

Wednesday, December 20, 2023, 7:00 P.M.

A quorum of Planning Commission will be in attendance at
Tracy City Hall Chambers, 333 Civic Center Plaza, Tracy
Web Site: www.cityoftracy.org

And two Commissioners will attend remotely at the following locations:
SpringHill Suites by Marriott
3595 East Guasti Road, Ontario, CA 91761
&
2389 Santa Ana Ave, Costa Mesa, CA 92627

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

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

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

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

Remote Public Comment:

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

- Comments via:
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following
 - **Event Number: 2550 121 3379** 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, 2550 121 3379#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

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

ROLL CALL

MINUTES – 11/15/23 Regular Meeting

DIRECTOR'S REPORT REGARDING THIS AGENDA

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

1. NEW BUSINESS

- 1.A STAFF RECOMMENDS THAT THE PLANNING COMMISSION: (A) ADOPT A RESOLUTION TO (1) RESCIND PLANNING COMMISSION RESOLUTION 2023-013 AND (2) GRANTING A RENEWED EXPIRATION DATE OF CONDITIONAL USE PERMIT CUP22-0004 (EXT23-0002) FOR A CANNABIS DISPENSARY AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22, TO MARCH 3, 2024; (B) ADOPT A RESOLUTION TO (1) RESCIND PLANNING COMMISSION RESOLUTION 2023-014 AND (2) GRANTING A RENEWED EXPIRATION DATE OF CONDITIONAL USE PERMIT CUP22-0003 (EXT23-0004) FOR A CANNABIS DISPENSARY 951 N. CENTRAL AVENUE, APN 235-056-07, TO MARCH 3, 2024; (C) DETERMINE THAT THE PROJECTS ARE CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS THE CITY OF TRACY, AND THE PROPERTY OWNERS ARE TOSTE FAMILY ENTERPRISES AND J T STORAGE, LP. FOR EXT23-0002 AND JIVA TCY, LLC FOR EXT23-0004.

- 1.B STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION (1) FINDING GOOD CAUSE UNDER TMC SECTION

10.08.4360 FOR APPLICANT'S RENEWAL OF CONDITIONAL USE PERMIT; (2) APPROVING RENEWAL (EXT23-0005) OF CONDITIONAL USE PERMIT CUP21-0009 FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 316 & 320 W. ELEVENTH STREET (ASSESSOR'S PARCEL NUMBERS 235-040-05 & 06) TO MARCH 3, 2024; AND (3) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS SAAD PATTAH AND THE PROPERTY OWNERS ARE SAAD PATTAH AND REO CAPITAL INVESTMENTS & ASSET MANAGEMENT, APPLICATION NUMBER EXT23-0005.

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

Posted: December 14, 2023

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

**MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
NOVEMBER 15, 2023, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

Chair Orcutt led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner English, Commissioner Penning, Vice Chair Atwal, and Chair Orcutt present. Commissioner Boakye-Boateng absent. Also present: Alan Bell, Senior Planner; Kenny Lipich, Associate Planner; Al Gali, Associate Civil Engineer; Jeffrey Crosswhite, Assistant City Attorney; and Gina Peace, Executive Assistant.

MINUTES

Chair Orcutt introduced the Regular Meeting Minutes from the October 25, 2023 Planning Commission Regular Meeting.

ACTION: It was moved by Vice Chair Atwal and seconded by Commissioner English to approve the October 25, 2023 Planning Commission Regular Meeting Minutes. A voice vote found Chair Orcutt, Vice Chair Atwal, Commissioner English, and Commissioner Penning in favor. Commissioner Boakye-Boateng absent. Passed and so ordered; 4-0-1-0.

DIRECTOR'S REPORT REGARDING THIS AGENDA

None.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

- A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: (1) APPROVING A DEVELOPMENT REVIEW PERMIT OF A NEW 7,562 SQUARE FOOT RESTAURANT WITH SITE IMPROVEMENTS AT 2770 NORTH NAGLEE ROAD; AND (2) DETERMINE THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15332. THE APPLICANT IS BJ'S RESTAURANT, INC. AND PROPERTY OWNER IS SPP OUTPARCEL SPE, LLC, APPLICATION NUMBER D23-0005.**

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

Joan Leguay, representing BJ's Restaurant, Inc. addressed the Commission and said she was available to answer questions.

Chair Orcutt opened the Public Hearing at 7:17 p.m., but seeing as no one wished to speak, Chair Orcutt closed the Public Hearing.

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

1. Approving a development review permit for development of a new 7,562 square foot restaurant with site improvements at 2770 North Naglee Road; and
2. Determining that this project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15332.

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

B. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: (1) APPROVING A DEVELOPMENT REVIEW PERMIT FOR CONSTRUCTION OF A NEW FREEWAY SIGN AT PARKWAY PLAZA, LOCATED AT THE SOUTHEAST CORNER OF INTERNATIONAL PARKWAY AND I-205; AND (2) DETERMINING THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTIONS 15183 AND 15311. THE APPLICANT AND OWNER IS DREW MICHEL ON BEHALF OF R&B DELTA II LLC, APPLICATION NUMBER D21-0003.

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

Chair Orcutt opened the Public Hearing at 7:28 p.m. Commission discussion followed.

Seeing as no one came forward, Chair Orcutt closed the Public Hearing at 7:49 p.m.

Kenny Lipich, Associate Planner, addressed questions from the Commission.

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

1. Approving a development review permit for construction of a new freeway sign at Parkway Plaza, located at the southeast corner of International Parkway and I-205; and

2. Determining that this project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15183 and 15311.

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

2. ITEMS FROM THE AUDIENCE

None.

3. DIRECTOR'S REPORT

None.

4. ITEMS FROM THE COMMISSION

Chair Orcutt mentioned that the League of California Cities was hosting the Planning Commissioners' Academy in Long Beach, California in March 2024 (Commissioner Penning advised the exact dates were 03.06.2024-03.08.2024), and Chair Orcutt requested possible attendance of the Commission to the Academy, especially the new Commissioners.

Commissioner English asked if the Housing Element (HE) deadline had been met, and the HE Update was submitted. Alan Bell, Senior Planner, advised that the HE would be able to be submitted after November 22, 2023.

Vice Chair Atwal inquired about how to follow up on the "action items" that were agreed upon at the joint City Council / Planning Commission meeting regarding the draft Housing Element. Vice Chair Atwal asked what the correct mechanism would be to bring the draft HE discussion before the Planning Commission. Alan Bell, Senior Planner, advised that Vice Chair Atwal could request that the Planning Commission agendize a discussion regarding the draft HE at the next meeting, but the Commission could not discuss at this time, during Items from the Commission. No motion was brought forward.

Commissioner English asked when the Food Truck Ordinance would be on the Planning Commission's agenda, as Scott Claar had previously said it would be on tonight's agenda. Jeffrey Crosswhite, Assistant City Attorney, advised that the last update he recalls had the Food Truck Ordinance being presented to Planning Commission next month.

5. ADJOURNMENT

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

Planning Commission Minutes

November 15, 2023

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

Time: 8:03 p.m.

CHAIR

STAFF LIAISON

December 20, 2023

Agenda Item 1.A

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION:

(A) ADOPT A RESOLUTION TO (1) RESCIND PLANNING COMMISSION RESOLUTION 2023-013 AND (2) GRANTING A RENEWED EXPIRATION DATE OF CONDITIONAL USE PERMIT CUP22-0004 (EXT23-0002) FOR A CANNABIS DISPENSARY AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22, TO MARCH 3, 2024;

(B) ADOPT A RESOLUTION TO (1) RESCIND PLANNING COMMISSION RESOLUTION 2023-014 AND (2) GRANTING A RENEWED EXPIRATION DATE OF CONDITIONAL USE PERMIT CUP22-0003 (EXT23-0004) FOR A CANNABIS DISPENSARY 951 N. CENTRAL AVENUE, APN 235-056-07, TO MARCH 3, 2024;

(C) DETERMINE THAT THE PROJECTS ARE CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

THE APPLICANT IS THE CITY OF TRACY, AND THE PROPERTY OWNERS ARE TOSTE FAMILY ENTERPRISES AND J T STORAGE, LP. FOR EXT23-0002 AND JIVA TCY, LLC FOR EXT23-0004.

EXECUTIVE SUMMARY

This agenda item recommends that the Planning Commission amend the expiration date to March 3, 2024, for the two Cannabis Conditional Use Permit (CUP) renewals, EXT23-0004 and EXT23-0002, granted on October 25, 2023, by Planning Commission Resolutions 2023-013 and 2023-014. This amended renewal date is commensurate with the current expiration dates of the CUPs' associated Cannabis Business Permits.

BACKGROUND, LEGISLATIVE HISTORY AND ANALYSIS

Pursuant to TMC Section 10.08.4350, CUPs allow applicants a period of six (6) months to obtain a building permit and commence and diligently pursue construction on the site. Under TMC Section 10.08.4350, the CUP expires and is deemed void if the applicant fails to so comply. Under TMC Section 10.08.4360, the CUP may be extended by the Planning Commission provided 1) the new time limit is "reasonable, based on size, nature, and complexity of the proposed development," and 2) the Planning Commission finds "good cause, such as proof of an unusual hardship not of the applicant's own making."

Acting pursuant to Tracy Municipal Code (TMC) Section 10.08.4350, on October 25, 2023, the Planning Commission granted a six-month Conditional Use Permit renewal to the Garden of Eden Cannabis Dispensary (CUP22-0004) that would not expire until April 27, 2024, and a six-month CUP renewal to the Jiva TCY Cannabis Dispensary (CUP22-0003) that would not expire until March 29, 2024 (Planning Commission Resolutions 2023-013 and 2023-014).

Subsequent to the October 25, 2023, Planning Commission taking action on the CUP renewals, the City discovered the new expiration dates of the subject CUP renewals exceeded the applicants' present Cannabis Business Permit expiration dates, and that no request for renewal of those Cannabis Business Permits were pending. The Cannabis Business Permits associated with CUP22-0004 and CUP22-0003 are CBPA20-0034 and CBPA20-0017 respectively, and both business permits are valid until March 3, 2024 (City Council Ordinance No. 1338).

As a result, the staff determined that although CUP renewals were validly approved based on good cause, the expiration dates of those renewals were granted beyond the authority of the Commission because they expressly authorize establishing a conditional use for a duration of time in exceedance of the current expiration date of their associated Cannabis Business Permits. As with the term initially granted at issuance of the CUP, extensions thereto cannot exceed known dates of noncompliance, such as expiration of a required Cannabis Business Permit. Moreover, TMC Section 10.08.4420 prohibits issuance of any license or use permit in conflict with another license or permit. This agenda item cures the error to revive a valid CUP renewal for the applicants.

Cannabis Business Permits may be renewed by application pursuant to TMC 6.36.100 so long as the City Police Chief finds that the applicant meets the criteria set forth in TMC Section 6.36100(c) and those additional criteria set forth in TMC Section 6.36.070. Here, the subject applicants have not submitted Cannabis Business Permit renewal applications, there are no findings meeting the required criteria, and the Planning Commission lacks subject matter jurisdiction to grant Cannabis Business Permit Renewals.

Staff recommends that the Planning Commission amend the renewal periods for both CUP22-0004 and CUP22-0003 to expire on March 3, 2024, the same date of expiration of each applicant's Cannabis Business Permit.

PUBLIC OUTREACH / INTEREST

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

CEQA DETERMINATION

The proposed projects are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, which pertains to minor alterations and additions to existing facilities in an area where all public services and facilities are available, and which is not environmentally sensitive. In accordance with CEQA Guidelines, no further environmental assessment is required.

ACTION REQUESTED OF THE PLANNING COMMISSION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION:

(A) ADOPT A RESOLUTION TO (1) RESCIND PLANNING COMMISSION RESOLUTION 2023-013 AND (2) GRANTING A RENEWED EXPIRATION DATE OF CONDITIONAL USE PERMIT CUP22-0004 (EXT23-0002) FOR A CANNABIS DISPENSARY AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22, TO MARCH 3, 2024;

(B) ADOPT A RESOLUTION TO (1) RESCIND PLANNING COMMISSION RESOLUTION 2023-014 AND (2) GRANTING A RENEWED EXPIRATION DATE OF CONDITIONAL USE PERMIT CUP22-0003 (EXT23-0004) FOR A CANNABIS DISPENSARY 951 N. CENTRAL AVENUE, APN 235-056-07, TO MARCH 3, 2024;

(C) DETERMINE THAT THE PROJECTS ARE CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

Prepared by: Kimberly Matlock, Associate Planner

Reviewed by: Alan Bell, Senior Planner
Bill Dean, Assistant Development Services Director
Jeffrey Crosswhite, Assistant City Attorney

Approved by: Karin Schnaider, Assistant City Manager / Interim Development Services Director

ATTACHMENTS

Attachment A – Planning Commission Resolution for EXT23-0002

Exhibit 1 – Findings
Exhibit 2 – Conditions of Approval

Attachment B – Planning Commission Resolution for EXT23-0004

Exhibit 1 – Findings
Exhibit 2 – Conditions of Approval

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION 2023-_____

- 1. RESCINDING PLANNING COMMISSION RESOLUTION 2023-013;**
- 2. GRANTING A RENEWED EXPIRATION DATE OF CONDITIONAL USE PERMIT CUP22-0004 (EXT23-0002) FOR A CANNABIS DISPENSARY AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22, TO MARCH 3, 2024; AND**
- 3. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

WHEREAS, the applicant was awarded a Cannabis Business Permit (Application Number CBPA20-0034) on March 3, 2022, by the Tracy Police Chief, which is valid until March 3, 2024; and

WHEREAS, the applicant was granted a Conditional Use Permit (Application Number CUP22-0004) to establish a cannabis dispensary at 2420 W. Grant Line Road; and

WHEREAS, the Conditional Use Permit, which took effect on October 27, 2022, was granted a time limit of one year for the use to be established in accordance with TMC Section 10.08.4360; and

WHEREAS, pursuant to TMC Section 10.08.4350, CUPs allow applicants a period of six (6) months to obtain a building permit and commence and diligently pursue construction on the site; the CUP expires and is deemed void if the applicant fails to so comply; and

WHEREAS, under TMC Section 10.08.4360, the CUP may be extended by the Planning Commission provided 1) the new time limit is "reasonable, based on size, nature, and complexity of the proposed development," and 2) the Planning Commission finds "good cause, such as proof of an unusual hardship not of the applicant's own making;" and

WHEREAS, on August 23, 2023, the applicant submitted an application requesting an additional 12 months to establish the use; and

WHEREAS, the subject property is designated Commercial in the Tracy General Plan and zoned General Highway Commercial, wherein cannabis dispensaries are conditionally permitted; and

WHEREAS, the applicant proposed no changes to the project from that which was approved under CUP22-0004; and

WHEREAS, the Planning Commission conducted a public hearing to review and consider the project on October 25, 2023;

WHEREAS, the Applicant has demonstrated good cause for an extension of the CUP under TMC 10.08.4360 based on hardships derived from difficulties and delays in obtaining a building permit;

WHEREAS, the Planning Commission initially granted a renewal of the Conditional Use Permit for a period of six months, which extended the permit to April 27, 2024; and

WHEREAS, subsequent to the approval of the CUP renewal for six months, the City determined that the expiration date of the CUP renewal was approved beyond the authority of the Planning Commission because it expressly authorizes establishing a conditional use for a duration of time in exceedance of the expiration date of its associated Cannabis Business Permit; and

WHEREAS, the time of the extended CUP must expire on March 3, 2024 because TMC Section 10.08.4420 prohibits issuance of any license or use permit in conflict with another license or permit, and the applicant's Cannabis Business Permit expires on March 3, 2024;

WHEREAS, on December 20, 2024, the Planning Commission conducted a public hearing to review and consider an amendment to the CUP renewal to be valid until March 3, 2024 in alignment with the expiration date of its associated Cannabis Business Permit; now, therefore, be it

RESOLVED: the Planning Commission incorporates and adopts the foregoing recitals as findings of fact; and be it further

RESOLVED: That the Planning Commission hereby rescinds Planning Commission Resolution 2023-013 dated October 25, 2023; and be it further

RESOLVED: That the Planning Commission approves the renewal of Conditional Use Permit CUP22-0004 (Application Number EXT23-0002) with the expiration date of March 3, 2024 pursuant to Tracy Municipal Code Section 10.08.4360 and the finding that such expiration date is reasonable; and be it further

RESOLVED: That the Planning Commission finds that the project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, pertaining existing facilities in an area where all public services and facilities are available, and which is not environmentally sensitive.

The foregoing Resolution 2023-_____ was adopted by the Planning Commission on December 20, 2023, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

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

City of Tracy
Garden of Eden Cannabis Dispensary CUP22-0004
Conditional Use Permit Findings
Application Number EXT23-0002

- (a) There are circumstances applicable to the use which make the granting of a use permit renewal 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 under 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.
- (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 6.36 and 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.
- (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 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.
- (d) 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.
- (e) The applicant applied for a renewal to the conditional use permit prior to expiration of the original time period granted. Pursuant to Tracy Municipal Code Sections 10.08.4350 and 10.08.4360, the applicant has experienced unusual hardships not of the applicant's own making, including time necessary for obtaining approvals and permits following the Planning Commission's original granting of the conditional use permit, and therefore requires additional time to obtain building permits and diligently pursue construction or occupy the site with the approved cannabis business. In particular, the applicant was not able to begin the required background check process until the City provided instructions seven months after the applicant's Conditional Use Permit was granted. The background check has been in process for two months and is still pending results. Furthermore, the applicant is not able to process the Community Benefit Agreement as required by the applicant's Cannabis Business Permit and, indirectly, the Conditional Use Permit, until the background check is completed. Additionally, the applicant has been actively pursuing a building permit over the last nine months and is close to approval and issuance of the building permit, pending completion of the background check and execution of a Community Benefit Agreement. For these reasons, the Commission finds good cause for the extension of the conditional use permit.

**City of Tracy
Conditions of Approval**
Garden of Eden Cannabis Dispensary CUP22-0004 Renewal
Application Number EXT23-0002
Planning Commission – December 20, 2023

A. General Provisions and Definitions.

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

The Project: Renewal of Garden of Eden Cannabis Dispensary Conditional Use Permit number CUP22-0004 to March 3, 2024

The Property: 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22

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.
- g. "Police Chief" means the Chief of Police of the City of Tracy, or any other person designated by the City Manager or the Police Chief to perform duties set forth herein.

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 9, 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").
 - The Medicinal and Adult-Use Cannabis Regulation and Safety Act;
 - Regulations of the Bureau of Cannabis Control;
 - Tracy Municipal Code (TMC) Chapter 6.36 (Commercial Cannabis Activity); and
 - City of Tracy Procedures and Guidelines for a Cannabis Business Permit adopted by City Council Resolution 2020-137
- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved Cannabis Business Permit No. CBPA20-0034, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. 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.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a cannabis business permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This conditional use permit shall expire six months following the date on which the use permit became effective unless, prior to the expiration of one year, 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: Kimberly Matlock (209) 831-6430 kimberly.matlock@cityoftracy.org

- B.1. Prior to approval of a building permit, the applicant shall provide detailed plans that demonstrate the following:
 - B.1.1. Compliance with TMC Section 6.36.380(k).
 - B.1.2. A parking area of at least 50 parking spaces designed in accordance with TMC Title 10 Article 26 and Standard Plan 141.
 - B.1.3. A landscape plan that shows a combination of trees (24" box min.), shrubs (5 gal min.), and groundcover (1 gal min.) planted in each planter area, with one canopy tree and one accent tree will be planted in every other planter east of the building in a generally alternating pattern that will result in at least four canopy trees and three accent trees, to the satisfaction of the Development Services Director.
 - B.1.4. Existing landscaping around the enhanced vapor recovery equipment shall be protected and any landscape lost shall be replenished to match the site to the satisfaction of the Development Services Director.
 - B.1.5. Enhanced vapor recovery enclosure, piping, and bollards colored to match the adjacent building wall two-tone color to the satisfaction of the Development Services Director. Reflective tape may be applied to the satisfaction of the Fire Marshal.
 - B.1.6. Other bollards colored to match the nearest adjacent structure, such as canopy columns. Reflective tape may be applied to the satisfaction of the Fire Marshal.
- B.2. Prior to issuance of a building permit, the applicant shall provide the following:
 - B.2.1 An application for lot line adjustment or lot merger to eliminate the property line currently crossing through the building and fueling canopy.
 - B.2.2 The applicant shall execute an Agreement for Maintenance of Landscape and Irrigation Improvements and submit financial security to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements or \$2.50 per square foot of on-site landscape area.
- B.3. Prior to final inspection, the applicant shall demonstrate the following:
 - B.3.1 Compliance with TMC Section 6.36.380(l).
 - B.3.2 All landscaping and irrigation shown in the approved building permit construction plans installed to the satisfaction of the Development Services Director.
 - B.3.3 A copy of the recorded document that eliminates the property line currently crossing through the building and fueling canopy.
 - B.3.4 All existing bollards that have been damaged overtime be repaired or replaced.
- B.4. Prior to commencing any cannabis operation, the applicant shall execute a Community Benefit Agreement with the City in accordance with the requirements of their Cannabis Business Permit.

- B.5. Aside from deliveries, the use shall be conducted wholly indoors. The use may not be conducted outside the building, including in the parking lot.
- B.6. The hours of operation shall be limited to 6:00 am to 10:00 pm in accordance with State law. Should the hours of operation established in the State law become more restrictive, the use shall comply with the more restrictive regulations.

C. Development Services Department, Engineering Conditions of Approval

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

C.1. General Conditions

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

- 1) Not Applicable.

