habitable building area of a multifamily building.
- (k) Primary Dwelling Unit. A Primary Dwelling Unit is the main, permitted dwelling unit or multifamily dwelling located on a lot.
- (l) Statewide Exemption ADU. A Statewide Exemption ADU is an ADU of up to eight-hundred (800) square feet, no taller than sixteen (16) feet in height and with four (4) foot side and rear setbacks. No lot coverage, floor area ratio, open space, or minimum lot size standards shall be applied to Statewide Exemption ADUs.

2. Single Family ADU Standards. These standards apply to ADUs on lots containing one primary dwelling unit.

- (a) Attached ADU. The following standards apply to the construction of Attached ADUs.
 - (i) Qualifying units. No more than one (1) Attached ADU shall be allowed per lot.
 - (ii) Size. The floor area of an Attached ADU shall not exceed fifty percent (50%) of the floor area of the primary dwelling, or 1,200 square feet of floor area, whichever is less.
 - (iii) Setback (Yard) Requirements. A minimum setback of four (4) feet from the side and rear lot lines is required. The minimum front yard setback is the front yard setback requirement of the zone in which the ADU is located.
 - (iv) Lot Coverage Requirements. For ADUs that exceed any Statewide Exemption ADU parameter, the total lot coverage for all structures on the lot shall not exceed fifty percent (50%) unless a higher lot coverage is allowed by the zone in which the property is located.
 - (v) Height Requirements. The maximum height of an Attached ADU within the required rear or side yard area of the zoning district shall be 16 feet. The maximum height of an Attached ADU outside the required rear or side yard area shall be the maximum height of the zoning district.
 - (vi) Distance between buildings. The minimum distance between an attached ADU and an accessory structure on the same lot is four (4) feet.
- (b) Home Conversion ADUs. The following standards apply to Home Conversion ADUs.
 - (i) Qualifying Units. No more than one (1) Home Conversion ADU and one (1) JADU shall be allowed per lot.
 - (ii) Size. The total floor area of a Home Conversion ADU shall not exceed 1,200 square feet.
 - (iii) Lot Coverage Requirements. For ADUs that exceed any Statewide Exemption ADU parameter, the total lot coverage for all structures on the lot shall not exceed fifty percent (50%) unless a higher lot coverage is allowed by the zone in which the property is located.

- (iv) Height Requirements. The maximum height of a Home Conversion ADU shall be the maximum height allowed in the zone in which the property is located.
- (c) Accessory Conversion ADUs. The following standards apply to ADUs resulting from conversion of accessory structures.
 - (i) Qualifying Units. Not more than one (1) Accessory Conversion ADU shall be allowed per lot.
 - (ii) Size. The total floor area of an Accessory Conversion ADU shall not exceed 1,200 square feet.
 - (iii) Lot Coverage Requirements. For ADUs that exceed any Statewide Exemption ADU parameter, the total lot coverage for all structures on the lot shall not exceed fifty percent (50%) unless a higher lot coverage is allowed by the zone in which the property is located.
 - (iv) Height Requirements. The maximum height of an Accessory Conversion ADU within the required rear or side yard area of the zoning district shall be 16 feet. The maximum height of an Accessory Conversion ADU outside the required rear or side yard area shall be the maximum height of the zoning district.
- (d) Detached ADUs. The following standards apply to Detached ADUs.
 - (i) Qualifying Units. No more than one (1) Detached ADU shall be allowed per lot.
 - (ii) Size. The total floor area of a Detached ADU shall not exceed 1,200 square feet.
 - (iii) Setback requirements. A minimum setback of four (4) feet from the side and rear lot lines is required. No Detached ADU is permitted within the front yard setback of the property.
 - (iv) Distance Between Buildings. The minimum distance between a Detached ADU and a Primary Dwelling or between a Detached ADU and an accessory structure is four (4) feet.
 - (v) Lot Coverage Requirements. For ADUs that exceed any Statewide Exemption ADU parameter, the total lot coverage for all structures on the lot shall not exceed fifty percent (50%) unless a higher lot coverage is allowed by the zone in which the property is located.
 - (vi) Height Requirements. The maximum height of a Detached ADU within the required rear and side yard area of the zone district shall be 16 feet. The maximum height of a Detached ADU outside the required rear and side yard area shall be the maximum height of the zone district.