C.2. RESERVED
C.3. RESERVED
C.4. RESERVED

C.5. Improvement Agreement(s)

All construction activity involving public improvements will require a fully executed improvement agreement (Off-site, Subdivision, and/or Inspection). Any construction activity involving public improvements without a fully executed improvement agreement is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer. Prior to the consideration of City Council's approval of said improvement agreement, the Developer shall provide all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.5.1. Off-site and/or Public Infrastructure Improvement Plans prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:

- C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.
- C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers such as benchmarks.
- C.5.1.c. A PDF copy of the Project's approved Geotechnical/Soils Report that was prepared for the grading permit submittal.
- C.5.1.d. RESERVED
- C.5.1.e. RESERVED
- C.5.1.f. RESERVED
- C.5.1.g. Streets – The Developer shall have frontage improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City. The Developer shall construct frontage improvements as described below.

Grant Line Road

Prior to the release of the Building Permit, Developer shall submit to the City ready for immediate recordation, an offer of dedication of public right-of-way in fee simple interest to the City of Tracy. The width of the public right-of-way dedication shall ensure the sidewalk and any public landscaping is within the public right-of-way.

Prior to the release of the Building Permit, Developer shall submit to the City ready for immediate recordation, a grant deed to dedicate a ten (10) foot wide Public Utility Easement (P.U.E.) immediately behind the property line.

Toste Road

Prior to the release of the Building Permit, Developer shall submit to the City ready for immediate recordation, an offer of dedication of public right-of-way in fee simple interest to the City of Tracy. The width of the public right-of-way dedication shall ensure the

sidewalk and any public landscaping is within the public right-of-way.

Prior to the release of the Building Permit, Developer shall submit to the City ready for immediate recordation, a grant deed to dedicate a ten (10) foot wide Public Utility Easement (P.U.E.) immediately behind the property line.

Developer shall remove and replace each existing driveway for each parcel with a driveway in conformance with a commercial driveway.

Developer shall construct portland cement concrete curb, gutter, and sidewalk along the Project's frontage. The gutter flowline shall align with the current low point of the existing road.

Along the Project frontage, if applicable, Developer shall landscape and irrigate the existing parkways per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc.

C.5.2. RESERVED

C.5.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the fee rate adopted by the City Council on September 2, 2014, per Resolution 2014-141 and on May 16, 2017, per Resolution 2017-098. Developer shall submit payment in the form of a check for the aforementioned fees.

C.5.4. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-).

CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

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

- C.5.5. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.
- C.5.6 If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.
- C.5.7 Improvement Security - Developer shall provide improvement security for all public facilities, as required by the Improvement Agreement. The form of the improvement security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

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

C.6. Building Permit

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

- C.6.1 Developer shall submit a separate building permit for the demolition of any existing structures.

C.7 Acceptance of Public Improvements

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

- C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.
- C.7.2 Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.
- C.7.3 Developer has satisfactory completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.7.4 Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.
- C.7.5 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.
- C.7.7 Per Section 21107.5 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet, if applicable.
- C.7.8 Survey Monuments – Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required to install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.
- C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.
- C.8.3 Prior to the release of the Building Permit, if water is required for the Project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.
- C.8.4 Prior to the release of the Certificate of Occupancy, Developer shall record with San Joaquin County Recorder a document to adjust the two parcels.

D. Tracy Police Department Conditions

Contact: Lieutenant Miguel Contreras (209) 831-6618 miguel.contreras@tracypd.com

- D.1. A minimum of 2 on-site security guards shall be maintained on site during business hours and 1 on-site security guard during closed hours. The name of the company shall be provided to the Police Department at the time of Building Permit application submittal. The establishment shall remain closed for business if the minimum of 2 certified security guards are not present during business hours on any given day. Once the minimum-security staffing is met, the establishment may re-open for business.
 - D.1.1. Overnight (nonbusiness hours) security shall be a minimum of 1 certified guard solely responsible for the security of this establishment and not multiple locations.
 - D.1.2. All contracted or employed guards shall be certified and have sole responsibilities as a security guard focused on safety and security. The security guards will be readily identifiable.

- D.2. Applicant shall cooperate with all legal requests from Tracy PD and any crimes shall be reported without delay.
- D.3. Prior to approval of a building permit, the applicant shall submit plans that demonstrate the lobby area will have a secured commercial grade, non-residential door which is lockable separating the lobby floor (check-in area) from the sales area as required in section 6.36.380 Cannabis Storefront (Dispensary) Retailer Permit Requirements to the satisfaction of the Police Chief or his designee.
- D.4. Prior to establishment of the use, the applicant shall submit to the Police Department a copy of the actual detailed security plan, including the full names and current contact information for onsite security, to the satisfaction of the Police Chief or his designee. The security and emergency response plan will include the actual security measures and procedures.

Installing security surveillance cameras of sufficient resolution to allow the identification of persons and objects to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Police Chief or designee(s), and that it is compatible with the City's software and hardware. In addition, remote access to the video footage from the cameras shall be provided to the Police Chief or designee(s). Video recordings shall be maintained for a minimum of ninety (90) days, or as required under state law, and shall be made available to the Police Chief or designee(s) upon request without unreasonable delay. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.

The security video surveillance shall provide 360-degree coverage of the business and parking lot areas.

- D.5. Prior to establishment of the use, the applicant shall establish and maintain an updated on-call list of responders with their alarm service provider and current alarm permit with the City of Tracy, to include the on-site security manager. This shall be provided prior to the establishment of the use.
- D.6. Trash containers and enclosures shall be locked and not accessible by the public at all times.

E. South San Joaquin County Fire Authority Conditions

Contact: Tim Spears, Fire Marshal (209) 831-6707 tim.spears@sjcfire.org

- E.1. Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.

- E.1.1. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.
- E.1.2. Deferred submittals shall be listed on the coversheet of each page. Each deferred submittal shall be submitted, reviewed and approved by SSJCFA prior to installation.
- E.2. Engineering and building permit applications received by our offices are subject to the current fee schedule for South San Joaquin County Fire Authority. Contact our offices for additional information.
 - E.2.1. Application processing fees and minimum plan review fees are due at time of submittal of construction documents.
 - E.2.2. Additional plan review fees, minimum inspection fees and administrative fees are calculated on approval of project and shall be paid prior to issuance of permit.
 - E.2.3. Permit holder is responsible for any additional inspection fees incurred, and shall be paid prior to final inspection.
- E.3. Prior to occupancy of each new business, the tenant shall contact South San Joaquin County Fire Authority for a new business inspection. Additional fees may be required for New Business, Annual and Operational Fire Permits. All fees shall be paid prior to approval of inspections.
- E.4. Prior to construction, all-weather fire apparatus access roads shall be installed and maintained at all times. Fire apparatus access roads during construction shall have a minimum 20' unobstructed width in accordance with CFC §503.
- E.5. All hydrants shall be installed, inspected, tested, and access maintained at all times prior to bringing combustible materials onsite, including storage.
- E.6. Knox box 3200 series shall be required for project. Each tenant shall have keys placed in the key box. The operator of the building shall immediately notify the Fire Authority and provide the new key where a lock is changed or rekeyed. The key to such shall be secured in the key box.
- E.7. Building and each tenant space shall be provided with approved address identification in accordance with CFC §505 and the Tracy Municipal Code.

F. Development Services Department, Building Division Conditions

Contact: Danis Isho (209) 831-6484 danis.isho@cityoftracy.org

- F.1. Prior to the construction of any structures, applicant shall submit construction plans and details that demonstrate conformance with parking spaces and accessible routes requirements per California Building Code 11B.
- F.2. Prior to the construction of any structures, applicant shall submit construction documents and associated details that demonstrate compliance with path of travel requirements in alterations, additions and structural repairs per California Building Code 11B-202.4.

- F.3. Prior to the construction of any structures, applicant shall submit construction documents, engineering analysis and calculation, specifications etc. that conform with the current Title 24 California Code of Regulations at time of application.
- F.4. Prior to the construction of any structures, applicant shall submit construction documents that demonstrate compliance with egress door hardware and operation conforming to California Building Code section 1010.1.
- F.5. Prior to the construction of any structures, applicant shall submit construction documents that demonstrate compliance with CBC Table 1006.2.1 for egress from the cannabis storage area in conjunction with the limitations for egress to intervening spaces per CBC 1016.2.

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

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

G.1. 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.

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION NO. 2023-_____

- 1. RESCINDING PLANNING COMMISSION RESOLUTION 2023-014;**
- 2. GRANTING A RENEWED EXPIRATION DATE OF CONDITIONAL USE PERMIT CUP22-0003 (EXT23-0004) FOR A CANNABIS DISPENSARY AT 951 N. CENTRAL AVENUE, APN 235-056-07, TO MARCH 3, 2024; AND**
- 3. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

WHEREAS, the applicant was awarded a Cannabis Business Permit (Application Number CBPA20-0017) on March 3, 2022 by the Tracy Police Chief, which is valid until March 3, 2024; and

WHEREAS, the applicant was granted a Conditional Use Permit (Application Number CUP22-0003) to establish a cannabis dispensary at 951 N. Central Avenue; and

WHEREAS, the Conditional Use Permit, which took effect on September 29, 2022, was granted a time limit of one year for the use to be established in accordance with TMC Section 10.08.4360; and

WHEREAS, pursuant to TMC Section 10.08.4350, CUPs allow applicants a period of six (6) months to obtain a building permit and commence and diligently pursue construction on the site; the CUP expires and is deemed void if the applicant fails to so comply; and

WHEREAS, the use had not yet been established and the Conditional Use Permit was set to expire on September 29, 2023; and

WHEREAS, under TMC Section 10.08.4360, the CUP may be extended by the Planning Commission provided 1) the new time limit is "reasonable, based on size, nature, and complexity of the proposed development," and 2) the Planning Commission finds "good cause, such as proof of an unusual hardship not of the applicant's own making;" and

WHEREAS, on September 18, 2023, the applicant submitted an application requesting additional time to establish the use; and

WHEREAS, Conditional Use Permit renewals are subject to the authority of the Planning Commission; and

WHEREAS, pursuant Tracy Municipal Code Sections 10.08.4350 and 10.08.4360, Conditional Use Permits may be renewed for an additional period of six (6) months or greater:

provided the applicant demonstrates "good cause, such as proof of an usual hardship not of the applicant's own making;" and

WHEREAS, the subject property is designated Commercial in the Tracy General Plan and zoned Central Business District (CBD), wherein cannabis dispensaries are conditionally permitted; and

WHEREAS, the applicant proposed no changes to the project from that which was approved under CUP22-0003; and

WHEREAS, the Planning Commission conducted a public hearing to review and consider the project on October 25, 2023; and

WHEREAS, the Applicant has demonstrated good cause for an extension of the CUP under TMC 10.08.4360 based on hardships derived from difficulties and delays in obtaining a building permit;

WHEREAS, the Planning Commission initially granted a renewal of the Conditional Use Permit for a period of six months, which extended the permit to March 29, 2024; and

WHEREAS, subsequent to the approval of the CUP renewal for six months, the City determined that expiration date of the CUP renewal was approved beyond the authority of the Planning Commission because it expressly authorizes establishing a conditional use for a duration of time in exceedance of the expiration date of its associated Cannabis Business Permit; and

WHEREAS, the time of the extended CUP must expire on March 3, 2024 because TMC Section 10.08.4420 prohibits issuance of any license or use permit in conflict with another license or permit, and the applicant's Cannabis Business Permit expires on March 3, 2024;

WHEREAS, on December 20, 2024, the Planning Commission conducted a public hearing to review and consider an amendment to the CUP renewal to be valid until March 3, 2024 in alignment with the expiration date of its associated Cannabis Business Permit; now, therefore, be it

RESOLVED: the Planning Commission incorporates and adopts the foregoing recitals as findings of fact; and be it further

RESOLVED: That the Planning Commission hereby rescinds Planning Commission Resolution 2023-014 dated October 25, 2023; and be it further

RESOLVED: That the Planning Commission approves the renewal of Conditional Use Permit CUP22-0003 (Application Number EXT23-0004) with the expiration date of March 3, 2024 pursuant to Tracy Municipal Code Section 10.08.4360 and the finding that such expiration date is reasonable; and be it further

RESOLVED: That the Planning Commission finds that the project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, pertaining existing facilities in an area where all public services and facilities are available, and which is not environmentally sensitive.

* * * * *

The foregoing Resolution 2023-_____ was adopted by the Planning Commission on December 20, 2023, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

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

City of Tracy
Jiva TCY Cannabis Dispensary CUP22-0003
Conditional Use Permit Findings
Application Number EXT23-0004

- (a) There are circumstances applicable to the use which make the granting of a use permit renewal 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 Central Business District zone under the Tracy Municipal Code. The proposed project meets the consumer service intent of the Central Business District 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 6.36 and 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.
- (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 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.
- (d) 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.
- (e) The applicant applied for a renewal to the conditional use permit prior to expiration of the original time period granted. Pursuant to Tracy Municipal Code Sections 10.08.4350 and 10.08.4360, the applicant has good cause for requesting a permit renewal for reasons relating to time necessary for obtaining approvals and permits following the Planning Commission's original granting of the conditional use permit, and therefore requires additional time to obtain building permits and diligently pursue construction and occupy the site with the approved cannabis business. In particular, applicant experienced hardships resulting from the length of time it took for the City to finalize and begin the background check and Community Benefit Agreement processes required for the Conditional Use Permit and associated Cannabis Business Permit. The applicant has been diligently pursuing these items as well as a building permit for the business's tenant improvement over the past year and is close to completion of these items, and an extension is reasonable based on the size, nature and complexity of the proposed development. For these reasons, the Commission finds good cause for the renewal of the conditional use permit.

**City of Tracy
Conditions of Approval**

Jiva TCY Cannabis Dispensary CUP22-0003 Renewal
Application Number EXT23-0004
Planning Commission – December 20, 2023

A. General Provisions and Definitions.

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

The Project: Renewal of Jiva TCY Cannabis Dispensary Conditional Use Permit
number CUP22-0003 to March 3, 2024

The Property: 951 N. Central Avenue (Assessor's Parcel Number 235-056-07)

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.
- g. "Police Chief" means the Chief of Police of the City of Tracy, or any other person designated by the City Manager or the Police Chief to perform duties set forth herein.

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 March 8, 2022 and the security plan received

by the Development Services Department on July 20, 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").
 - The Medicinal and Adult-Use Cannabis Regulation and Safety Act;
 - Regulations of the Bureau of Cannabis Control;
 - Tracy Municipal Code (TMC) Chapter 6.36 (Commercial Cannabis Activity); and
 - City of Tracy Procedures and Guidelines for a cannabis business permit adopted by City Council Resolution 2020-137
- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved cannabis business permit No. CBPA20-0017, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. 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.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a Cannabis Business Permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This the conditional use permit shall expire six months following the date on which the use permit became effective unless, prior to the expiration of one year, 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. Prior to approval of a building permit, the applicant shall provide detailed plans that demonstrate compliance with TMC Section 6.36.380(k) regarding floor plan and storage requirements.
- B.2. Prior to final inspection, the applicant shall demonstrate compliance with TMC Section 6.36.380(l) regarding signage.
- B.3. Community Benefit Agreement. Prior to commencing any cannabis operation, the applicant shall execute a Community Benefit Agreement with the City in accordance with the requirements of their Cannabis Business Permit.
- B.4. The use shall be conducted wholly indoors.
- B.5. Hours of operation. The hours of operation shall be limited to 6:00 am to 10:00 pm in accordance with State law. Should the hours of operation established in the State law become more restrictive, the use shall comply with the more restrictive regulations.

C. Development Services Department, Building Division Conditions

Contact: Danis Isho (209) 831-6484 danis.isho@cityoftracy.org

- C.1. Prior to the construction of any structures, applicant shall submit construction plans and details that demonstrate conformance with parking spaces and accessible routes requirements per California Building Code.
- C.2. Prior to the construction of any structures, applicant shall submit construction documents that demonstrate compliance with plumbing fixture requirements for all occupants served based on California Plumbing Code chapter 4, compliance with accessible route clear width requirements per California Building Code 11B-403.5, compliance with minimum clearance requirements between doors in series per California Building Code 11B-404.2.6, compliance with path of travel requirements in alterations, additions and structural repairs per California Building Code 11B-202.4, and compliance with egress door hardware and operation conforming to California Building Code section 1010.1.
- C.3. Prior to the construction of any structures, applicant shall submit construction documents prepared and sealed by a licensed professional per B&P Code.
- C.4. Prior to the construction of any structures, applicant shall submit construction documents, engineering analysis and calculation, specifications etc. that conform with the current Title 24 California Code of Regulations at time of application.

D. Tracy Police Department Conditions

Contact: Lieutenant Miguel Contreras (209) 831-6618 miguel.contreras@tracypd.com

- D.1. A minimum of two on-site security guards shall be maintained on site during business hours and 1 on-site security guard during closed hours. The name of the company shall be provided to the Police Department at the time of Building Permit application

submittal. The establishment shall remain closed for business if the minimum of 2 certified security guards are not present during business hours on any given day. Once the minimum-security staffing is met, the establishment may re-open for business.

D.1.1. Overnight (nonbusiness hours) security shall be a minimum of 1 certified guard solely responsible for the security of this establishment and not multiple locations.

D.1.2. All contracted or employed guards shall be certified and have sole responsibilities as a security guard focused on safety and security. The security guards will be readily identifiable.

D.2. Applicant shall cooperate with all legal requests from Tracy PD and any crimes shall be reported without delay.

D.3. Prior to establishment of the use, the applicant shall establish and maintain an updated on-call list of responders with their alarm service provider and current alarm permit with the City of Tracy, to include the on-site security manager. This shall be provided prior to the establishment of the use.

D.4. Trash containers and enclosures shall be locked and not accessible by the public at all times.

December 20, 2023

Agenda Item 1.B

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION (1) FINDING GOOD CAUSE UNDER TMC SECTION 10.08.4360 FOR APPLICANT'S RENEWAL OF CONDITIONAL USE PERMIT; (2) APPROVING RENEWAL (EXT23-0005) OF CONDITIONAL USE PERMIT CUP21-0009 FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 316 & 320 W. ELEVENTH STREET (ASSESSOR'S PARCEL NUMBERS 235-040-05 & 06) TO MARCH 3, 2024; AND (3) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

THE APPLICANT IS SAAD PATTAH AND THE PROPERTY OWNERS ARE SAAD PATTAH AND REO CAPITAL INVESTMENTS & ASSET MANAGEMENT, APPLICATION NUMBER EXT23-0005.

EXECUTIVE SUMMARY

On October 12, 2022, the Planning Commission granted a Cannabis Conditional Use Permit (CUP) to The Cake House Cannabis Dispensary (Applicant) for a 12-month term expiring on October 27, 2023. Because the applicant is still working on applying for building permits to construct the improvements and establish the use, Applicant has requested a renewal of the CUP to allow more time to complete the project. Staff recommends finding good cause and granting a four-month extension of the CUP to March 3, 2024, to align with the current expiration date of all pending Cannabis Business Permits.

BACKGROUND, LEGISLATIVE HISTORY AND ANALYSIS

On October 12, 2022, the Planning Commission approved Conditional Use Permit CUP21-0009 and Development Review Permit D21-0034 for a cannabis dispensary at 316 & 320 W. Eleventh Street (Attachment A). The Applicant is in the process of preparing construction drawings to submit for a building permit for construction of the project. The Development Review Permit for demolition and construction is still valid for another year. The CUP expired on October 27, 2023.

Pursuant to TMC Section 10.08.4350, CUPs allow applicants a period of six (6) months to obtain a building permit and commence and diligently pursue construction on the site. Under TMC Section 10.08.4350, the CUP expires and is deemed void if the applicant fails to so comply. Under TMC Section 10.08.4360, the CUP may be extended by the Planning Commission provided 1) the new time limit is "reasonable, based on size, nature, and complexity of the proposed development," and 2) the Planning Commission finds "good cause, such as proof of an unusual hardship not of the applicant's own making."

Here, the Applicant's CUP, CUP21-0009, took effect on October 27, 2022, and was granted an additional six months for a total of 12 months for the use to be established or for a building permit to be secured and construction. The additional six months was granted to allow the applicant additional time to secure other requirements for their cannabis business, such as State licensing, background checks, and a community benefit agreement, and secure building permits for the demolition of the existing improvements and construction of the approved

project. Prior to expiration of the CUP, on October 18, 2023, the Applicant submitted an application requesting additional time to establish the use.

The Applicant has demonstrated good cause for another extension based on hardships derived from an unexpected reduction of the applicant's resources, including their draftsman, which limited their ability to prepare construction documents necessary for the building permit application. The Applicant has requested additional time to complete preparation of the construction documents, obtain a building permit, and construct the project. The Commission has the authority to grant or deny an application for the renewal of a use permit. The Applicant proposes no changes to the project from what was approved under CUP21-0009 on October 12, 2022.

As for the date of the CUP extension, staff recommends the Planning Commission grant the CUP a renewal to March 3, 2024 to align with the expiration date of the associated Cannabis Business Permit, and carry over the conditions of approval from CUP21-0009 in accordance with TMC Section 10.08.4350. Under TMC Section 6.36.080, the applicant's Cannabis Business Permit (CBPA20-0013) expires on March 3, 2024. As with the term initially granted at issuance of the CUP, extensions thereto cannot exceed known dates of noncompliance, such as expiration of a required Cannabis Business Permit. Moreover, TMC Section 10.08.4420 prohibits issuance of any license or use permit in conflict with another license or permit.

Cannabis Business Permits may be renewed by application pursuant to TMC 6.36.100 so long as the City Police Chief finds that the applicant meets the criteria set forth in TMC Section 6.36100(c) and those additional criteria set forth in TMC Section 6.36.070. Here, the subject applicants have not submitted Cannabis Business Permit renewal applications, there are no findings meeting the required criteria, and the Planning Commission lacks subject matter jurisdiction to grant Cannabis Business Permit Renewals.

PUBLIC OUTREACH / INTEREST

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

CEQA DETERMINATION

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, which pertains to infill development. In accordance with CEQA Guidelines, no further environmental assessment is required.

ACTION REQUESTED OF THE PLANNING COMMISSION

Staff recommends that the Planning Commission adopt a Resolution (1) finding good cause under TMC Section 10.08.4360 for applicant's extension of Conditional Use Permit; (2) approving renewal (EXT23-0005) of Conditional Use Permit CUP21-0009 for a Cannabis Storefront Retailer (Dispensary) at 316 & 320 W. Eleventh Street (Assessor's Parcel Numbers 235-040-05 & 06) to March 3, 2024; and (3) Determining that this Project is categorically exempt from the California Environmental Quality Act.

Prepared by: Kimberly Matlock, Associate Planner

Reviewed by: Alan Bell, Senior Planner
Bill Dean, Assistant Development Services Director
Jeffrey Crosswhite, Assistant City Attorney

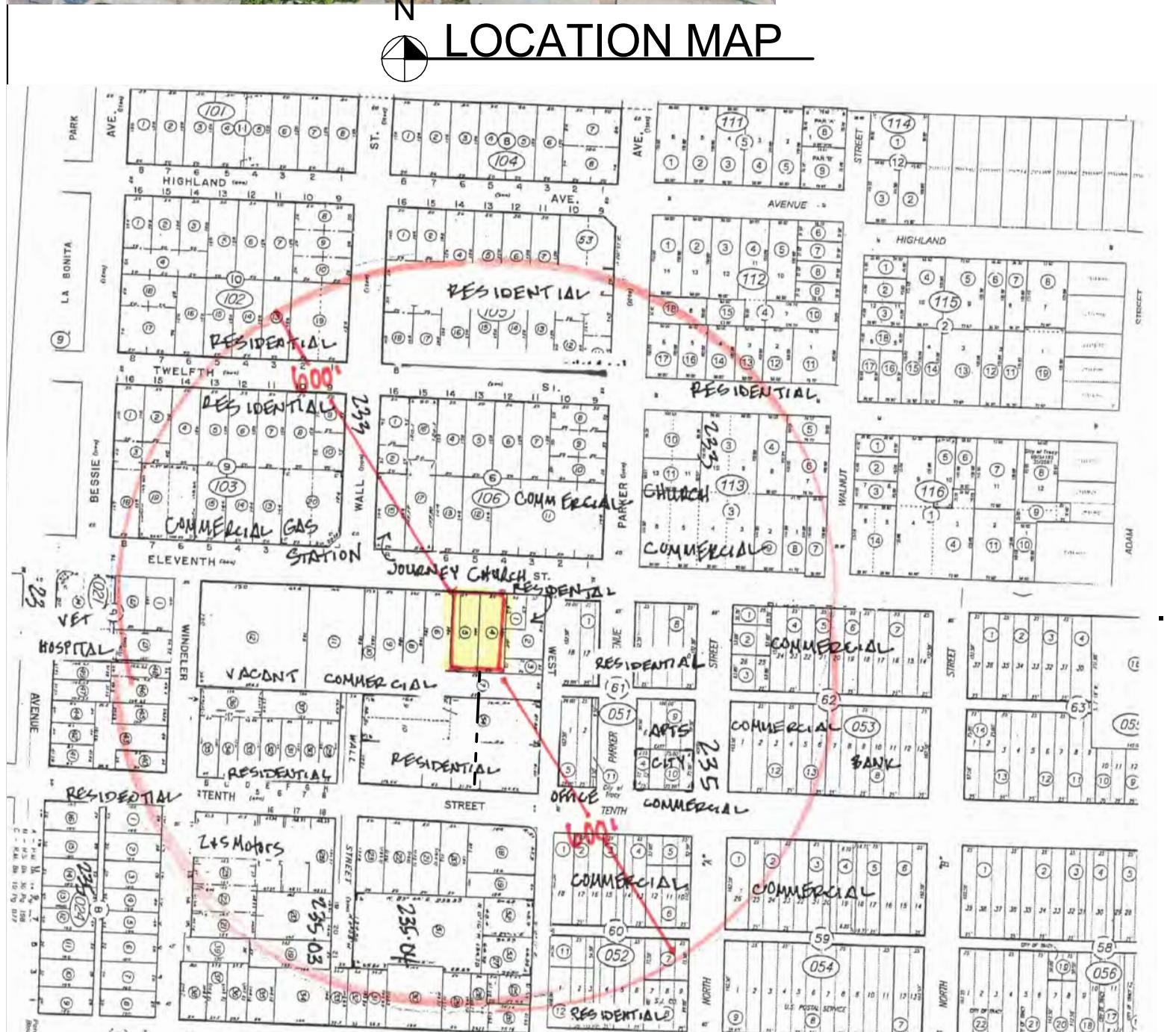
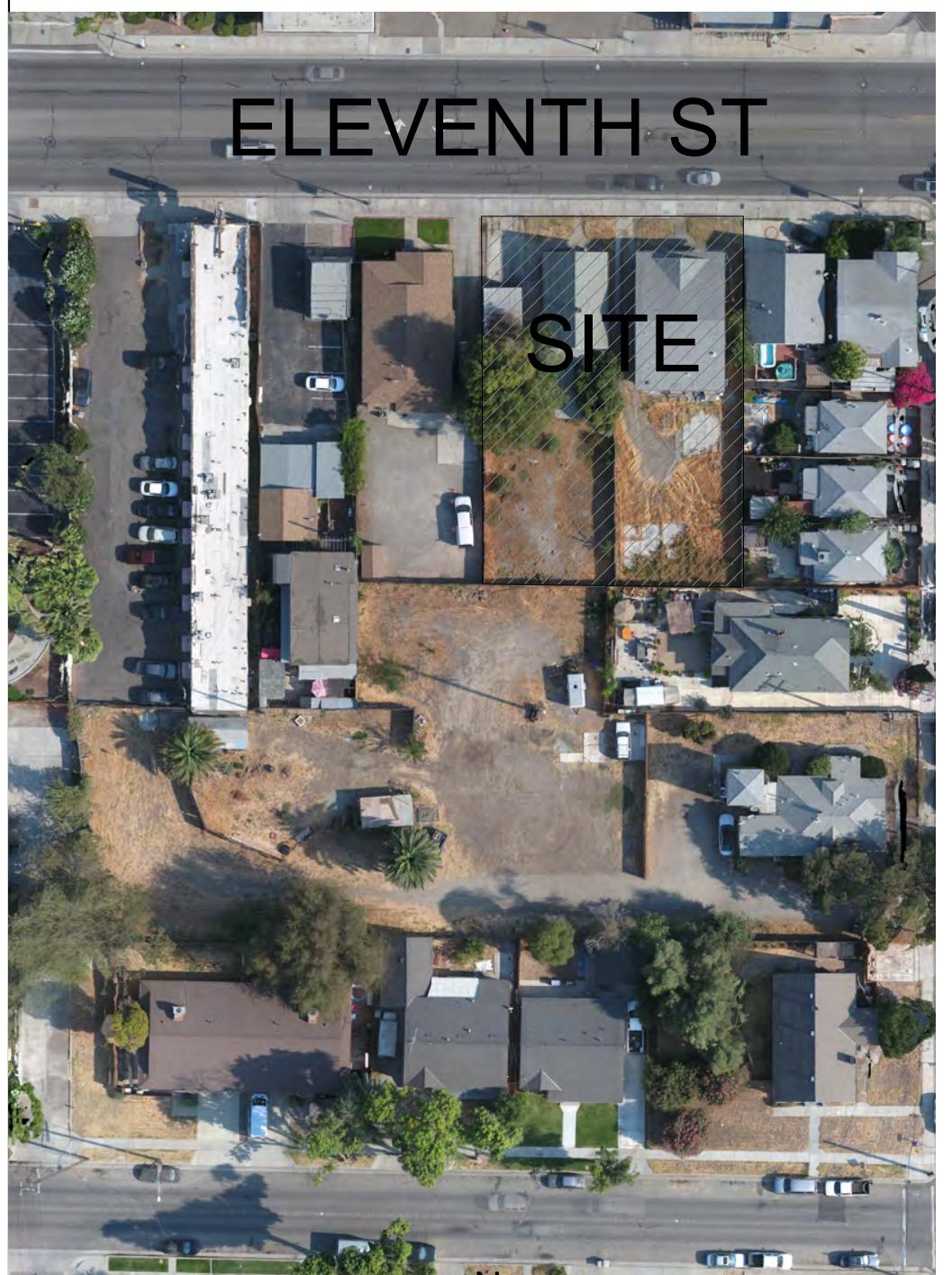
Approved by: Karin Schnaider, Assistant City Manager / Interim Development Services Director

ATTACHMENTS

Attachment A – CUP21-0009 (Plans, Staff Report, Resolution and Conditions of Approval)

Attachment B – Planning Commission Resolution

Exhibit 1 – Findings
Exhibit 2 – Conditions of Approval



Map Preparer:
SUSAN W. CASE, INC.
4000 BARRANCA PKWY #250
IRVINE CA 92604
949 494 6105
susan@susancaseinc.com

FILE # 218747
316 AND 320 W 11TH ST
TRACY CA
800' RADIUS MAP
OCTOBER 9 2021
0235 040 04 AND 05

600 F. VICINITY MAP W/ LAND USE



N

PROJECT DESCRIPTION:

SEEKING A CONDITIONAL USE PERMIT FOR A RETAIL DISPENSARY AT 320 & 316 W. 11TH ST, TRACY, CALIFORNIA 95376. THE PROPOSAL INCLUDES THE DEMOLITION OF AN EXISTING RESIDENTIAL BUILDING TO CREATE SPACE FOR THE CONSTRUCTION OF A BRAND NEW CANNABIS RETAIL FACILITY. THE ATTACHED CUP EXHIBITS DEMONSTRATE THE PROPOSED SITE COMPLIES WITH ALL SENSITIVE USE SETBACKS AND ZONING REQUIREMENTS.

LAND USE REQUIREMENTS:

PROJECT ADDRESS:

316 & 320 WEST 11TH ST, TRACY, CA 95376
APN: 235-040-05, 235-040-06
ZONING: GHC
EXISTING USE: (R) SINGLE FAMILY
PROPOSED BUILDING AREA 3,180 SF
PROPOSED USE:
RETAIL / DISPENSARY
TOTAL LOT SIZE: 7,000 + 7000 SF (14,000 SF)
FAR: NOT APPLICABLE
HEIGHT LIMIT: NOT APPLICABLE
EASEMENT: NOT APPLICABLE

BUILDING INFORMATION:

PROPOSED OCCUPANCY:
(M) MERCANTILE, (B) BUSINESS

CONSTRUCTION TYPE
VB

PROPOSED BUILDING AREAS:

SPACE USE	SF
01- LOBBY	174
02- RECEPTION	82
03- SECURITY RM	50
04- OFFICE	99
05- CIRCULATION	270
06- MEETING RM	122
07- DISPENSARY	1,355
08- CUSTOMERS RESROOM	49
09- EMPLOYEE RESTROOM	49
10- DISPOSAL RM	57
11- JANITOR RM	24
12- BREAK AREA	142
13- OFFICE	187
14- VAULT	237
15- DELIVERY / STORAGE RM	134
16- MECHANICAL RM	75
TOTAL NET SF	2,800

SPRINKLERS SYSTEM
NO

STORIES
1

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CUP 01.T- 01	TITLE SHEET
CUP 02.A - 01	ARCHITECTURAL SITE PLAN
CUP 03.A - 01.1	UTILITY SITE PLAN
CUP 04.A - 01.2	SITE CONTEXT
CUP 05.A - 02	AS BUILT SITE / DEMO PLAN
CUP 06.S - 02	SURVEY
CUP 07.G - 06	GRADING
CUP 08. L - 1	LANDSCAPE
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CUP 10.A - 08	ELEVATIONS
CUP 11.A - 09	PERSPECTIVE ELEVATIONS
CUP 12.A - 10	PRESPECTIVES
CUP 13.A - 11	SECTIONS

PARKING CALCULATIONS:

PER 10.08.3480 PARKING.

ONE SPACE PER / 250 SF OF GROSS FLOOR AREA.

REQ. RETAIL USE= 3400, 1 PER 250 SF = 13.60 = 14 space

COMPACT= 20% = 2.8 = 3 space

ADA PARKING = 1

CHARGING STATION = 1

TOTAL PARKING PARKING PROVIDED

ADA VAN SPACES = 1

ELECTRICAL CHARGING STATION = 1

COMPACT= 3

REGULAR = 9,

TOTAL PARKING SPACES = 14

LANDSCAPING REQUIRED 10%

14 SPACE= 2270 SF x 10% = 227 SF

LANDSCAPE PROVIDED= 2,775 SF > 227 SF,

LANDSCAPE REQ. MET.

PROJECT TEAM:

OWNER (320 W 11TH): REO CAPITAL INVESTMENTS AND ASSET MANAGEMENT
OWNER (316 W 11TH): SAAD PATTAH

APPLICANT: COMMUNITY VETERANS OF TRACY, LLC
350 W Ninth ave. unit 106B
Escondido, Ca 92025

DESIGNER: CAKE ENTERPRISES, INC
350 w Ninth Ave. unit 106B
Escondido, ca 92025
CONTACT: HUSSEIN MUNAIM
(619) 788-3224

RECEIVED
August 16, 2022
City of Tracy
Development Services



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE
CAKE
HOUSE

PROJECT NO: Project No.
MODEL FILE: TRACY 3rd CUP FINAL correction 07_20_2022.pln
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SHEET TITLE

TITLE SHEET

CUP 01.T- 01

SHEET 1 OF20



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY VETERANS OF TRACY, LLC

THE CAKE HOUSE

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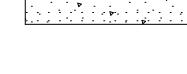
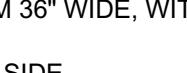
ARCHITECTURAL SITE PLAN

CUP 02.A - 01

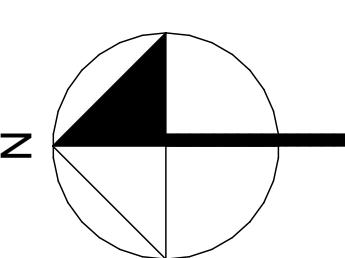
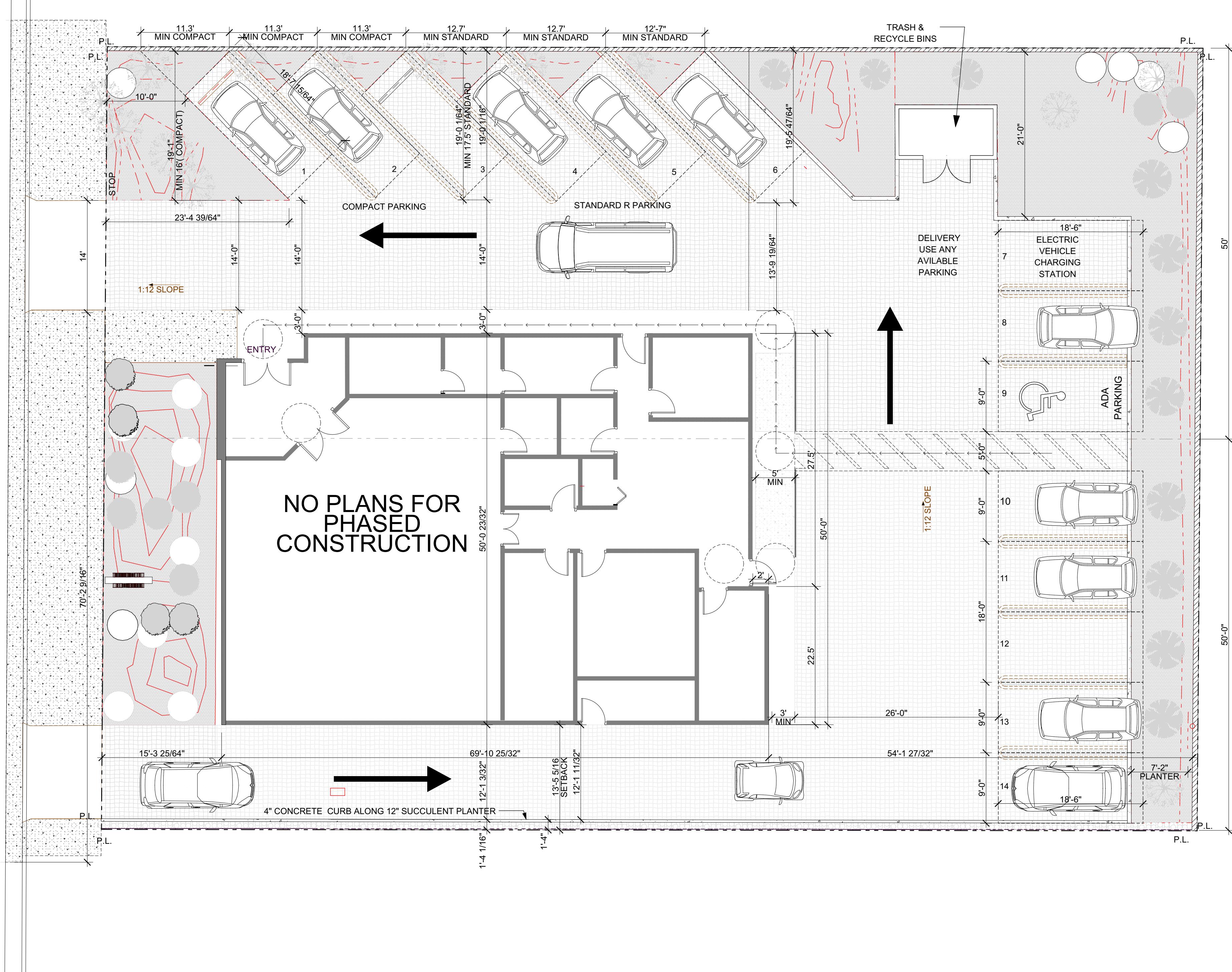
SHEET 2

OF20

W. 11TH STREET CENTER LINE

- ① STOP (R1-1) SIGN, LIMIT LINE AND "STOP" PER DETAIL6/ T1.2
- ② EXIST WATER VAULT FOR NEW CONNECT
- ③ NEW DRIVE PER ENGINEERING
- ④ NEW POWER CONNECTIONS
- ⑤ TRASH RECYCLE BINS ENCLOSURE
- ⑥ THE ENTIRE PARKING SURFACE IS COVER WITH 100% PERVIOUS PAVEMENT NO WATER ACCUMULATION ON THE SURFACE < 1% SHOULD BE ACCEPTABLE, PAVER SPECIFICATION PER CIVIL PLAN 
- ⑦ CONCRETE ADA RAMP 7% SLOPE, 36" MINIMUM CLEAR WIDTH
- ⑧ EXISTING SIDEWALK TO REMAIN 
- ⑨ DO NOT ENTER SIGN
- ⑩ ENTER SIGN PER DETAIL 3/ T-1.1
- ⑪ LANDSCAPE 
- REQUIRED LANDSCAPE PER 10.08.3560
- ⑫ TOTAL AREA OF PARKING =6612 SF MINIMUM AREA OF LANDSCAPE = .1X6612=616.2SF PROPOSED LANDSCAPE AREA= 1448.65B SF LANDSCAPE TO LOT RATIO= (616.2/1448.65)X100 =42.5%>10%OK
- ⑬ CONCRETE CUR
- ⑭ 5' ADA CIRCUL
- ⑮ 6" BRICK WALL 
- ⑯ CONCRETE SIDEWALK MINIMUM 36" WIDE, WITH MAXIMUM 1% CROSS SLOP
- ⑰ REQUIRED SET BACK ON ALL SIDE.
PROPOSED SET BACK
FRONT 15'-0"
BACK 45'-9"
SIDE WEST 33'-6"
SIDE EAST 16'-6"
- ⑱ MAXIMUM REQUIRED BUILDING HEIGHT NO LIMIT MAXIMUM PROPOSED HEIGHT =18'-6"
- ⑲ MAXIMUM FAR NO LIMIT PROPOSED BUILDING AREA = 3400 SF LOT AREA= 14000 SF FAR=3400/14000=.24 OK
- ⑳ PARKING ANALYSIS PROPOSED BUILDING AREA= 3400 SF PARKING REQUIREMENT 250SF PER 10.08.3480 - MINIMUM NUMBER OF PARKING SPACE= 3400/250= 13.60 PARKING SPACE, REQUIRED MINIMUM 14 PARKING SPACE.
PER SECTION 10.08.3500, MAXIMUM COMPACT 20%,
13.6X.2=2.72 MAXIMUM COMPACT 3 PARKING SPACE,
- ㉑ 10.08.3570 - LOADING SPACE (1) AN OCCUPANCY OF 5,000 OR LESS SQUARE FEET OF GROSS FLOOR AREA SHALL HAVE A LOADING SPACE WITH MINIMUM DIMENSIONS OF TEN (10') FEET WIDTH, TWENTY (20') FEET LENGTH, AND A VERTICAL CLEARANCE OF FOURTEEN (14') FEET..
- ㉒ FIRE TRUCK DEAD END REQUIRED. DISTANCE FROM THE STREET TO THE BACK OF THE BUILDING IS 83.5 FEET < 150' PER SECTION 503.2.5 NO FIRE TRUCK TURN IS REQUIRED .503.2.5 DEAD ENDS. DEAD-END FIRE APPARATUS ACCESS ROADS IN EXCESS OF 150 FEET (45,720 MM) IN LENGTH SHALL BE PROVIDED WITH AN APPROVED TURNAROUND IN ACCORDANCE WITH APPENDIX D AS AMENDED