3. Multifamily Dwelling ADU Standards. These standards apply to ADUs on multifamily dwellings.

- (a) Non-Habitable Building Area Conversion ADUs. The following standards apply to ADUs resulting from the conversion of a non-habitable area of a multifamily dwelling structure.
 - (i) Qualifying units. A maximum number that is equivalent to twenty-five percent (25%) of the existing number of primary dwelling units on the property, is allowed.
 - (ii) Size. The total floor area of an ADU shall not exceed 1,200 square feet.

(b) Accessory Conversion ADUs and Detached ADUs. The following standards apply to ADUs resulting from conversion of accessory structures and Detached ADUs.

- (i) Qualifying Units. Not more than two (2) Accessory Conversion ADUs or Detached ADUs shall be allowed.
- (ii) Size. The total floor area of Accessory Conversion ADUs and Detached ADUs shall not exceed 1,200 square feet.
- (iii) Setback requirements. A minimum setback of four (4) feet from the side and rear lot lines is required. No detached ADU is permitted within the front yard setback of the property.
- (iv) Distance Between Buildings. The minimum distance between a Detached ADU and a multifamily dwelling or between a Detached ADU and an accessory structure is four (4) feet.
- (v) Lot Coverage Requirements. For ADUs that exceed any Statewide Exemption ADU parameter, the total lot coverage for all structures on the lot shall not exceed fifty percent (50%) unless a higher lot coverage is allowed by the zone in which the property is located.
- (vi) Height Requirements. The maximum height of a Detached ADU within the required rear or side yard area of the zone district shall be 16 feet. The maximum height of a Detached ADU outside the required rear or side yard area shall be the maximum height of the zone district.
- (vii) An ADU shall not result in a net loss of required parking area landscaping.

4. Junior Accessory Dwelling Units. JADU Standards. These standards apply to JADUs on lots containing one primary dwelling.

- (a) Qualifying Units. No more than one (1) JADU shall be allowed on a lot. JADUs are prohibited on lots containing multifamily dwelling units.
- (b) Size. JADUs shall not exceed five hundred square feet (500 sf) and shall be constructed within the existing walls of the primary dwelling unit or attached garage of the primary dwelling unit.
- (c) Access. JADUs shall include a separate entrance from the main entrance to the primary dwelling unit, with an interior entry to the main living area of the primary dwelling unit.
- (d) Shared sanitation. JADUs may share sanitation facilities such as bathroom toilets, sinks and showers, with the existing primary dwelling.
- (e) Kitchen facilities. JADUs shall include, at a minimum, an efficiency kitchen with at least one (1) food heating appliance, one (1) cold food storage appliance and a food preparation counter.
- (f) Shared ADU allowance. One (1) JADU may be allowed on the same lot with an ADU, provided the following criteria are met:
 - i) The ADU is a detached ADU.
 - ii) The cumulative floor areas of the ADU and JADU do not exceed fifty percent (50%) of the floor area of the primary dwelling.

5. Parking Standards. The following parking standards apply to ADUs and JADUs.

(a) Off-street parking spaces are not required for the construction of an ADU or a JADU and off-street parking spaces removed by the construction of an ADU or a JADU are not required to be replaced.

(b) Authority. This section is adopted under the requirements of Government Code section 65852.2.

(Prior code § 10-2.2316)

(Ord. No. 1202, Exh. A § 20, 12-1-2015; Ord. No. 1254, § 2, 5-1-2018)

DRAFT

10.08.052 Accessory dwelling unit.

"Accessory dwelling unit" means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking and sanitation on the same lot as one single family dwelling is situated. An accessory dwelling unit also includes the following: (1) an efficiency unit, as defined in Health and Safety Code section 17958.1; and (2) a manufactured home, as defined in Health and Safety Code section 18007. Any reference in this Code to "second unit" means "accessory dwelling unit." (Gov't. Code, section 65852.2(i). See TMC, section 10.08.3180.).

(Ord. No. 1254, § 1, 5-1-2018)

DRAFT

October 26, 2022

AGENDA ITEM 1.C

REQUEST

Staff recommends that the Planning Commission:

CONDUCT A WORKSHOP TO DISCUSS EXISTING ZONING REGULATIONS APPLICABLE TO CANNABIS DISPENSARIES IN THE CITY, AS SET FORTH IN TRACY MUNICIPAL CODE SECTION 10.08.3196, AND POTENTIAL AMENDMENTS TO SUCH REGULATIONS

DISCUSSION

Background

In 2018, after the State began issuing licenses for the sale of cannabis, the City Council began a discussion regarding the possibility of allowing cannabis land uses in the City. After multiple workshops and public hearings (which are catalogued on the City's cannabis website, [Regulations on Commercial Cannabis Activities in the City of Tracy | City of Tracy, CA](#)), on December 3, 2019, the City Council adopted Ordinance 1277, establishing permitting regulations for commercial cannabis activity in the City of Tracy (City), which require applicants to obtain Cannabis Business Permits pursuant to Chapter 6.36 of the Tracy Municipal Code (TMC). In addition, the City Council adopted Ordinance 1278 (Attachment A), establishing zoning and locational requirements for cannabis activity in the City and requiring applicants to obtain Cannabis Conditional Use Permits (CUP) pursuant to TMC Section 10.08.3196.