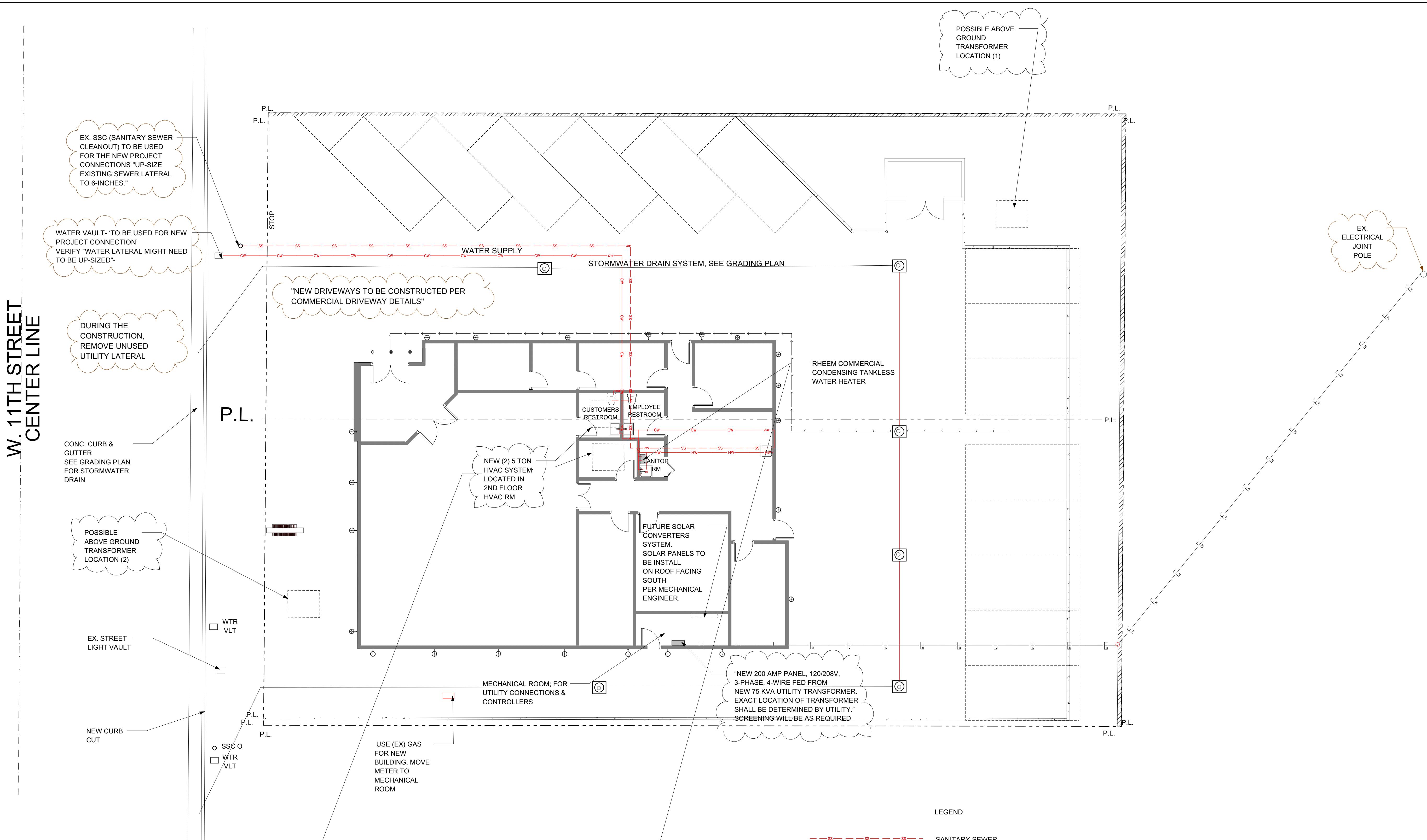
THE FOLLOWING DISABLED ACCESS ITEMS ARE TAKEN FROM THE 2019 EDITION OF CALIFORNIA BUILDING CODE,
TITLE 24. PER SECTION 1.9.1, ALL PUBLICLY AND PRIVATELY FUNDED PUBLIC ACCOMMODATIONS AND
COMMERCIAL FACILITIES SHALL BE ACCESSIBLE TO PERSONS WITH DISABILITIES



SITE PLAN

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

W. 11TH STREET CENTER LINE



COMMUNITY VETERANS OF TRACY, LLC

THE CAKE HOUSE

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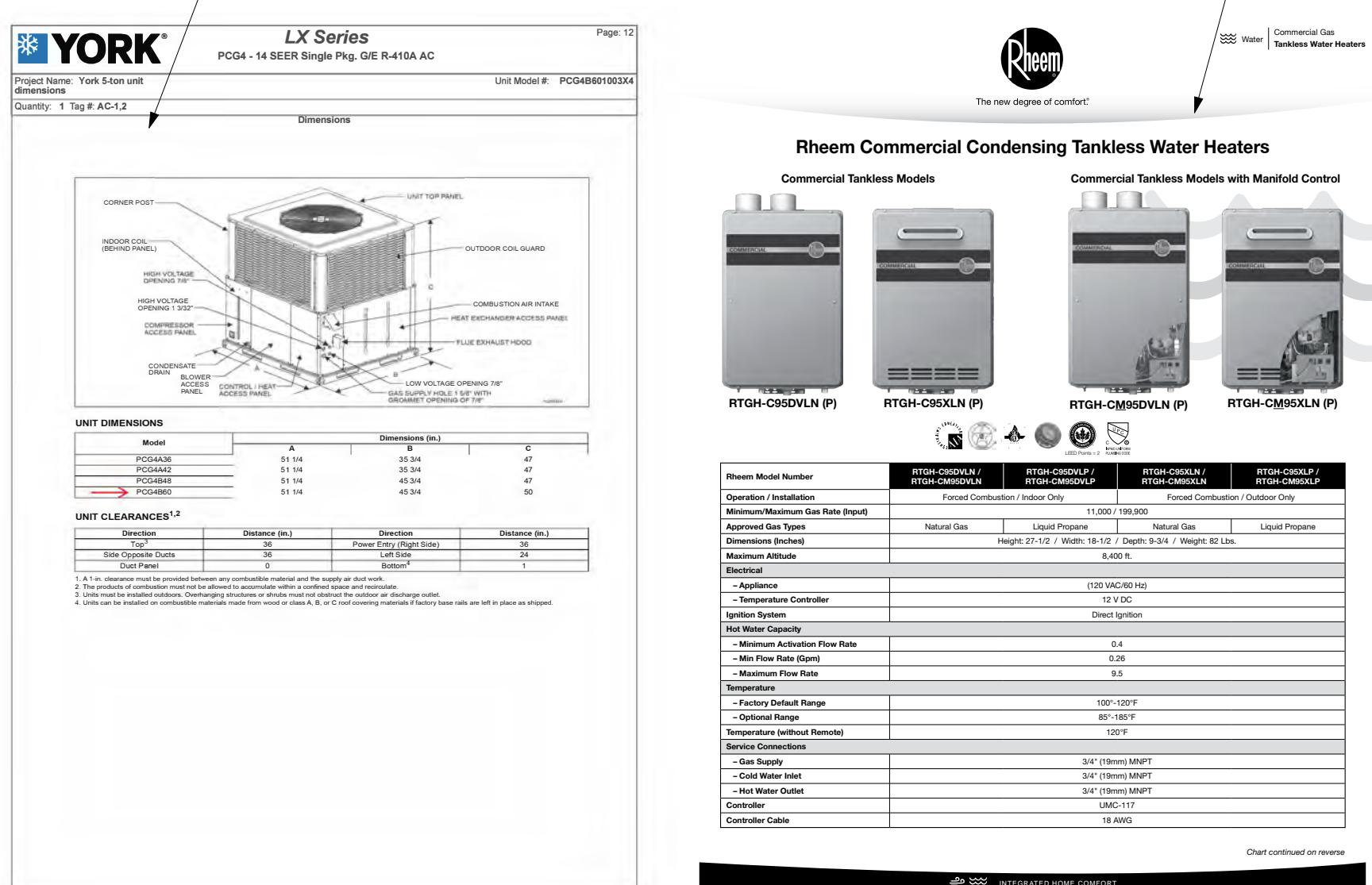
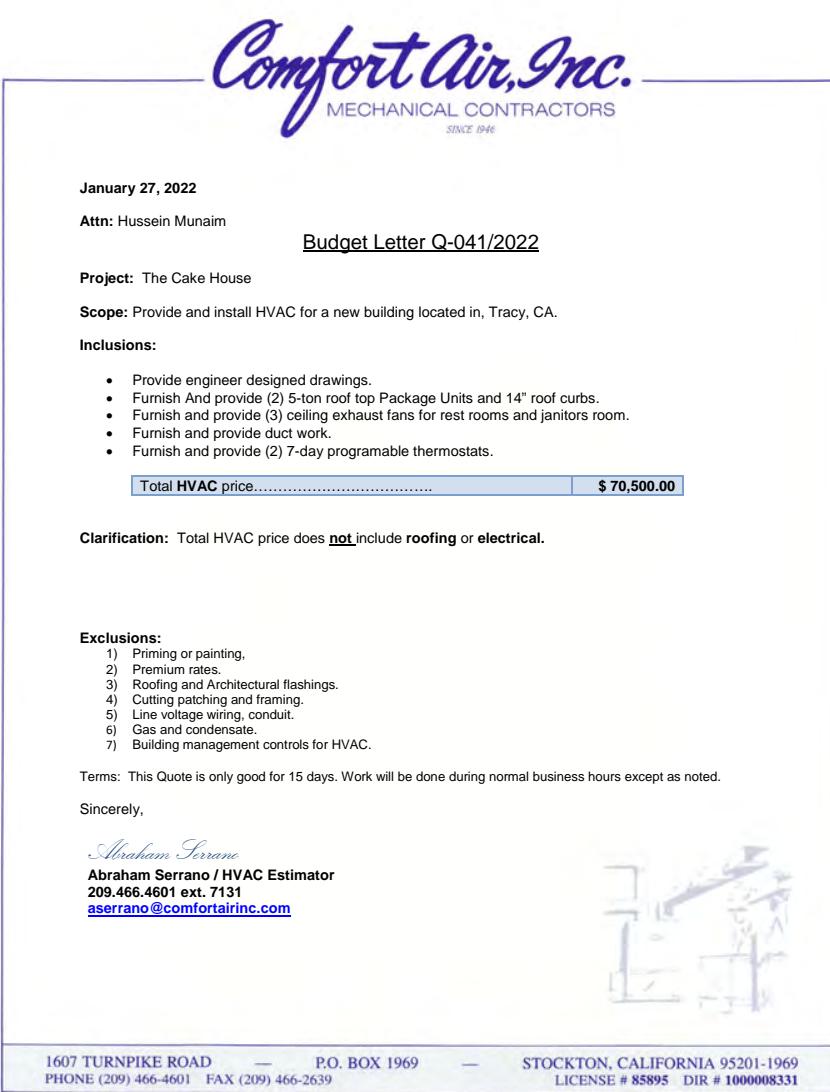
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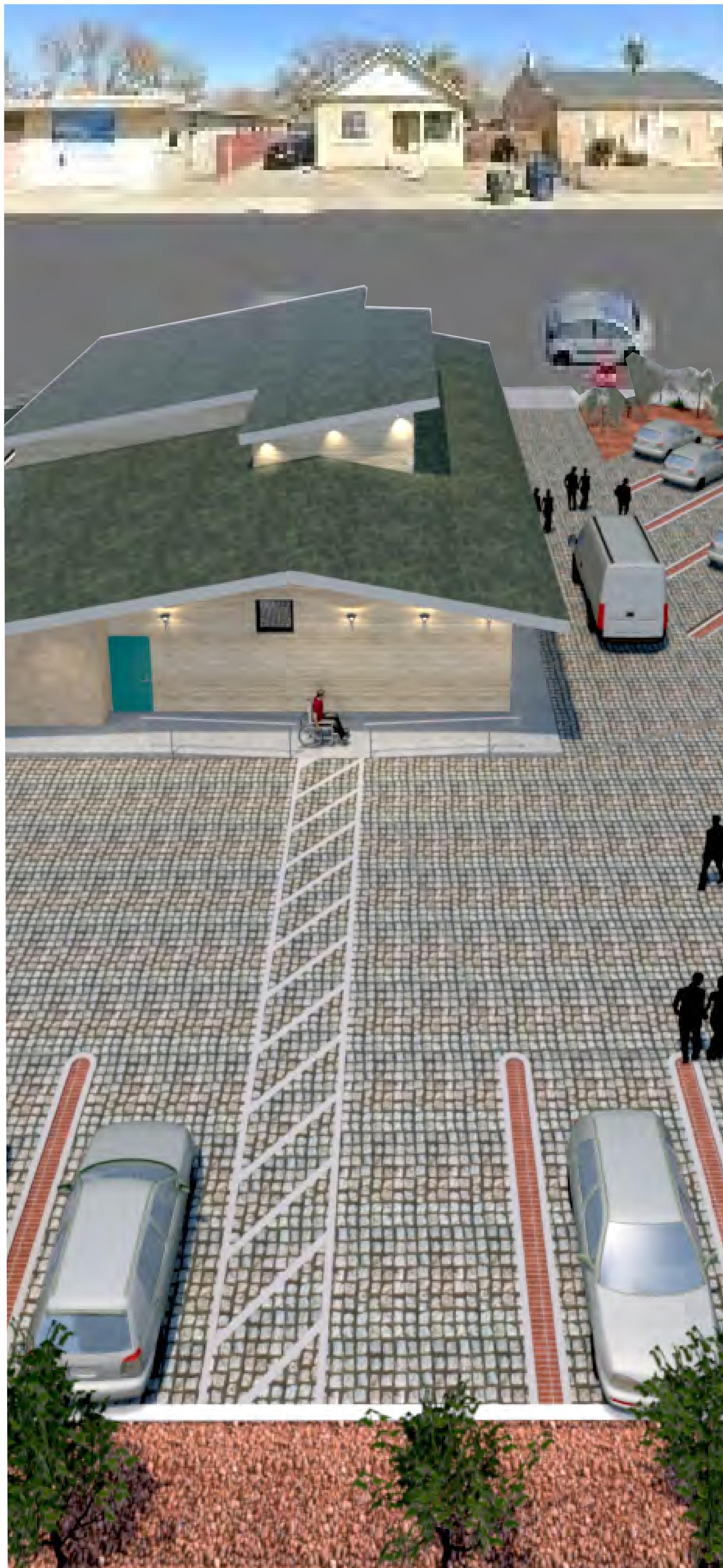
UTILITY SITE PLAN

CUP 03.A - 01.1

SHEET 3

OF20





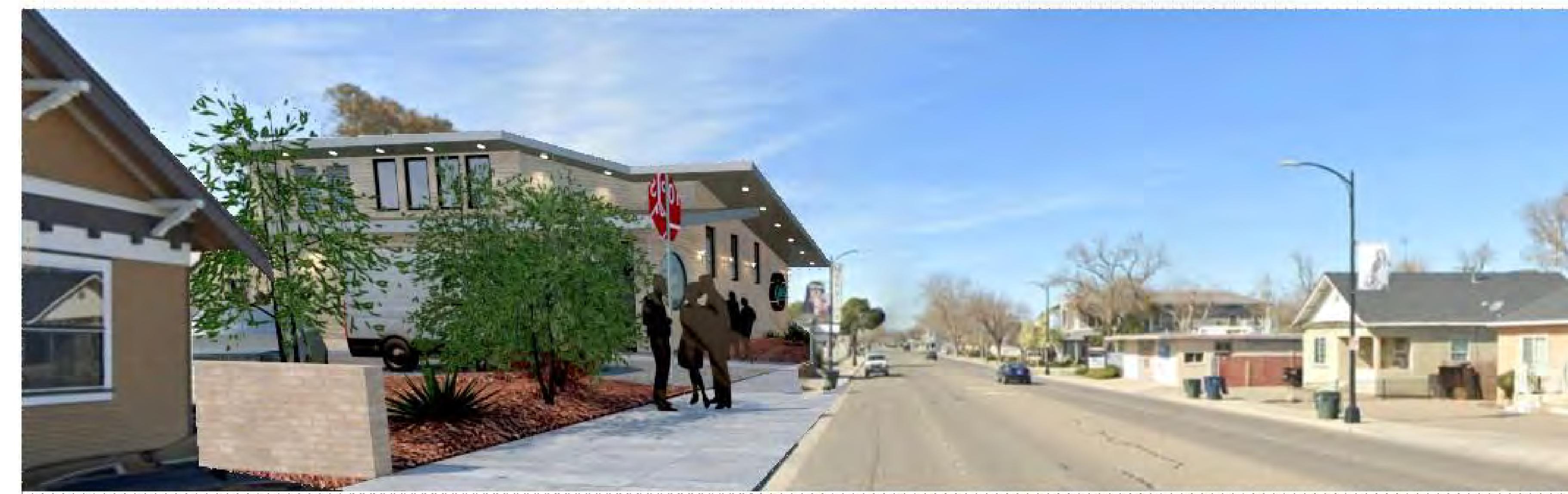
LOOKING NORTH



SITE CONTEXT LOOKING EAST



SITE PLAN CONTEXT



CONTEXT LOOKING WEST



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
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SITE CONTEXT

CUP 04.A - 01.2



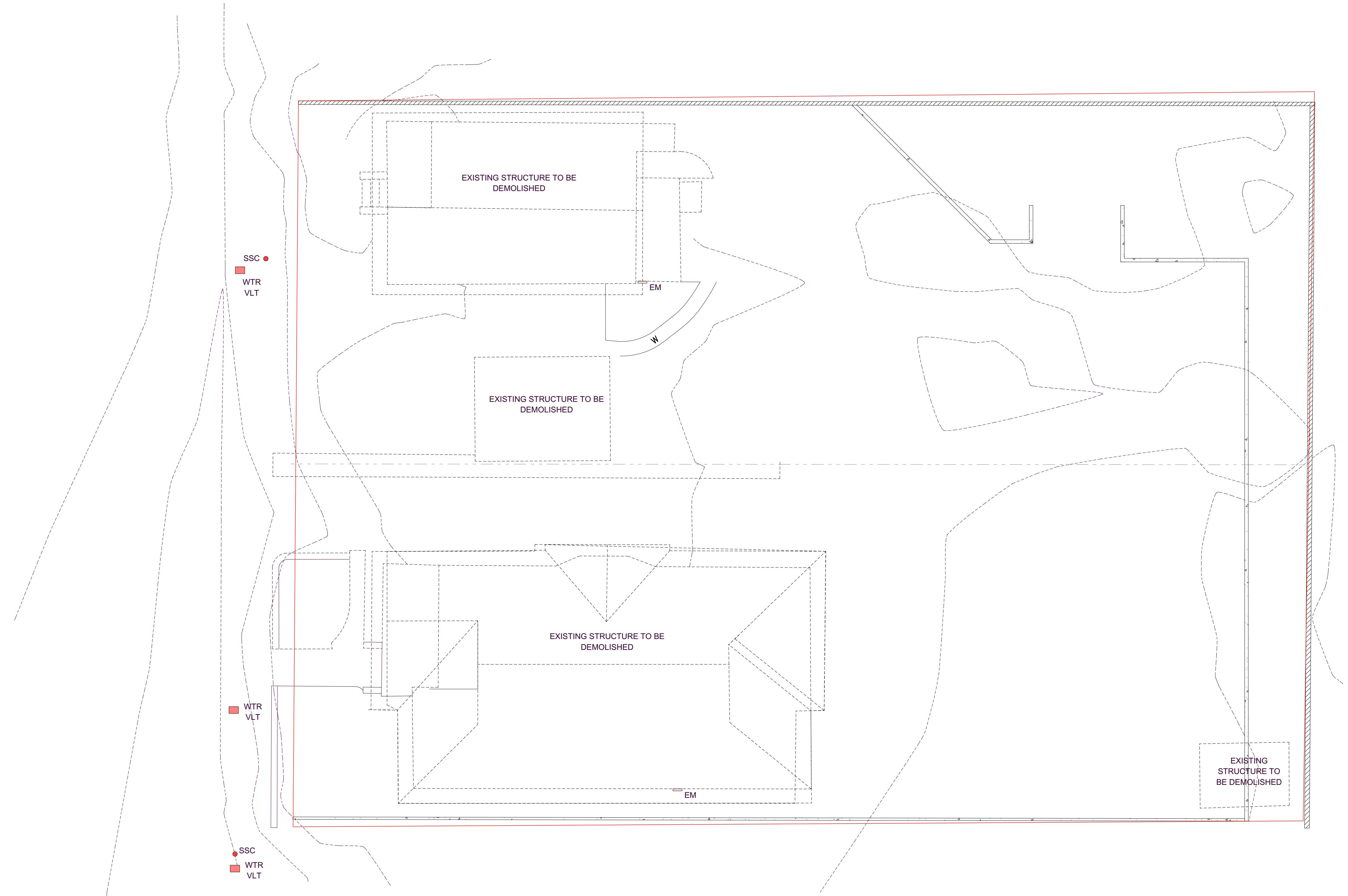
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ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE CAKE HOUSE

DEMOLITION NOTES:

- 1- OWNER/CONTRACTOR SHALL BE RESPONSIBLE FOR ALL DEMOLISHING.
- 2- CONTRACTOR OR SUB CONTRACTOR TO VERIFY ALL WORK WITH OWNER PRIOR TO DOING THE ACTUAL WORK.
- 3- PROTECT IN PLACE ALL PORTIONS OF EXISTING CONSTRUCTION NOT BEING REMOVED FROM ANY DAMAGE PER OWNER.
- 4- CONTRACTOR TO IDENTIFY AND RELOCATE ALL MECHANICAL, PLUMBING, AND ELECTRICAL.
- 5- ALL MATERIALS OR ANY OTHER ITEMS REMOVED IN DEMOLITION ARE TO BE DISPOSED PER OWNER.
- 6- CONTRACTOR SHALL REVIEW AND COORDINATE DEMOLITION WORK IN ORDER TO FULLY FACILITATE THE COMPLETION OF ALL PURPOSED IMPROVEMENTS INCLUDED IN THESE CONSTRUCTION DOCUMENTS.
- 7- DISCONNECT ALL UTILITIES FROM ALL STRUCTURES. BE SURE ALL UTILITIES ARE SAFELY DISCONNECTED AND PROPERLY PROTECTED.
- 8- ALL STRUCTURES MUST BE REMOVED OR DEMOLISHED WITH THEIR FOOTINGS.
- 9- REMOVE ALL CONCRETE WALK WAYES AND PADS COMPLETELY.
- 10- ALL EXISTING TREES MUST BE REMOVED OR RELOCATED PER NEW LANDSCAPE PLANS.
- 11- CLEAN UP SITE PROPERLY FOR GRADING PER NEW PLAN.



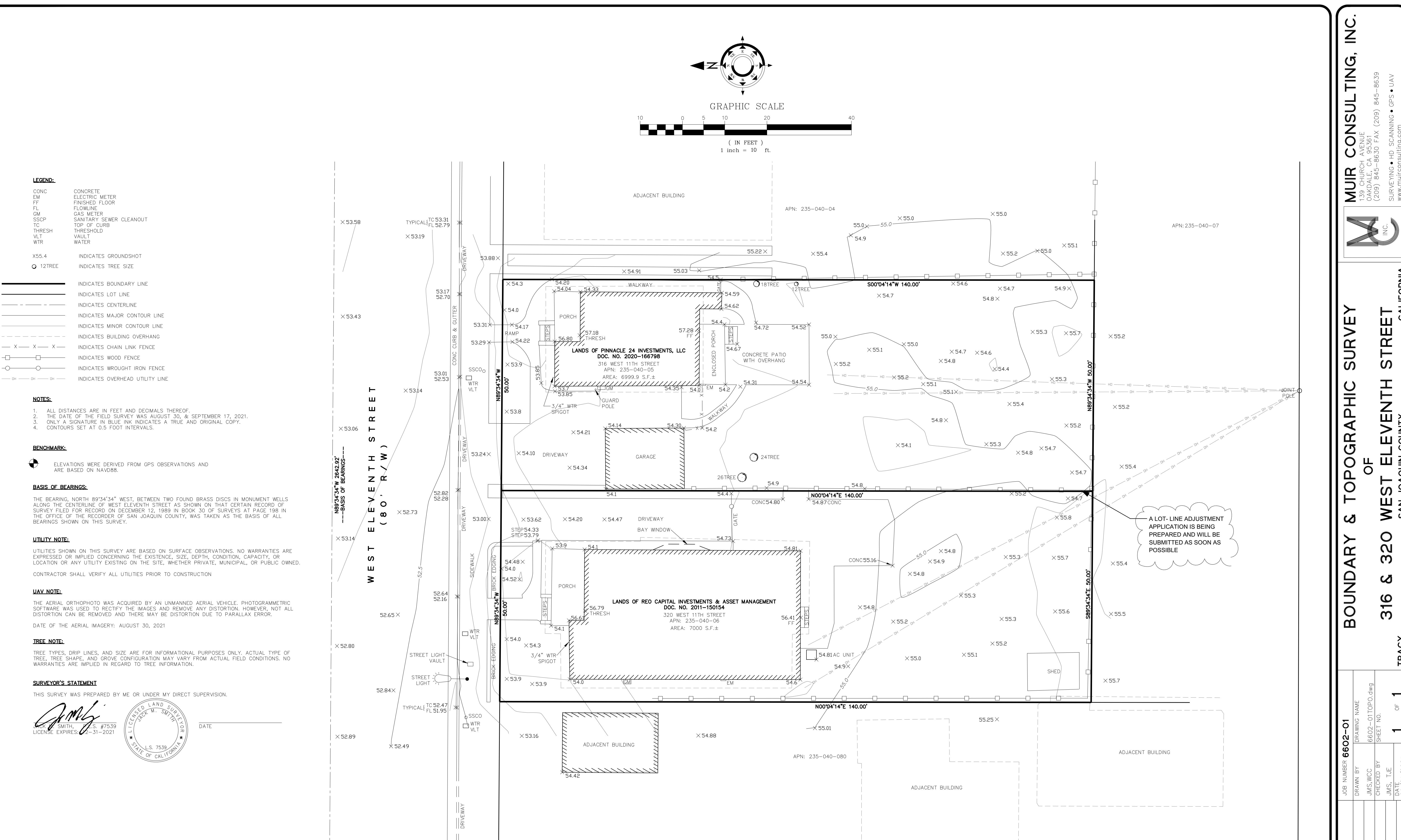
AS BUILT SITE / DEMO PLAN
SCALE: 1/8" = 1'-0"

PROJECT NO: Project No.
MODEL FILE:
TRACY 3rd CUP FINAL correction 07_20_2022.pln
DESIGN & DRAWING BY:
HUSSEIN MUNAIM
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SHEET TITLE

AS BUILT SITE / DEMO
PLAN

CUP 05.A - 02



	DRAWN BY JMS, WCC	DRAWING NO. 6602-01 T
	CHECKED BY JMS, TJE	SHEET NO.
		1
	DATE 09/21/2021	

○>>cvgqr>q_lgr_pw
qcucp
amllcargml
dmp>Kcu> amllcar

①>cvqqr>u_rcp
t_sjr> dmp>cu>> amllcar

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PERVIOUS PAVERS PROPOSED ENVIRONMENTAL CRITERIA FOR
EVALUATION OF PERVIOUS AND PERMEABLE PAVING MATERIALS
AND ASSEMBLIES (EC116) (SUBJECT EC116-0612-R2)

The diagram illustrates a cross-section of a paved surface. On the left, a dark grey area represents 'NATIVE SOIL COMPACTED PER 301-1 SSPWC'. To its right is a thick, dark grey 'PENETRATING PAVEMENT' layer. The top surface of this layer is labeled 'SLOPE per plan'. Two arrows point from the text labels to their respective parts in the diagram.

Q] \Q`SbS. ORO. `□[
E3. aZ] ^S : ADO. [W\W[c[
QZS□` . eW RbV

F... SfWabW\UbWRSe□ZY. b]
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ZON\RaQu^SC

Q] \ Q' SbS. Q ⊂ ' P 

?.A.. C5.ORD. QW`QcZ

Q[c , PZ]QY. e□ZZ

⑯ 12"X12 "DRAIN INLET

⑯ 4" sch-40 PVC FRENCH DRAIN 1% MINIMUM SLOPE
FLOW DIRECTION FL

SCALE 1"=10'-0"

SOILS ENGINEER
THE PORTIONS OF PLANS REGARDING GEOTECHNICAL ASPECTS OF THE PROJECT
HAVE BEEN REVIEWED AND ARE IN CONFORMANCE WITH THE INTENT OF THE
RECOMMENDATIONS CONTAINED IN THE GEOTECHNICAL REPORT TITLED "_____"
PREPARED BY _____ DATED _____

BY: Name, Title, License No., Exp. Date) DATE

SOUTH SAN JOAQUIN FIRE AUTHORITY
REVIEWED BY: _____

COURTNEY WOOD -PLANS EXAMINER FOR FIRE MARSHAL _____ DATE _____

GRADING PLAN THE CAKE HOUSE

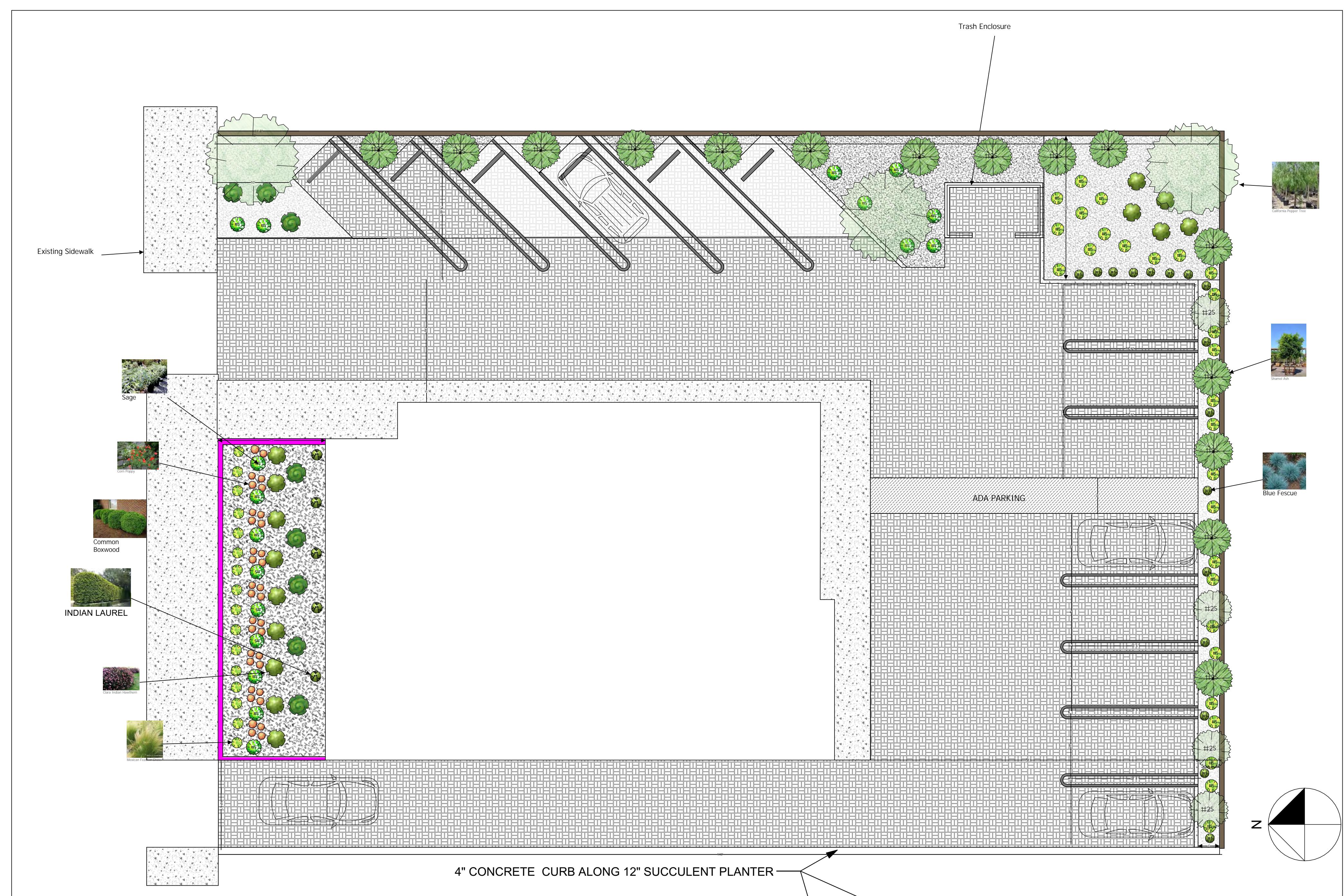
SHEE
CUP 07
OF 20 SH

<p>APPROVAL OF THESE PLANS DOES NOT RELEASE THE DEVELOPER OF THE RESPONSIBILITY OR CORRECTION OF MISTAKES, ERRORS, OR OMISSIONS CONTAINED THEREIN, IF DURING THE COURSE OF CONSTRUCTION OF THE IMPROVEMENTS PUBLIC INTEREST REQUIRES MODIFICATION OF OR A DEPARTURE FROM THE SPECIFICATIONS AND DETAILS OF THE CITY IF TRACY OR THESE PLANS, THE CITY ENGINEER SHALL HAVE THE AUTHORITY TO REQUIRE SUCH MODIFICATIONS OR DEPARTURE, AND TO SPECIFY THE MANNER IN WHICH THE SAME IS TO BE MADE AT NO COST TO THE CITY. APPROVED AS TO DESIGN ONLY BASED IN THE INFORMATION SUBMITTED HEREON. APPROVED FOR THE CITY OF TRACY</p>	
<hr/> ROBERT ARMJO, P.E.	<hr/> CITY ENGINEER
<hr/> DATE:	<hr/>

The logo for Tracy features the name in a bold, black, sans-serif font. The 'T' and 'R' are stylized with a diagonal line through them. To the left of the 'T', there is a graphic element consisting of a triangle pointing down and a wavy line. A small, dark heart shape is positioned at the bottom right of the 'T'.

The logo for The Cake House. It features the word "The" in a small, black, serif font above the word "Cake" in a large, black, cursive script. Below "Cake" is the word "House" in a smaller, black, serif font. The entire logo is enclosed within a thick, black, curved line that forms an arch above the text.

CAKE ENTERPRISES, INC.
1611 S. MELROSE DR.
STE A #391
VISTA, CA 92081



Fill Style	Category
	Permeable Pavers
	ADA Walkway
	Planters
	Reg Grey Concrete, Broom Finish
	Planter Wall
	Hardscapes



GENERAL NOTES:
Note: Contractor shall verify location of all utilities prior to construction and shall be held liable for all damages incurred.

PAVERS - CLASS 2 ROAD BASE COMPACTED PAVERS SHALL HAVE A SLOPE OF 1% - 2%. 1/4" MASONRY SAND BASE WILL BE THE SUB-BASE FOR THE FINAL GRADING OF ALL PAVERS. PAVER'S TO BE 60 MIL THICKNESS. ALL PAVER SAND INSIDE GAPS TO BE #20-30 TO LOCK IN PAVER AREAS. COMMERCIAL GRADE WEED-BLOCK TO BE APPLIED PRIOR TO PAVERS BEING LAID TO PREVENT WEED GROWTH. PATTERN IS RANDOM UNLESS OTHERWISE SPECIFIED HERE-WITHIN THESE PLANS

CONCRETE - ALL CONCRETE TO BE APPLIED AT MINIMUM 3.5" DEPTH USING 2500 P.S.I 3/8" ROCK. COLOR TO BE GREY. ALL CONCRETE TO BE REINFORCED WITH 3/8" REBAR @ MIN 36" O.C. (CONCRETE DISCLAIMER) - CONCRETE NATURALLY CRACKS, DISCOLORS, & HAS UNEVEN LOW POINTS THAT CAN COLLECT SMALL AMOUNTS OF WATER. THERE IS NO GUARANTEE ON THESE NATURALLY OCCURRING SITUATIONS..

PLANTER MULCH - PLANTER MULCH SHALL CONSIST OF 3" MINUS ORGANIC COMPOSTED HUMMUS AND WOOD. TVI 400

PLANT INSTALLATION - CONTRACTOR TO REMOVE ALL PLANT CONTAINERS AND EXTRA DIRT FROM HOLES DUG FOR PLANTING INCLUDED IN PLANT INSTALLATION PRICE. ROOT BARRIERS ARE INCLUDED ON ALL 24" TREES AND LARGER IF CONTRACTOR INSTALLS PLANTS.

Cake Enterprise
Cake Enterprise

Date:
04/01/2022

Plant Legend

Symbol	Qty	Common Name	Botanical Name	Container
	16	Blue Fescue	Festuca glauca 'Elijah Blue'	1 Gal
	3	California Pepper Tree	Shinus Molle	24" Box
	14	Clara Indian Hawthorn	Rhaphiolepis Indica 'Clara'	5 Gal.
	8	Common Boxwood, Mature	Buxus sempervirens	5 Gal
	19	Evergreen Ash	Fraxinus uhdei	24" Box
	5	INDIAN LAUREL	FICUS MICROCARPA	15 Gal
	28	Mexican Feather Grass	Nassella tenuissima	5 Gal
	16	Mexican Feather Grass	Nassella tenuissima	Full Size
	34	Poppy	Papaver rhoes	5 Gal
	17	Sage	Salvia Apiana	5 Gal



Drawn By:
Stephanie Acosta
ssdynastyinc@yahoo.com
40502 Wgasla Place
Temecula, CA 92591
License# 987517
SHEET
CUP 08.L - 1



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE CAKE HOUSE



SECURITY FLOOR PLAN
SCALE: 1/4" = 1'-0"

PROJECT NO: Project No.
MODEL FILE:
TRACY 3rd CUP FINAL correction 07_20_2022.pln