During Council discussions, various options were discussed for land use/zoning regulations that could be applied to cannabis businesses, including the following:

- Where will cannabis businesses be allowed? (i.e. what zones will allow cannabis businesses, where will they be prohibited?)
- What kinds of land use permits will be required to establish cannabis land uses? (i.e. conditional use permits, development review permits)
- What buffers are required between cannabis businesses and sensitive uses? What additional buffers beyond State regulations should the City adopt, if any?
- What things are considered sensitive uses and youth centers? Should the City's definition of "youth center" be amplified beyond State regulations?

After the original adoption of the cannabis program, the City Council amended the regulations within Chapter 6 of the TMC. These amendments changed the application guidelines and scoring system, so as to allow for more Cannabis Business Permits to be issued (11 rather than 4 storefront dispensaries) and lowered the passing score for applications, allowing some of the non-storefront applications to gain Cannabis Business Permits as well, as none had received passing scores in the initial evaluation.

Ultimately, these amendments resulted in the issuance of 17 provisional Cannabis Business Permits by the Tracy Police Chief; 11 for storefront retail, and 6 for other business types (delivery, manufacturing and indoor cultivation). As noted above, these permittees must go through the next step in the City's process, which is consideration of applications for Conditional Use Permits by the Planning Commission, prior to establishing dispensary sites in the City. In addition, as the City's fingerprinting system has not been approved yet by the Department of Justice, the Cannabis Business Permits are only provisional and must still complete that final step.

Since the Cannabis Business Permits have been awarded, staff has presented seven Conditional Use Permit applications to the Planning Commission, all storefront dispensaries. Of these, six were approved, and one was denied and is currently on appeal to the City Council (Megan's Organic Market, CUP22-0001, proposed to be located at 104 W. 10th street). Four additional CUP applications are currently under staff review: three for storefront dispensaries, one for delivery only.

The public hearings for each of the dispensary CUPs that have been considered to date have been met with controversy, particularly with regard to these businesses locating downtown, their concentration (i.e. number of and distance between dispensaries), and their proximity to other businesses that have significant patronage by people under the age of 21.

Accordingly, on September 14, 2022, the Planning Commission voted to request staff to return to the Planning Commission with potential revisions of the applicable land use/zoning regulations to address three principal areas of concerns: definition of "youth center", buffers/distances between cannabis businesses, and similarly, "density" of cannabis businesses within the City.

Subjects for Discussion

As noted above, a number of zoning-related discussions with City Council ultimately led to the adopted zoning ordinance for cannabis businesses set forth in TMC Section 10.08.3196. Many of these regulations are now being called into question by the Planning Commission and through public comment at the public hearings evaluating CUPs for cannabis businesses. To begin the discussion, staff will present the original questions and answers that determined the original/current cannabis zoning regulations. The discussion will enable the Planning Commission to see the cause and effect of regulations, showing a link between the TMC regulations and on-the-ground results of those regulations. The discussion will then turn to how these same regulations could be amended and what effects such changes could have in terms of where cannabis businesses could locate in the future.

- Where will cannabis businesses be allowed? (i.e. what zones will allow cannabis businesses, where will they be prohibited?)
 - Cannabis businesses are permitted in all of the City's commercial and industrial zones (full list included in Ordinance 1278, which is Attachment A to this report). During the discussion of where cannabis businesses

should be permitted, some downtown advocates requested cannabis be prohibited downtown, but the downtown area was ultimately treated the same as all the City's other commercial zones. Since that time, members of the public as well as some Commission and Council members have expressed concerns regarding the allowability of cannabis businesses downtown, as most of the Conditional Use Permit applications that have been submitted to date happen to be concentrated there.