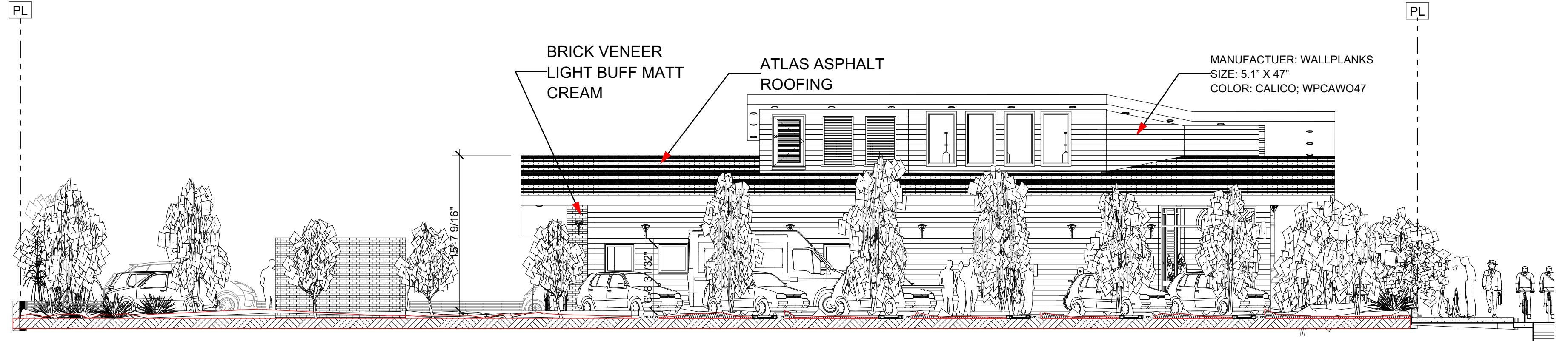
DESIGN & DRAWING BY:
HUSSEIN MUNAIM

COPYRIGHT: CAKE ENTERPRISES, INC

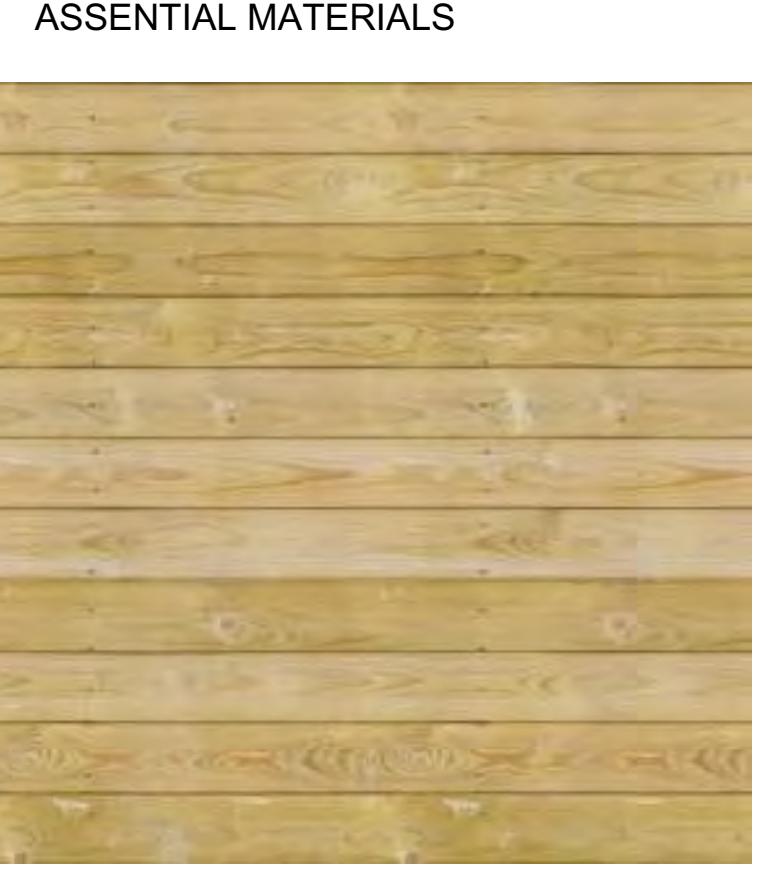
SHEET TITLE

SECURITY FLOOR
PLAN

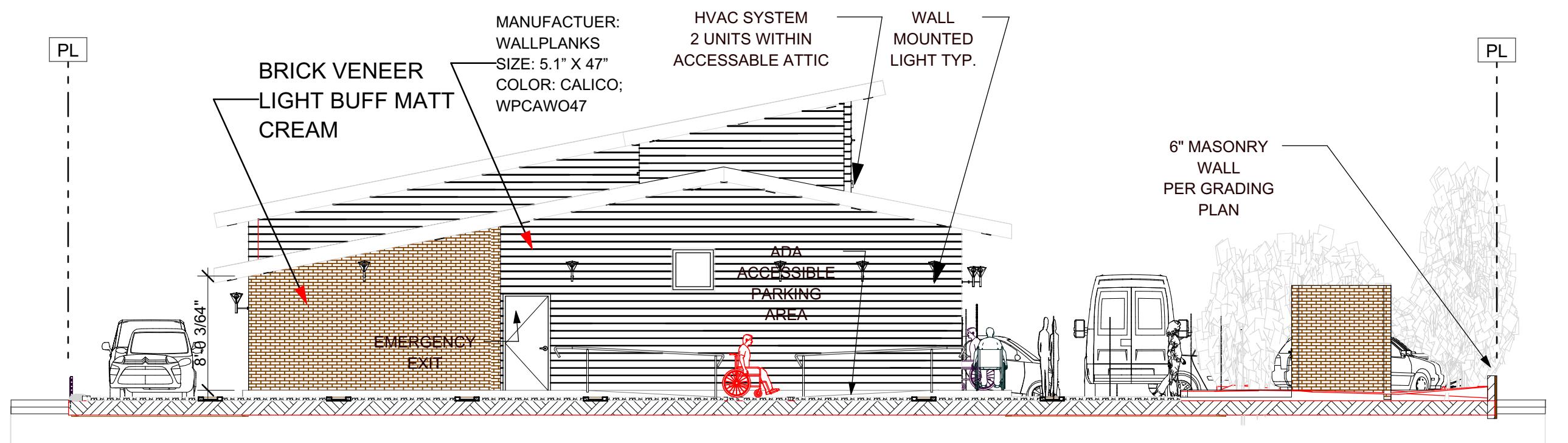
CUP 09.A - 07



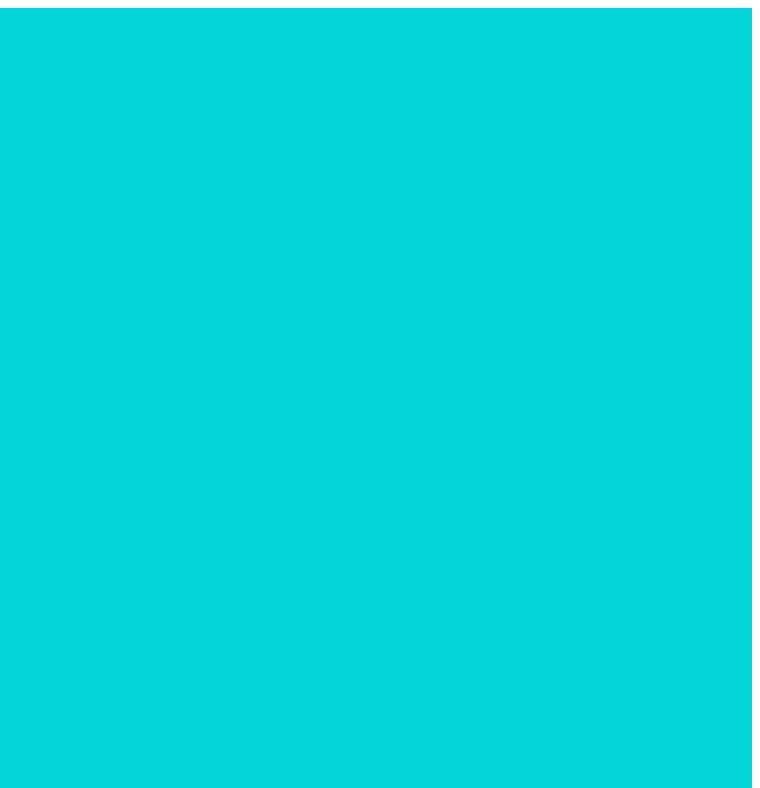
EAST ELEVATION



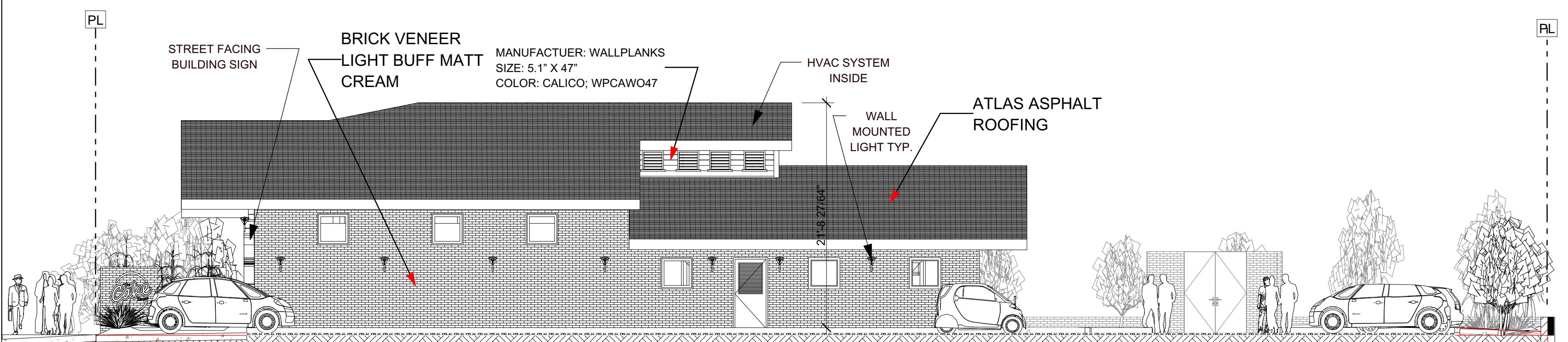
MANUFACTURER: WALLPLANKS
SIZE: 5.1" X 47"
COLOR: CALICO: WPCAW047



SOUTH ELEVATION



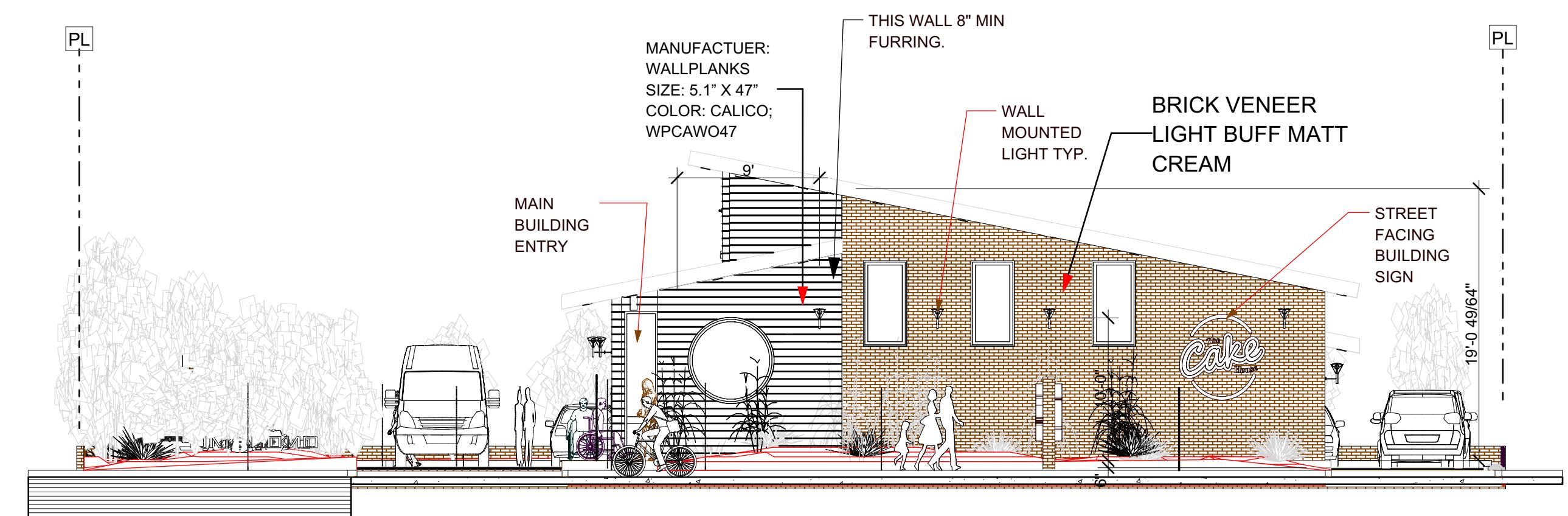
THE COLOR APPEARS IN THE LOGO & EXTERIOR DOORS. SEE WEST, SOUTH & NORTH ELEVATIONS.
MANUFACTURER: SHERWIN WILLIAMS
COLOR: COLOR MATCHED TO
BRANDING COLOR (C:62 M:0 Y:22 K:0)



WEST ELEVATION



BRICK VENEER
LIGHT BUFF MATT CREAM



NORTH ELEVATION



ATLAS ASPHALT
ROOFING

COMMUNITY
VETERANS
OF TRACY,
LLC

THE
CAKE
HOUSE

PROJECT NO: Project No.
MODEL FILE: TRACY 3rd CUP FINAL correction 07_20_2022.pln
DESIGN & DRAWING BY: HUSSEIN MUNAIM
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ELEVATIONS

CUP 10.A - 08

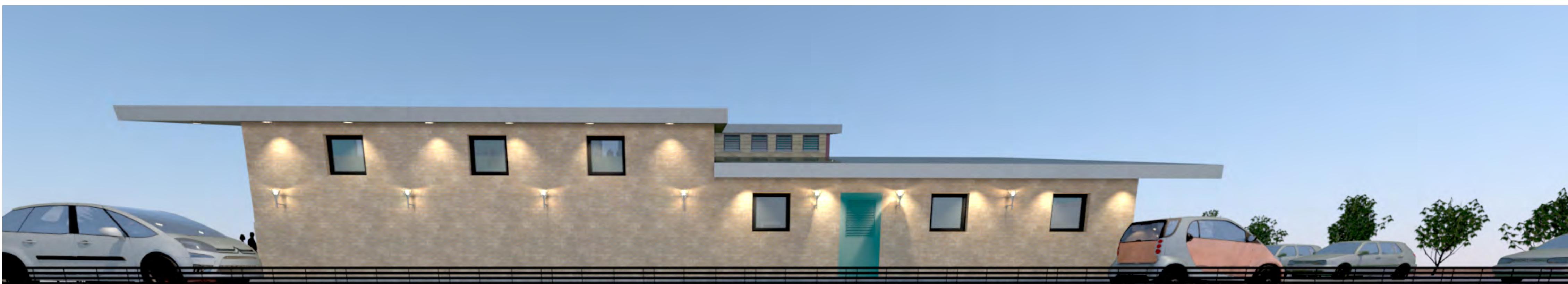
SHEET 10 OF20



EAST ELEVATION



SOUTH ELEVATION



WEST ELEVATION



NORTH ELEVATION



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE CAKE HOUSE

PROJECT NO: Project No.
MODEL FILE:
TRACY 3rd CUP FINAL correction 07_20_2022.pln
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SHEET TITLE

PERSPECTIVE
ELEVATIONS

CUP 11.A - 09



INTERIOR 1



INTERIOR 2



INTERIOR 2



ENTRY CLOSE UP



NORTH WEST CORNER



SOUTH WEST CORNER



NORTH EAST CORNER



BIRD EYE VIEW



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE CAKE HOUSE

PROJECT NO: Project No.
MODEL FILE:
TRACY 3rd CUP FINAL correction 07_20_2022.pln

DESIGN & DRAWING BY:
HUSSEIN MUNAIM

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SHEET TITLE

PRESPECTIVES

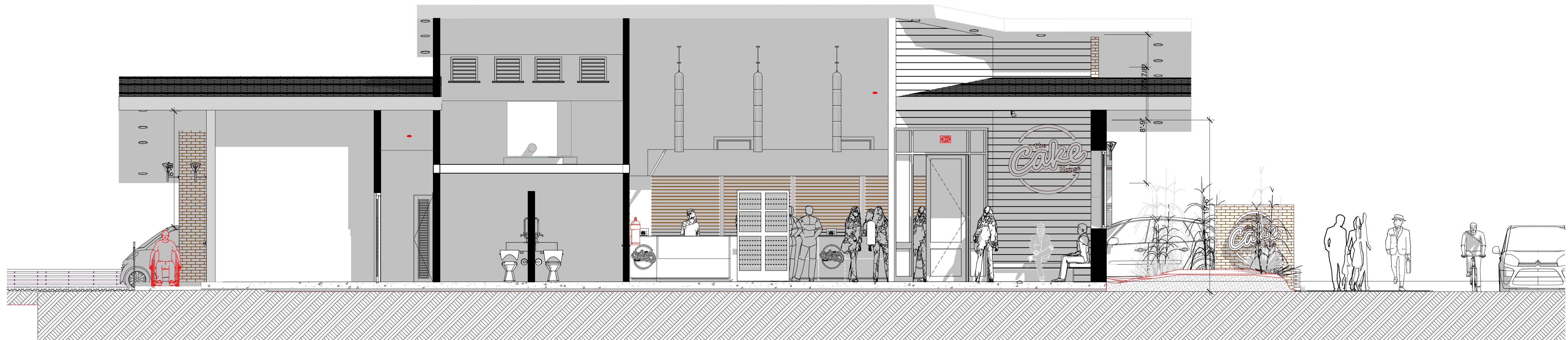
CUP 12.A - 10



CAKE ENTERPRISES, INC
350 W NINTH AVE.
UNIT 106B
ESCONDIDO, CA 92025

COMMUNITY
VETERANS
OF TRACY,
LLC

THE CAKE HOUSE



Building Section A

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



BUILDING SECTION B

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

PROJECT NO: Project No.
MODEL FILE:
TRACY 3rd CUP FINAL correction 07_20_2022.pln
DESIGN & DRAWING BY:
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SHEET TITLE

SECTIONS

CUP 13.A - 11

October 12, 2022

Agenda Item 1.B

RECOMMENDATION

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.

EXECUTIVE SUMMARY

Through this item, staff recommends that the Planning Commission approve a development review permit for the development of a new building, parking, and landscaping improvements and grant a cannabis conditional use permit to Community Veterans of Tracy, LLC to operate a cannabis dispensary at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06.

BACKGROUND AND LEGISLATIVE HISTORY

California state law allows local governments to regulate commercial cannabis activities in their respective jurisdictions. On December 3, 2019, the City Council adopted Ordinance 1277 (codified as Tracy Municipal Code (TMC) Chapter 6.36) establishing permitting regulations for commercial cannabis activity in the City of Tracy (City), which regulations require applicants to obtain a Cannabis Business Permit. In addition, the City Council adopted Ordinance 1278 (codified as TMC Section 10.08.3196) establishing zoning and locational requirements for commercial cannabis activity in Tracy and requiring applicants to obtain a Cannabis Conditional Use Permit (CUP).

Applicants must obtain both a Cannabis Business Permit under Chapter 6.36 and a Cannabis CUP under Chapter 10.08.3196, in order to establish a retail site (dispensary) in the City. The consideration and approval of Cannabis Business Permits are outside of the purview of the Planning Commission, while Cannabis CUPs can solely be granted by the Planning Commission. Planning Commission decisions on Cannabis CUPs are appealable to the City Council.

On September 30, 2020, Community Veterans of Tracy, LLC (dba CURRNT Cannabis) submitted an application for a Cannabis Business Permit, pursuant to Chapter 6.36 of the TMC. The application was comprehensively reviewed by an internal Cannabis Business Permit Review Committee comprised of the Finance Department, Development Services Department, and the South San Joaquin County Fire Authority. Following review and determination that the application was eligible, the Committee forwarded this application to the Police Department for final review and determination. On June 21, 2021, the Tracy Police Chief awarded a provisional Cannabis Business Permit (CBPA20-0013) to

Community Veterans of Tracy, LLC. The Cannabis Business Permit approves the permittee's business operations and odor control plan, community relations plan, safety and security plan, social equity plan, and community benefits proposal. As noted above, in addition to procuring a Cannabis Business Permit, the proposed use must also meet the zoning requirements applicable to cannabis dispensaries, including obtaining a Cannabis CUP to operate their business at a specific location.

On November 8, 2021, Community Veterans of Tracy, LLC submitted a Development Review Permit application for the development of a new 3,400 sf building with associated site improvements on a site totaling 14,000 sf located at 316 & 320 W. Eleventh Street and a Conditional Use Permit application to establish The Cake House cannabis dispensary at the site. The subject properties are designated Commercial in the Tracy General Plan and zoned General Highway Commercial, in which cannabis dispensaries are conditionally permitted. Development review is regulated by TMC Title 10 Article 30, adopted by Ordinance 1236 on July 18, 2017. Because the Development Review Permit is paired with a conditional use permit subject to the Planning Commission, the Development Review Permit is a Tier 2 application subject to Planning Commission review in accordance with TMC Section 10.08.3950.

ANALYSIS

Project Proposal

The project site is located in a General Highway Commercial-zoned area on Eleventh Street that currently contains a mixture of commercial development and nonconforming residential uses that were built prior to the City's commercial zoning designation taking place. The project site is bordered to the north by Eleventh Street, a commercial site (barber shop) to the west, and nonconforming residential to the east and south.

The project site is currently comprised of two 7,000 sf lots each containing a non-conforming single-family home. The applicant proposes to demolish the residential structures and construct a new 3,400 sf single-story retail building with associated parking and landscaping (Attachment A) and to remove the internal property line via a lot line adjustment to be submitted under a separate application. The building is proposed to be built by the street with a parking area comprised of permeable pavers in the rear and landscaping throughout the site. The site will be served by a western ingress driveway and an eastern egress driveway on Eleventh Street. A total of fourteen parking spaces are proposed to be constructed, and a six-foot masonry wall will border the parking area along the south and east property lines to provide separation and a buffer from the neighboring nonconforming residential properties. The building proposes modern architecture comprised of angled rooflines with deep overhangs, a recessed entry, and geometric windows. The façade will be comprised of sand-colored brick and stucco - colors and materials which are complementary of developments in the vicinity. Utility equipment typically found on the roof are discreetly concealed within an interior equipment well that is designed to look like a second story from the exterior. These design components of the proposed development meet the City's objectives for high-quality commercial development.

The applicant proposes to operate a cannabis dispensary consisting of storefront retail and delivery of packaged cannabis products in accordance with local and State cannabis law at the site. Local regulations include locational requirements, site requirements, and operating hours to be established by the conditional use permit. The TMC allows dispensaries to locate in all commercial and industrial zones of the City, subject to the additional condition that such uses are "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." Section 10.08.3196(b) of the TMC provides specific definitions of schools, day care centers and youth centers. According to City records, as of the date of publication of this staff report, the subject building is over 600 feet away from a school, day care center, or youth center, as required by TMC Section 10.08.3196.

The cannabis dispensary will operate in a similar manner as a retail store, which is complementary of the commercial area on Eleventh Street. The applicant proposes to operate retail services daily from 9:00 am to 10:00 pm and deliveries daily from 9:00 am to 9:00 pm, as permitted by State law. The storefront retail use will be wholly indoors, and no portion of the retail use, aside from deliveries, will take place outdoors. The proposed dispensary will have a separate and secure lobby wherein age verification will be conducted prior to permitting the customer into the retail area and a vault where cannabis products are stored, as required by TMC Chapter 6.36. Cannabis products will be packaged and loaded into delivery vehicles through a designated delivery/storage room at the rear of the building. The applicant intends to start with one delivery vehicle and may add a second as the business grows in the future. The fourteen parking spaces proposed with this development exceeds the amount of parking required for the dispensary, which is twelve spaces for the retail store and one space for the delivery vehicle. Should the use add a second delivery vehicle in the future, there is one remaining space onsite that can accommodate parking of the delivery vehicle.

According to the applicant, because all cannabis products are entirely packaged, no noticeable odors or smells are expected to emanate from the dispensary; regardless, the applicant will be installing odor-removing filters in the HVAC systems to ensure air quality and odors are not detectable outside of the facility. The use will implement the safety and security plan approved as a part of The Cake House's cannabis business permit, and project Conditions of Approval (Attachment D) D.1 through D.4 recommended by the Police Department identify additional means to ensure the business will operate safely and securely.

Findings

Importantly, Cannabis 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 following:

CUP 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 a cannabis dispensary in the General Highway Commercial zone under 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.
- (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 6.36 and 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.
- (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 proposed use of a cannabis dispensary will function in a complementary manner to the surrounding retail uses in the vicinity, will comply with City standards, and will operate no earlier than 9:00 am and no later than 10:00 pm, with deliveries concluding by 9:00 pm, in consideration of neighboring residences. The dispensary will implement all safety and security conditions of approval prepared by the Tracy Police Department.
- (d) 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.

DR Permit Findings

- (e) The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed development meets the City's objectives for high quality design. The building fronts the site and screens the parking area from public view. The building's angled rooflines with deep overhangs, recessed entry, and use of brick veneer and geometric windows are used in a manner that de-emphasizes the building's rectangular shape and aesthetically complements other developments in the project vicinity. Furthermore, utility equipment typically found on the rooftop are concealed within an interior equipment well that is designed to look like the building's second story from the exterior.
- (f) The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, because the proposed commercial development eliminates the nonconforming uses and brings the site into conformity with the zoning that will comply with all applicable City and state regulations for construction.

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). Aside from the conditional use permit, the applicant must also obtain a state license for the operation of the cannabis business and comply with the conditions of their provisional Cannabis Business Permit, as well as obtain building permits for the proposed construction, collectively which may take longer than six months to complete. Therefore, staff recommends that the Planning Commission grant the Cannabis CUP one year to establish as described in project condition of approval A.9.

PUBLIC OUTREACH/ INTEREST

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

COORDINATION

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

CEQA DETERMINATION

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

ACTION REQUESTED OF THE PLANNING COMMISSION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

- 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;**
- 4. EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND**

Prepared by: Kimberly Matlock, Associate Planner

Approved by: Bill Dean, Assistant Development Services Director

Attachments:

Attachment A – Vicinity Map Site and Floor Plans received on August 18, 2022

Attachment B – Planning Commission Resolution

Attachment C – Conditions of Approval

APPROVED AS TO FORM AND LEGALITY



City Attorney's Office

TRACY PLANNING COMMISSION

RESOLUTION NO. 2022-028

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.

WHEREAS, California state law allows local governments to regulate commercial cannabis activities in their respective jurisdictions; and

WHEREAS, Both a Cannabis Business Permit under Chapter 6.36 of the Tracy Municipal Code (TMC) and a Cannabis Conditional Use Permit (CUP) under Chapter 10.08.3196 under the TMC, in order to establish a retail site (dispensary) in the City; and

WHEREAS, Community Veterans of Tracy, LLC (dba CURRNT Cannabis) was awarded a Cannabis Business Permit (application number CBPA20-0013) by the Tracy Police Chief on June 21, 2021, pursuant to the requirements set forth in Chapter 6.36; and

WHEREAS, The applicant submitted a development review permit application for the development of a new building, parking, and landscaping improvements and a conditional use permit application to operate a cannabis dispensary (The Cake House) at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06 on November 8, 2021; and

WHEREAS, The subject site is designated Commercial in the Tracy General Plan and zoned General Highway Commercial, wherein cannabis dispensaries are a conditionally permitted use; and

WHEREAS, Cannabis Conditional Use Permits 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; 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, 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, Cannabis applicants must also obtain a State license for the operation of a cannabis business and comply with the conditions of their approved Cannabis Business Permit, which may take longer than the six (6) months granted under conditional use permits; and

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

WHEREAS, The Planning Commission conducted a public hearing to review and consider the applications on October 12, 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); and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the findings set forth in Exhibit 1, supporting the approval of a development review permit for exterior modifications to the building at 16 & 320 W. Eleventh Street, APNs 235-040-05 & 06; 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 D21-0034 for exterior modifications to the building at 16 & 320 W. Eleventh Street, APNs 235-040-05 & 06, subject to the Conditions of Approval contained in Attachment C to the staff report; and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the findings set forth in Exhibit 1, supporting the grant of a conditional use permit (CUP21-0009) for a cannabis storefront retailer (dispensary) at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06; and be it

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 (CUP21-0009) for a cannabis storefront retailer (dispensary) at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06, subject to the Conditions of Approval contained in Attachment C to the staff report and the findings attached in Exhibit 1; and be it

FURTHER RESOLVED: That the Planning Commission hereby extends the time period to establish the use under CUP21-0009 from six months to twelve months pursuant to TMC 10.08.4360 and as further described in the Conditions of Approval,

The foregoing Resolution 2022-028 was adopted by the Planning Commission on October 12, 2022, by the following vote:

AYES: COMMISSION MEMBERS: AUGUSTUS, BOAKYE-BOATENG, HUDSON

NOES: COMMISSION MEMBERS: ATWAL, ORCUTT

ABSENT: COMMISSION MEMBERS: NONE

ABSTENTION: COMMISSION MEMBERS: NONE



CHAIR

ATTEST:



STAFF LIAISON

**City of Tracy
Development Review Permit Findings
Application Number D21-0034**

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed development meets the City's objectives for high quality design. The building fronts the site and screens the parking area from public view. The building's angled rooflines with deep overhangs, recessed entry, and use of brick veneer and geometric windows are used in a manner that de-emphasizes the building's rectangular shape and aesthetically complements other developments in the project vicinity. Furthermore, utility equipment typically found on the rooftop are concealed within an interior equipment well that is designed to look like the building's second story from the exterior.

2. The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, because the proposed commercial development eliminates the nonconforming uses and brings the site into conformity with the zoning that will comply with all applicable City and state regulations for construction.

**City of Tracy
Conditional Use Permit Findings
Application Number CUP21-0009**

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, will comply with City standards, and will operate no earlier than 9:00 am and no later than 10:00 pm, with deliveries concluding by 9:00 pm, in consideration of neighboring residences. 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**
The Cake House Cannabis Dispensary
Application Numbers D21-0034 & CUP21-0009

A. General Provisions and Definitions.

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

The Project: An approximately 3,400 sf building with associated site development for
The Cake House cannabis dispensary, Development Review Permit and
Conditional Use Permit Application Nos. D21-0034 & CUP21-0009

The Property: A 14,000 sf site at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06

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.
- g. "Police Chief" means the Chief of Police of the City of Tracy, or any other person designated by the City Manager or the Police Chief to perform duties set forth herein.

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 18, 2022, with the exception of a planter wall in front of the building, 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").
 - The Medicinal and Adult-Use Cannabis Regulation and Safety Act;
 - Regulations of the Bureau of Cannabis Control;
 - Tracy Municipal Code (TMC) Chapter 6.36 (Commercial Cannabis Activity); and
 - City of Tracy Procedures and Guidelines for a Cannabis Business Permit adopted by City Council Resolution 2020-137
- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved Cannabis Business Permit No. CBPA20-0013, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. 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.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a cannabis business permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This conditional use permit shall expire one year following the date on which the use permit became effective unless, prior to the expiration of one year, 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: Kimberly Matlock (209) 831-6430 kimberly.matlock@cityoftracy.org

- B.1. Prior to approval of a building permit, the applicant shall provide detailed plans that demonstrate the following:
 - B.1.1. Compliance with TMC Section 6.36.380(k).
 - B.1.2. A parking area designed in accordance with TMC Title 10 Article 26 (off-street parking and landscaping design) and Standard Plan 141 (parking stall striping). Said plans shall include a planting legend indicating, at minimum, the quantity, planting size, and height and width at maturity and calculations for landscape and canopy tree shading areas.
 - i. Details that demonstrate 12-inch wide concrete curbs along the perimeter of landscape planters where such planters are parallel and adjacent to vehicular parking spaces to provide access to vehicles without stepping into the landscape planters.
 - ii. Details that demonstrate sidewalk, landscape planters, and bio-retention areas perpendicular to parking stalls overhang up to 24 inches into the parking stall in place of wheel stops where feasible. Any landscape planter overhang may not be double-counted toward the required amount of parking area landscaping.
 - iii. All planters be comprised of trees, shrubs, and groundcover. Trees shall be a minimum of 24" box size, shrubs shall be a minimum size of 5 gallon, and groundcover shall be a minimum size of 1 gallon.
 - iv. Where trees are planted ten feet or less from a sidewalk or curb, root barriers dimensioned 8 feet long by 24 inches deep shall be provided adjacent to such sidewalk and curb, centered on the tree.
 - v. A photometric plan showing a minimum of one foot candle per Standard Plan 141 throughout the parking area as defined in TMC Section 10.08.3450.
 - B.1.3. All roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, are not visible from any public right-of-way to the satisfaction of the Development Services Director.
 - B.1.4. All vents, gutters, downspouts, flashing, and electrical conduits are internal to the structures and other wall-mounted or building-attached utilities shall be painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.
 - B.1.5. 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, walls, or landscaping, to the satisfaction of the Development Services Director.
 - B.1.6. The trash and recycling enclosure which architecturally matches the main building to the satisfaction of the Development Services Director. The enclosures shall be large enough to accommodate the enclosed equipment and trash and recycling bins. The trash and recycling enclosure walls shall be tall enough to fully screen the height of the bins, and the door shall be constructed of a solid metal door attached to posts which are attached to the walls.

- B.2. Prior to approval of a building permit, the applicant shall submit an application for a lot line adjustment or lot merger to eliminate the internal property line.
- B.3. Prior to issuance of a building permit, the applicant shall do the following:
 - B.3.1. Provide a copy of the recorded document that eliminates the internal property line to the Development Services Department.
 - B.3.2. Execute an Agreement for Maintenance of Landscape and Irrigation Improvements and submit financial security to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements or \$2.50 per square foot of on-site landscape area.
- B.4. Prior to final inspection, the applicant shall demonstrate the following:
 - B.4.1. Compliance with TMC Section 6.36.380(l).
 - B.4.2. All landscaping and irrigation shown in the approved building permit construction plans installed to the satisfaction of the Development Services Director.
 - B.4.3. All exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way and onto any adjacent private property to the satisfaction of the Development Services Director.
- B.5. Prior to commencing any cannabis operation, the applicant shall execute a Community Benefit Agreement with the City in accordance with the requirements of their Cannabis Business Permit.
- B.6. Aside from deliveries, the use shall be conducted wholly indoors. The use may not be conducted outside the building, including in the parking lot.
- B.7. The hours of operation shall be limited to 8:00 am to 10:00 pm in accordance with State law. Should the hours of operation established in the State law become more restrictive, the use shall comply with the more restrictive regulations.
- B.8. Before installation of exterior business identification signs, the applicant shall secure sign and building permits for such signs. All signs, including temporary signage, shall be on private property and shall not encroach into the public right-of-way.
- B.9. No bollards, chain link, or similar improvements that are industrial in nature shall be readily visible to the public.

C. Development Services Department, Engineering Conditions of Approval

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

C.1. General Conditions

RESERVED

C.2. RESERVED

C.3. RESERVED

C.4. Grading Permit

All grading work (on-site and off-site) shall require a Grading Plan. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Geotechnical Engineer. Prior to release of a Grading Permit, Developer shall provide all documents related to said Grading Permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.4.1 Developer has completed all requirements set forth in this section.
- C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction over the required public and/or private facilities and/or property. Written permission from affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit.
- C.4.3 Developer has obtained a demolition permit to remove any existing structure located within the Project's limits.
- C.4.4 All existing on-site water well(s), septic system(s), and leech field(s), if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s), septic system(s), and leech field(s) including the cost of permit(s) and inspection. Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.
- C.4.5 The Improvement Plans for all improvements to serve the Project (on-site and off-site) including the Grading and Drainage Plans shall be prepared in accordance with the City's Subdivision Ordinance (Tracy Municipal Code (TMC) Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.
- C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick polyester film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans approved by the City Engineer for all grading work. All grading work not completed before October 15 may be subject to additional requirements as applicable. Improvement Plans shall specify all proposed

erosion control methods and construction details to be employed and specify materials to be used during and after the construction.

C.4.7 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.

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

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

C.4.9 Developer shall provide a PDF copy of the Project's Geotechnical Report signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, retaining wall recommendations, if necessary, paving recommendations, paving calculations such as gravel factors, gravel equivalence, etc., slope recommendations, and elevation of the highest observed groundwater level.

C.4.10 Minor Retaining – Developer shall use reinforced or engineered masonry blocks for retaining soil at property lines when the grade differential among the in-tract lots exceeds twelve (12) inches. Developer will include construction details of these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes among the lots to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical) unless a California licensed geotechnical engineer signs and stamps a geotechnical report letter that supports a steeper slope gradient. Slope easements may be required and will be subject to approval by the City Engineer.

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

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

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

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

- C.4.11 Developer shall provide a copy of the approved Incidental Take Minimization Measures (ITMM) habitat survey [San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)] from San Joaquin Council of Governments (SJCOPG).
- C.4.12 Developer shall provide a copy of the approved Air Impact Assessment (AIA) with an Indirect Source Review (ISR) from San Joaquin Valley Air Pollution Control District (SJVAPCD).
- C.4.13 Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.
- C.4.14 If the Project contains overhead utilities, the Developer shall underground existing overhead utilities such as electric, TV cable, telephone, and others.

Each dry utility shall be installed at the location approved by the respective owner(s) of dry utility and the Developer shall coordinate such activities with each utility owner. All costs associated with the undergrounding shall be the sole responsibility of the Developer and no reimbursement will be due from the City. Developer shall submit undergrounding plans.

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

C.5. Improvement Agreement(s)

All construction activity involving public improvements will require a fully executed improvement agreement (Off-site, Subdivision, and/or Inspection). Any construction activity involving public improvements without a fully executed improvement agreement is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer. Prior to the consideration of City Council's approval of said improvement agreement, the Developer shall provide all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.5.1. Off-site and/or Public Infrastructure Improvement Plans prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:

C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.

C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all

existing survey monuments and other survey markers such as benchmarks.

C.5.1.c. A PDF copy of the Project's approved Geotechnical/Soils Report that was prepared for the grading permit submittal.

C.5.1.d. Storm Water - The Project's on-site storm water drainage connection to the City's storm water system shall be approved by the City Engineer. Drainage calculations for the sizing of the on-site storm drainage system. Improvement Plans to be submitted with the hydrology and storm water.

Storm drainage release point is a location at the boundary of the Project adjacent public right-of-way where storm water leaves the Property, in a storm event and that the Property's on-site storm drainage system fails to function or it is clogged. Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an adjacent public street with a functional storm drainage system and the existing storm drainage line has adequate capacity to drain storm water from the Property. The storm drainage release point is recommended to be at least 0.70-feet lower than the building finish floor elevation and shall be designed and improved to the satisfaction of the City Engineer.

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

The storm water treatment system shall be located on private property and shall be at least off-set from the right-of-way by one (1) foot.

C.5.1.e. Sanitary Sewer - It is the Developer's responsibility to design and construct the Project's permanent on-site sanitary sewer (sewer) improvements including the Project's sewer connection in accordance with the City's Design Standards, City Regulations and Standard Specifications. Sewer improvements shall include but not limited to, replacing asphalt concrete pavement, reconstructing curb, gutter and sidewalk, restoring pavement marking and striping, and other improvements that are disturbed as a result of installing the Project's permanent sewer connection. Developer shall submit improvement plans that include the design of the sewer line from the Property to the point of connection.

Developer is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way

unless the sewer cleanout is located and constructed in conformance with Standard Plans. The City's responsibility to maintain on the sewer lateral is from the wye/onsite sewer manhole at the right-of-way line/property line/wye fitting to the point of connection with the sewer main.

Developer shall abandon the existing sewer lateral to each existing structure and replace it with a 6-inch diameter sewer lateral.

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

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

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

After final inspection of the improvements constructed via an encroachment permit, repair and maintenance of the water service from the water meter to the point of connection with the water distribution main in the street shall be the responsibility of the City. Water service repairs after the water meter is the responsibility of the Developer or individual lot owner(s).

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

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

C.5.1.g. Streets – The Developer shall construct frontage improvements. Frontage improvements include but are not limited to the following: curb, gutter, sidewalk, street widening, landscaping, street lighting, undergrounding of overhead utilities and other improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City.

Eleventh Street Road

Prior to release of the Building Permit, Developer shall submit to the City ready for immediate recordation, a grant deed to dedicate a ten (10) foot wide Public Utility Easement (P.U.E.) immediately behind the property line.

Developer shall remove and replace each existing driveway for each parcel with a driveway in conformance with a commercial driveway.

Along the Project frontage, if applicable, Developer shall landscape and irrigate the existing parkways per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc.

Street cuts and trenching related to utility installation on Eleventh Street shall be subject to Condition C.8.1

C.5.2. Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and

others that will be located within the twenty-four (24) feet wide to forty-six (46) feet wide [the width varies] PUE to be installed to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to the building(s). If necessary, the Developer shall dedicate ten (10) feet wide PUE for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.

C.5.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the fee rate adopted by the City Council on September 2, 2014, per Resolution 2014-141 and on May 16, 2017, per Resolution 2017-098. Developer shall submit payment in the form of a check for the aforementioned fees.

C.5.4. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

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

C.5.5. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.

C.5.6. If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials,

employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

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

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

C.6. Building Permit

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

C.6.1 Developer has completed all requirements set forth in Condition C.1, through C.5, above.

C.6.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, and City Regulations.

C.6.2.a. Water. The Developer shall pay the water impact fees prior to pulling the first building permit for the Project.

C.6.2.b. Wastewater. The Developer shall pay the wastewater treatment capacity development Impact fees prior to pulling the first building permit for the Project.

C.6.3 Developer shall submit a separate building permit for the demolition of any existing structures.

C.6.4 Developer has completed all requirements set forth in Condition C.8

C.7 Acceptance of Public Improvements

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

C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.

- C.7.2 Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.
- C.7.3 Developer has satisfactorily completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.7.4 Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.
- C.7.5 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.
- C.7.7 Per Section 21107.5 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet.
- C.7.8 Survey Monuments – Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted to the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required to install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC

overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.

C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

C.8.3 Prior to the release of the Building Permit, if water is required for the Project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.

C.8.4 Prior to the release of the Building Permit, Developer shall record with San Joaquin County Recorder a document to merge the two parcels.

D. Tracy Police Department Conditions

Contact: Lieutenant Miguel Contreras (209) 831-6618 miguel.contreras@tracypd.com

D.1. A minimum of 2 on-site security guards shall be maintained on site during business hours and 1 on-site security guard during closed hours. The name of the company shall be provided to the Police Department at the time of Building Permit application submittal. The establishment shall remain closed for business if the minimum of 2 certified security guards are not present during business hours on any given day. Once the minimum-security staffing is met, the establishment may re-open for business.

D.1.1. Overnight (nonbusiness hours) security shall be a minimum of 1 certified guard solely responsible for the security of this establishment and not multiple locations.

D.1.2. All contracted or employed guards shall be certified and have sole responsibilities as a security guard focused on safety and security. The security guards will be readily identifiable.

D.1.3. Prior to issuance of a building permit, the applicant shall submit an updated security plan to the Tracy Police Department that reflects the conditions of approval above to the satisfaction of the Police Chief.

D.2. Applicant shall cooperate with all legal requests from Tracy PD and any crimes shall be reported without delay.

D.3. Prior to establishment of the use, the applicant shall establish and maintain an updated on-call list of responders with their alarm service provider and current alarm permit with the City of Tracy, to include the on-site security manager. This shall be provided prior to the establishment of the use.

D.4. Trash containers and enclosures shall be locked and not accessible by the public at all times.

E. South San Joaquin County Fire Authority Conditions

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

E.1. Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.

E.1.1. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.

E.2. Engineering and building permit applications received by our offices are subject to the current fee schedule for South San Joaquin County Fire Authority. Contact our offices for additional information.

E.2.1. Application processing fees and minimum plan review fees are due at time of submittal of construction documents.

E.2.2. Additional plan review fees, minimum inspection fees and administrative fees are calculated on approval of project and shall be paid prior to issuance of permit.

E.2.3. Permit holder is responsible for any additional inspection fees incurred, which shall be paid prior to final inspection.

E.3. Prior to occupancy of the new business, the tenant shall contact South San Joaquin County Fire Authority for a new business inspection. Additional fees may be required for New Business, Annual and Operational Fire Permits. All fees shall be paid prior to approval of inspections.

E.4. Knox box 3200 series shall be required for project. Each tenant shall have keys placed in the key box. The operator of the building shall immediately notify the Fire Authority and provide the new key where a lock is changed or rekeyed. The key to such shall be secured in the key box.

E.5. Building shall be provided with approved address identification internally or externally illuminated in accordance with 2019 CFC Section 505.1 as amended by the Tracy Municipal Code.

E.6. Prior to final inspection, emergency radio responder coverage shall be tested to confirm coverage areas. It is beneficial for the applicant to conduct testing at foundation as retrofitting for the conduit is costly. If coverage is inadequate, a separate permit for emergency radio responder coverage shall be submitted to SSJCFA for review and approval prior to installation.

E.6.1. Additional improvements may warrant additional testing to be performed.
Testing shall be the determination of the fire code official.

F. Development Services Department, Building Division Conditions

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

- F.1. The means of egress shall provide an unobstructed path that leads any person (including those with impairments) to the public way. The accessible parking stall is not meant to serve as a location for people to use when an emergency occurs. Therefore, at time of building permit application submittal, the applicant shall provide and egress plan that complies with CBC Chapter 10.
- F.2. At time of building permit submittal, applicant to demonstrate compliance with CBC 11B-202.4 and 206 for path of travel requirements to new areas of alteration/addition, to right of way, between buildings, and to facilities on site, including the accessible trash enclosure. Currently, an accessible router is not shown to the trash enclosure.
- F.3. Per CBC Chapter 2, the definition of "means of egress" is, - "A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way." Currently, this plan does not meet the intent of the definition, nor does it comply with CBC Chapter 10. Therefore, at time of building permit submittal, applicant shall provide an emergency egress plan that complies with CBC Chapter 10, as applicable to the project.
- F.4. Prior to building permit issuance, applicant must submit separate demolition permit applications for all structures being removed due to the construction of this project per CBC 105, as it is not exempt from permits.
- F.5. At time of building permit application submittal, applicant shall submit plans that are prepared by a registered design professional per CBC 107.1.
- F.6. At time of building permit submittal, applicant to demonstrate compliance with CBC 11B-202.4 and 206 for path of travel requirements to new areas of alteration/addition, to right of way, between buildings, and to facilities on site, including the accessible trash enclosure.
- F.7. At time of building permit submittal, applicant shall provide an emergency egress plan from the new building to the public right-of-way that complies with CBC Chapter 10, as applicable to the project.
- F.8. At the time of building permit application submittal, the applicant shall show compliance with CBC 1010, as applicable for the types of doors and door-locking mechanisms that will be used for this project.
- F.9. At time of building permit application, the applicant shall provide details of accessible parking stall and their access aisles per CBC 11B-502, as applicable.