- What kinds of land use permits will be required to establish cannabis land uses? (i.e. conditional use permits, development review permits)
 - A conditional use permit is required for the establishment of any cannabis business, in all permitted zones. A development review permit may also be required, if there are exterior alterations to an existing building to accommodate the business, or if a new building is being constructed. Staff is not aware of any particular controversy with this requirement nor has any change to this aspect of the TMC been requested.
- What buffers are required between cannabis businesses and sensitive uses?
 - 600 feet. This mirrors the requirements of State law, and considers sensitive uses to include schools, day care centers, and youth centers. At recent CUP hearings, citizens have asserted that other uses, such as places of public assembly (typically religious facilities), drug and alcohol rehabilitation facilities, and food and beverage establishments also be considered sensitive uses, and accordingly should be reevaluated.
- What things are considered sensitive uses and youth centers?
 - The City's definition of youth center is defined as "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 ten (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 in 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 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". This definition has proven to be controversial in its exclusion of certain uses often utilized

by children, particularly dance and music studios, and certain eating and drinking establishments.

In order to shed light on how the cannabis industry is regulated in other cities and how it could be modified for Tracy, Attachment B is a matrix of regulations promulgated by other cities and counties in the State. Similarly, Attachment C to this report shows the youth center definition for the same jurisdictions. These comparisons may help start the discussion regarding what, if any, of the cannabis zoning regulations Planning Commission may wish to recommend Council to amend. Based on the discussion at the workshop, staff would return to the Planning Commission with a revised ordinance for consideration.

RECOMMENDATION

Staff recommends that the Planning Commission conduct a workshop to discuss existing zoning regulations applicable to cannabis dispensaries in the City, as set forth in Tracy Municipal Code Section 10.08.3196, and potential amendments such regulations.

Prepared by: Victoria Lombardo, Senior Planner
Reviewed by: Bill Dean, Assistant Development Services Director
Approved by: Kris Balaji, Development Services Director

ATTACHMENTS

Attachment A—Ordinance 1278, Zoning regulation for cannabis
Attachment B—Matrix identifying cannabis regulations of other cities and counties
Attachment C—Various cities' definitions of "Youth Center"

ORDINANCE 1278

AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 10.08.3196 OF CHAPTER 10.08 "ZONING REGULATIONS" OF TITLE 10 "PLANNING AND ZONING" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LAND USE RESTRICTIONS ON COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

WHEREAS, In November 1996, California voters approved the Compassionate Use Act of 1996 ("CUA") which authorized a limited defense to criminal charges for the use, possession or cultivation of marijuana (cannabis) for medical purposes when a qualified patient has a doctor's recommendation for the use of cannabis, and

WHEREAS, In November 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which legalized the use of non-medicinal (recreational) cannabis by adults and the cultivation of up to six cannabis plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medical cannabis for adult use, and

WHEREAS, In June 2017, the State Legislature adopted Senate Bill 94 creating a new statewide comprehensive regulatory system for medical and adult use commercial cannabis activity titled Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and

WHEREAS, CUA, AUMA and MAUCRSA do not prohibit cities from enacting regulations regarding commercial cannabis activities and uses, and

WHEREAS, The City Council seeks to establish land use regulations for commercial cannabis activity in the City of Tracy to ensure such activities are conducted in a manner that mitigates negative impacts, protects the public health safety, and welfare of residents, and supports economic development, and

WHEREAS, The City of Tracy engaged in a comprehensive review and study of state and local cannabis regulations, conducted community outreach on this topic, and held various public meetings to discuss, provide policy direction to staff, and receive public input on the topic of commercial cannabis activity, and

WHEREAS, This amendment seeks to establish zoning and locational requirements on commercial cannabis activity to ensure that these uses are compatible with the City's General Plan and zoning restrictions.

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on October 23, 2019 and recommended that the City Council approve the proposed amendments to Section 10.08.3196, and

WHEREAS, The City Council considered this ordinance at a duly noticed public hearing held on November 5, 2019.

The City Council of the City of Tracy does ordain as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein as findings.

SECTION 2. The City Council hereby amends Section 10.08.3196 as shown in Exhibit "A".

SECTION 3. If any provision or the application of this Ordinance is for any reason held to be unconstitutional, invalid, or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each subsection or provision of this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 4. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 5. The City Council finds that this Ordinance is exempt from CEQA in accordance with Business and Professions Code section 26055(h) because it requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity.

SECTION 6. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov't. Code §36933.)

* * * * *

The foregoing Ordinance 1278 was introduced at a regular meeting of the Tracy City Council on the 19th day of November 2019, and finally adopted on the 3rd day of December, 2019, by the following vote:

AYES:	COUNCIL MEMBERS:	ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE

SIGNED BY: Robert Rickman, Mayor

ATTEST: Adrienne Richardson, City Clerk

Chapter 10.08 - Zoning Regulations

10.08.3196 – Cannabis Uses.

(a) **Purpose and Intent.** The purpose of this section is to impose zoning restrictions on commercial and personal cannabis activities or uses. This section is not intended to give any person or entity authority to conduct commercial cannabis activities in the City of Tracy. If a commercial cannabis use is not specifically permitted in this Chapter it is not allowed in any zoning district within the City.

(b) **Definitions.** Unless otherwise provided in this section, the definitions set forth in Chapter 10.08 (Zoning Regulations) and Chapter 6.36 (Commercial Cannabis Activity) 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, as well as 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) “Personal use” shall mean an individual’s personal use, possession, processing, transporting, or giving away without any compensation whatsoever in accordance with state law, including but not limited to Health and Safety Code sections 11362.1 and 11362.2, as may be amended from time to time. Personal use does not include any commercial activity.
- (5) “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.
- (6) “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 ten (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 in 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 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 as well as Chapter 6.36.
- (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 Chapter 6.36 and any other state or local license or permit, as applicable.
- (3) The following commercial cannabis uses are permitted to establish as a conditional use on property in the following zoning districts, subject to the granting of and compliance with terms of a City cannabis business permit pursuant to Chapter 6.36 and a conditional use permit issued pursuant to Section 10.08.4250:
 - (i) Storefront Retailer (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)
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 –West Clover Rd (City Council ordinance 789 c.s.)
Planned Unit Development - Southeast corner of Grantline Road and Corral Hollow Road (City Council ordinance 697 c.s.)
Planned Unit Development – Northwest corner of 6th Street and C Street (City Council Resolution 2012-053)
Planned Unit Development – northwest corner of 11th Street and East Street (City Council ordinance 742 c.s.)

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 – West Larch Road (City Council ordinance 1083)

- (ii) Non-storefront retailer (Delivery), distribution, manufacturing, microbusiness, testing laboratory, indoor cultivation:

- a. 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)

(d) Location Requirements.

- (1) 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 center, or youth center; and
- (2) If located on separate parcels, 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 containing a cannabis use, and
- (3) If located on the same parcel, the distance between the structures containing the cannabis use and any sensitive use shall be at least 600 feet.

(e) Cultivation of Cannabis.

- (1) All outdoor cultivation of cannabis within the City is prohibited, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.
- (2) The indoor cultivation of cannabis shall comply with Chapter 6.36 and applicable state law. The cultivation of cannabis for personal use shall only be conducted indoor and in accordance with applicable 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.

Jurisdiction	Distance between Cannabis and Sensitive Uses	Distance between cannabis uses	Distance to residential	List of sensitive uses	How many allowed (Storefront dispensaries)	How many allowed-other	Population	Dispensaries per capita
Stockton	600'	1000'	300'	School, day care, park/recreational area, youth facility, religious facilities and drug/alcohol treatment facility	14	unlimited	322489	1/23,035
Sacramento	600'	If less than 600', CUP required	If less than 300', CUP required	School, substance abuse rehab centers, youth-oriented facility	40	unlimited	518037	1/12,951
Martinez	600'	1000'	none	School, day care, youth center	2	1 each, manufacturing, distribution, testing, non-storefront	36908	1/18,454
Oakland	600'	600'	300'	School, youth center	8 new permits per year	unlimited	424464	Changes annually
Merced	600'-1000', varies based on type of cannabis business	none	none	School, day care, youth center, library or public park	4	unlimited	89058	1/22,265
Alameda County	1000'	5 miles in unincorporated east county and 1 mile between a county dispensary and any adjacent city dispensary	none	School, licensed child or day care facility, public park or playground, drug recovery facility, recreation center.	5	10 cultivation, 14 combined, testing-no limit listed	149,506 residents in unincorporated areas	1/29,901
Tracy	600'	none	none	School, day care center, youth center	11	unlimited	94538	1/8,594

Youth Center Definitions

Stockton	Follows State law
Sacramento	Any establishment that caters to or provides services primarily intended for minors; that is patronized predominantly by minors; or where the people who regularly congregate or assemble are predominantly minors"
Martinez	Any public or private entity that is exclusively used to host recreational or social activities for minors that is in existence at the time of commercial cannabis business' proposal is first submitted to the City.
Oakland	A community or recreation facility that primarily serves persons 18 years or younger.
Merced	Any public or private entity that is exclusively used to host recreational or social activities for minors.
Alameda County	Follows State law
Tracy	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 ten (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 in 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 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.

State Law Youth Center Definition:

"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, or similar amusement park facilities.