- F.10. At time of building permit application submittal, applicant shall provide accessible stall to be on the shortest accessible route from parking to an entrance complying CBC 11B-206.4.
- F.11. At the time of building permit application submittal, the applicant shall provide a calculation for the minimum required number of toilet facilities per CPC Chapter 4.
- F.12. Prior to construction of any structures, applicant shall submit a building permit application along with all pertinent construction documents such as plans, specifications, and/or calculations to the Building Safety Division prior to the construction of the canopy. Construction documents shall conform to the Title 24 California Code of Regulations edition effective on the date of application for a building permit.

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

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

G.1. Streets and Streetlights

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

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

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, Developer must do the following:
 - 1) Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric

utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");

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

Or

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

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

G.2. Landscaping Maintenance

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

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

Or

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

4. Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of public landscape maintenance. The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

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

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION 2023-_____

- 1. FINDING GOOD CAUSE UNDER TMC SECTION 10.08.4360 FOR APPLICANT'S RENEWAL OF CONDITIONAL USE PERMIT (CUP21-0009);**
- 2. APPROVING A RENEWAL (EXT23-0005) OF CONDITIONAL USE PERMIT CUP21-0009 FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 316 & 320 W. ELEVENTH STREET, APNS 235-040-05 & 06 TO MARCH 3, 2024; AND**
- 3. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

WHEREAS, the applicant was awarded a Cannabis Business Permit (Application Number CBPA20-0013) on June 21, 2021, by the Tracy Police Chief, which is valid until March 3, 2024; and

WHEREAS, the applicant was granted a Conditional Use Permit (Application Number CUP21-0009 to establish a cannabis dispensary at 316 & 320 W. Eleventh Street on October 12, 2022; and

WHEREAS, the Conditional Use Permit, which took effect on October 27, 2022, was granted one year for the use to be established in accordance with TMC Section 10.08.4360; and

WHEREAS, the use has not yet been established nor has a building permit been issued and construction diligently pursued to completion, and the Conditional Use Permit expired on October 27, 2023; and

WHEREAS, in accordance with TMC Section 10.08.4350, a Conditional Use Permit may be renewed, provided that an application for the renewal of the use permit is filed prior to the expiration of the time period granted; and

WHEREAS, under TMC Section 10.08.4360, the Conditional Use Permit may be extended by the Planning Commission provided 1) the new time limit is "reasonable, based on size, nature, and complexity of the proposed development," and 2) the

Planning Commission finds “good cause, such as proof of an unusual hardship not of the applicant’s own making;” and

WHEREAS, on October 18, 2023, the applicant submitted an application requesting additional time to establish the use; and

WHEREAS, the subject property is designated Commercial in the Tracy General Plan and zoned General Highway Commercial, wherein cannabis dispensaries are conditionally permitted; and

WHEREAS, the applicant proposes no changes to the project from that which was approved under CUP21-0009; and

WHEREAS, the Applicant has demonstrated good cause for an extension of the CUP based on hardships derived from an unexpected reduction of the applicant’s resources, including their draftsman, which limited their ability to prepare construction documents necessary for the building permit application; and

WHEREAS, Staff found March 3, 2024, to be a reasonable expiration date of the renewed CUP, aligned with the expiration of the Applicant’s Cannabis Business Permit; and

WHEREAS, the Planning Commission conducted a public hearing to review and consider the project on December 20, 2023; now, therefore, be it

RESOLVED: That the Planning Commission finds good cause for granting the renewal of Conditional Use Permit CUP21-0009 (Application Number EXT23-0005) pursuant to Tracy Municipal Code Section 10.08.4360, subject to the reincorporated findings contained in Exhibit 1 and the conditions of approval in Exhibit 2; and be it further

RESOLVED: That the Planning Commission approves the expiration date of March 3, 2024 for the renewed Conditional Use Permit CUP21-0009 (Application Number EXT23-0005) pursuant to Tracy Municipal Code Section 10.08.4360 and the finding that such expiration date is reasonable; and be it

FURTHER RESOLVED: That the Planning Commission finds that the project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15332, pertaining to existing facilities in an area where all public services and facilities are available and which is not environmentally sensitive.

* * * * *

The foregoing Resolution 2023-_____ was adopted by the Planning Commission on December 20, 2023, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

Exhibit 1 – Project Findings

Exhibit 2 – Project Conditions of Approval

City of Tracy
The Cake House Cannabis Dispensary CUP21-0009
Conditional Use Permit Findings
Application Number EXT23-0005

- (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 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.
- (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 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.
- (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 proposed use of a cannabis dispensary will function in a complementary manner to the surrounding retail uses in the vicinity, will comply with City standards, and will operate no earlier than 9:00 am and no later than 10:00 pm, with deliveries concluding by 9:00 pm, in consideration of neighboring residences. The dispensary will implement all safety and security conditions of approval prepared by the Tracy Police Department.
- (d) 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.
- (e) The applicant applied for a renewal to the conditional use permit prior to expiration of the original time period granted. Pursuant to Tracy Municipal Code Sections 10.08.4350 and 10.08.4360, the applicant has experienced unusual hardships not of the applicant's own making, including an unexpected loss of resources and inability to prepare construction drawings required for their building permit application. The applicant therefore requires additional time to obtain building permits and diligently pursue construction or occupy the site with the approved cannabis business. For these reasons, the Commission finds good cause for the extension of the conditional use permit.

**City of Tracy
Conditions of Approval**

The Cake House Cannabis Dispensary CUP21-0009 Renewal
Application Number EXT23-0005
Planning Commission – December 20, 2023

A. General Provisions and Definitions.

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

The Project: Renewal of the Cake House Cannabis Dispensary Conditional Use Permit
CUP21-0009

The Property: A 14,000 sf site at 316 & 320 W. Eleventh Street, APNs 235-040-05 & 06

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.
- g. "Police Chief" means the Chief of Police of the City of Tracy, or any other person designated by the City Manager or the Police Chief to perform duties set forth herein.

- 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 18, 2022, with the exception of a planter wall in front of the building, 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").
 - The Medicinal and Adult-Use Cannabis Regulation and Safety Act;
 - Regulations of the Bureau of Cannabis Control;
 - Tracy Municipal Code (TMC) Chapter 6.36 (Commercial Cannabis Activity); and
 - City of Tracy Procedures and Guidelines for a Cannabis Business Permit adopted by City Council Resolution 2020-137
- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved Cannabis Business Permit No. CBPA20-0013, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. 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.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a cannabis business permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This conditional use permit shall expire one year following the date on which the use permit became effective unless, prior to the expiration of one year, 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: Kimberly Matlock (209) 831-6430 kimberly.matlock@cityoftracy.org

- B.1. Prior to approval of a building permit, the applicant shall provide detailed plans that demonstrate the following:
 - B.1.1. Compliance with TMC Section 6.36.380(k).
 - B.1.2. A parking area designed in accordance with TMC Title 10 Article 26 (off-street parking and landscaping design) and Standard Plan 141 (parking stall striping). Said plans shall include a planting legend indicating, at minimum, the quantity, planting size, and height and width at maturity and calculations for landscape and canopy tree shading areas.
 - i. Details that demonstrate 12-inch wide concrete curbs along the perimeter of landscape planters where such planters are parallel and adjacent to vehicular parking spaces to provide access to vehicles without stepping into the landscape planters.
 - ii. Details that demonstrate sidewalk, landscape planters, and bio-retention areas perpendicular to parking stalls overhang up to 24 inches into the parking stall in place of wheel stops where feasible. Any landscape planter overhang may not be double-counted toward the required amount of parking area landscaping.
 - iii. All planters be comprised of trees, shrubs, and groundcover. Trees shall be a minimum of 24" box size, shrubs shall be a minimum size of 5 gallon, and groundcover shall be a minimum size of 1 gallon.
 - iv. Where trees are planted ten feet or less from a sidewalk or curb, root barriers dimensioned 8 feet long by 24 inches deep shall be provided adjacent to such sidewalk and curb, centered on the tree.
 - v. A photometric plan showing a minimum of one foot candle per Standard Plan 141 throughout the parking area as defined in TMC Section 10.08.3450.
 - B.1.3. All roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, are not visible from any public right-of-way to the satisfaction of the Development Services Director.
 - B.1.4. All vents, gutters, downspouts, flashing, and electrical conduits are internal to the structures and other wall-mounted or building-attached utilities shall be painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.
 - B.1.5. 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, walls, or landscaping, to the satisfaction of the Development Services Director.
 - B.1.6. The trash and recycling enclosure which architecturally matches the main building to the satisfaction of the Development Services Director. The enclosures shall be large enough to accommodate the enclosed equipment and trash and recycling bins. The trash and recycling enclosure walls shall be tall enough to fully screen the height of the bins, and the door shall be constructed of a solid metal door attached to posts which are attached to the walls.

- B.2. Prior to approval of a building permit, the applicant shall submit an application for a lot line adjustment or lot merger to eliminate the internal property line.
- B.3. Prior to issuance of a building permit, the applicant shall do the following:
 - B.3.1. Provide a copy of the recorded document that eliminates the internal property line to the Development Services Department.
 - B.3.2. Execute an Agreement for Maintenance of Landscape and Irrigation Improvements and submit financial security to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements or \$2.50 per square foot of on-site landscape area.
- B.4. Prior to final inspection, the applicant shall demonstrate the following:
 - B.4.1. Compliance with TMC Section 6.36.380(I).
 - B.4.2. All landscaping and irrigation shown in the approved building permit construction plans installed to the satisfaction of the Development Services Director.
 - B.4.3. All exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way and onto any adjacent private property to the satisfaction of the Development Services Director.
- B.5. Prior to commencing any cannabis operation, the applicant shall execute a Community Benefit Agreement with the City in accordance with the requirements of their Cannabis Business Permit.
- B.6. Aside from deliveries, the use shall be conducted wholly indoors. The use may not be conducted outside the building, including in the parking lot.
- B.7. The hours of operation shall be limited to 8:00 am to 10:00 pm in accordance with State law. Should the hours of operation established in the State law become more restrictive, the use shall comply with the more restrictive regulations.
- B.8. Before installation of exterior business identification signs, the applicant shall secure sign and building permits for such signs. All signs, including temporary signage, shall be on private property and shall not encroach into the public right-of-way.
- B.9. No bollards, chain link, or similar improvements that are industrial in nature shall be readily visible to the public.

C. Development Services Department, Engineering Conditions of Approval

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

C.1. General Conditions

RESERVED

C.2. RESERVED

C.3. RESERVED

C.4. Grading Permit

All grading work (on-site and off-site) shall require a Grading Plan. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Geotechnical Engineer. Prior to release of a Grading Permit, Developer shall provide all documents related to said Grading Permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.4.1 Developer has completed all requirements set forth in this section.
- C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction over the required public and/or private facilities and/or property. Written permission from affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit.
- C.4.3 Developer has obtained a demolition permit to remove any existing structure located within the Project's limits.
- C.4.4 All existing on-site water well(s), septic system(s), and leech field(s), if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s), septic system(s), and leech field(s) including the cost of permit(s) and inspection. Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.
- C.4.5 The Improvement Plans for all improvements to serve the Project (on-site and off-site) including the Grading and Drainage Plans shall be prepared in accordance with the City's Subdivision Ordinance (Tracy Municipal Code (TMC) Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.
- C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick polyester film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans approved by the City Engineer for all grading work. All grading work not completed before October 15 may be subject to additional requirements as applicable. Improvement Plans shall specify all proposed

erosion control methods and construction details to be employed and specify materials to be used during and after the construction.

C.4.7 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.

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

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

C.4.9 Developer shall provide a PDF copy of the Project's Geotechnical Report signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, retaining wall recommendations, if necessary, paving recommendations, paving calculations such as gravel factors, gravel equivalence, etc., slope recommendations, and elevation of the highest observed groundwater level.

C.4.10 Minor Retaining – Developer shall use reinforced or engineered masonry blocks for retaining soil at property lines when the grade differential among the in-tract lots exceeds twelve (12) inches. Developer will include construction details of these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes among the lots to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical) unless a California licensed geotechnical engineer signs and stamps a geotechnical report letter that supports a steeper slope gradient. Slope easements may be required and will be subject to approval by the City Engineer.

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

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

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

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

- C.4.11 Developer shall provide a copy of the approved Incidental Take Minimization Measures (ITMM) habitat survey [San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)] from San Joaquin Council of Governments (SJCOG).
- C.4.12 Developer shall provide a copy of the approved Air Impact Assessment (AIA) with an Indirect Source Review (ISR) from San Joaquin Valley Air Pollution Control District (SJVAPCD).
- C.4.13 Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.
- C.4.14 If the Project contains overhead utilities, the Developer shall underground existing overhead utilities such as electric, TV cable, telephone, and others.

Each dry utility shall be installed at the location approved by the respective owner(s) of dry utility and the Developer shall coordinate such activities with each utility owner. All costs associated with the undergrounding shall be the sole responsibility of the Developer and no reimbursement will be due from the City. Developer shall submit undergrounding plans.

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

C.5. Improvement Agreement(s)

All construction activity involving public improvements will require a fully executed improvement agreement (Off-site, Subdivision, and/or Inspection). Any construction activity involving public improvements without a fully executed improvement agreement is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer. Prior to the consideration of City Council's approval of said improvement agreement, the Developer shall provide all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.5.1. Off-site and/or Public Infrastructure Improvement Plans prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:

C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.

C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all

existing survey monuments and other survey markers such as benchmarks.

C.5.1.c. A PDF copy of the Project's approved Geotechnical/Soils Report that was prepared for the grading permit submittal.

C.5.1.d. Storm Water - The Project's on-site storm water drainage connection to the City's storm water system shall be approved by the City Engineer. Drainage calculations for the sizing of the on-site storm drainage system. Improvement Plans to be submitted with the hydrology and storm water.

Storm drainage release point is a location at the boundary of the Project adjacent public right-of-way where storm water leaves the Property, in a storm event and that the Property's on-site storm drainage system fails to function or it is clogged. Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an adjacent public street with a functional storm drainage system and the existing storm drainage line has adequate capacity to drain storm water from the Property. The storm drainage release point is recommended to be at least 0.70-feet lower than the building finish floor elevation and shall be designed and improved to the satisfaction of the City Engineer.

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

The storm water treatment system shall be located on private property and shall be at least off-set from the right-of-way by one (1) foot.

C.5.1.e. Sanitary Sewer - It is the Developer's responsibility to design and construct the Project's permanent on-site sanitary sewer (sewer) improvements including the Project's sewer connection in accordance with the City's Design Standards, City Regulations and Standard Specifications. Sewer improvements shall include but not limited to, replacing asphalt concrete pavement, reconstructing curb, gutter and sidewalk, restoring pavement marking and striping, and other improvements that are disturbed as a result of installing the Project's permanent sewer connection. Developer shall submit improvement plans that include the design of the sewer line from the Property to the point of connection.

Developer is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way

unless the sewer cleanout is located and constructed in conformance with Standard Plans. The City's responsibility to maintain on the sewer lateral is from the wye/onsite sewer manhole at the right-of-way line/property line/wye fitting to the point of connection with the sewer main.

Developer shall abandon the existing sewer lateral to each existing structure and replace it with a 6-inch diameter sewer lateral.

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

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

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

After final inspection of the improvements constructed via an encroachment permit, repair and maintenance of the water service from the water meter to the point of connection with the water distribution main in the street shall be the responsibility of the City. Water service repairs after the water meter is the responsibility of the Developer or individual lot owner(s).

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

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

C.5.1.g. Streets – The Developer shall construct frontage improvements. Frontage improvements include but are not limited to the following: curb, gutter, sidewalk, street widening, landscaping, street lighting, undergrounding of overhead utilities and other improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City.

Eleventh Street Road

Prior to release of the Building Permit, Developer shall submit to the City ready for immediate recordation, a grant deed to dedicate a ten (10) foot wide Public Utility Easement (P.U.E.) immediately behind the property line.

Developer shall remove and replace each existing driveway for each parcel with a driveway in conformance with a commercial driveway.

Along the Project frontage, if applicable, Developer shall landscape and irrigate the existing parkways per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc.

Street cuts and trenching related to utility installation on Eleventh Street shall be subject to Condition C.8.1

C.5.2. Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and

others that will be located within the twenty-four (24) feet wide to forty-six (46) feet wide [the width varies] PUE to be installed to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to the building(s). If necessary, the Developer shall dedicate ten (10) feet wide PUE for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.

C.5.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the fee rate adopted by the City Council on September 2, 2014, per Resolution 2014-141 and on May 16, 2017, per Resolution 2017-098. Developer shall submit payment in the form of a check for the aforementioned fees.

C.5.4. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

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

C.5.5. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.

C.5.6. If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials,

employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

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

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

C.6. Building Permit

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

C.6.1 Developer has completed all requirements set forth in Condition C.1, through C.5, above.

C.6.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, and City Regulations.

C.6.2.a. Water. The Developer shall pay the water impact fees prior to pulling the first building permit for the Project.

C.6.2.b. Wastewater. The Developer shall pay the wastewater treatment capacity development Impact fees prior to pulling the first building permit for the Project.

C.6.3 Developer shall submit a separate building permit for the demolition of any existing structures.

C.6.4 Developer has completed all requirements set forth in Condition C.8

C.7 Acceptance of Public Improvements

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

C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.

- C.7.2 Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.
- C.7.3 Developer has satisfactorily completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.7.4 Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.
- C.7.5 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.
- C.7.7 Per Section 21107.5 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet.
- C.7.8 Survey Monuments – Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required to install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC

overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.

- C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.
- C.8.3 Prior to the release of the Building Permit, if water is required for the Project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.
- C.8.4 Prior to the release of the Building Permit, Developer shall record with San Joaquin County Recorder a document to merge the two parcels.

D. Tracy Police Department Conditions

Contact: Lieutenant Miguel Contreras (209) 831-6618 miguel.contreras@tracypd.com

- D.1. A minimum of 2 on-site security guards shall be maintained on site during business hours and 1 on-site security guard during closed hours. The name of the company shall be provided to the Police Department at the time of Building Permit application submittal. The establishment shall remain closed for business if the minimum of 2 certified security guards are not present during business hours on any given day. Once the minimum-security staffing is met, the establishment may re-open for business.
 - D.1.1. Overnight (nonbusiness hours) security shall be a minimum of 1 certified guard solely responsible for the security of this establishment and not multiple locations.
 - D.1.2. All contracted or employed guards shall be certified and have sole responsibilities as a security guard focused on safety and security. The security guards will be readily identifiable.
 - D.1.3. Prior to issuance of a building permit, the applicant shall submit an updated security plan to the Tracy Police Department that reflects the conditions of approval above to the satisfaction of the Police Chief.
- D.2. Applicant shall cooperate with all legal requests from Tracy PD and any crimes shall be reported without delay.

D.3. Prior to establishment of the use, the applicant shall establish and maintain an updated on-call list of responders with their alarm service provider and current alarm permit with the City of Tracy, to include the on-site security manager. This shall be provided prior to the establishment of the use.

D.4. Trash containers and enclosures shall be locked and not accessible by the public at all times.

E. South San Joaquin County Fire Authority Conditions

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

E.1. Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.

E.1.1. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.

E.2. Engineering and building permit applications received by our offices are subject to the current fee schedule for South San Joaquin County Fire Authority. Contact our offices for additional information.

E.2.1. Application processing fees and minimum plan review fees are due at time of submittal of construction documents.

E.2.2. Additional plan review fees, minimum inspection fees and administrative fees are calculated on approval of project and shall be paid prior to issuance of permit.

E.2.3. Permit holder is responsible for any additional inspection fees incurred, which shall be paid prior to final inspection.

E.3. Prior to occupancy of the new business, the tenant shall contact South San Joaquin County Fire Authority for a new business inspection. Additional fees may be required for New Business, Annual and Operational Fire Permits. All fees shall be paid prior to approval of inspections.

E.4. Knox box 3200 series shall be required for project. Each tenant shall have keys placed in the key box. The operator of the building shall immediately notify the Fire Authority and provide the new key where a lock is changed or rekeyed. The key to such shall be secured in the key box.

E.5. Building shall be provided with approved address identification internally or externally illuminated in accordance with 2019 CFC Section 505.1 as amended by the Tracy Municipal Code.

E.6. Prior to final inspection, emergency radio responder coverage shall be tested to confirm coverage areas. It is beneficial for the applicant to conduct testing at foundation as retrofitting for the conduit is costly. If coverage is inadequate, a separate permit for emergency radio responder coverage shall be submitted to SSJCFA for review and approval prior to installation.

E.6.1. Additional improvements may warrant additional testing to be performed.
Testing shall be the determination of the fire code official.

F. Development Services Department, Building Division Conditions

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

- F.1. The means of egress shall provide an unobstructed path that leads any person (including those with impairments) to the public way. The accessible parking stall is not meant to serve as a location for people to use when an emergency occurs. Therefore, at time of building permit application submittal, the applicant shall provide and egress plan that complies with CBC Chapter 10.
- F.2. At time of building permit submittal, applicant to demonstrate compliance with CBC 11B-202.4 and 206 for path of travel requirements to new areas of alteration/addition, to right of way, between buildings, and to facilities on site, including the accessible trash enclosure. Currently, an accessible router is not shown to the trash enclosure.
- F.3. Per CBC Chapter 2, the definition of "means of egress" is, - "A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way." Currently, this plan does not meet the intent of the definition, nor does it comply with CBC Chapter 10. Therefore, at time of building permit submittal, applicant shall provide an emergency egress plan that complies with CBC Chapter 10, as applicable to the project.
- F.4. Prior to building permit issuance, applicant must submit separate demolition permit applications for all structures being removed due to the construction of this project per CBC 105, as it is not exempt from permits.
- F.5. At time of building permit application submittal, applicant shall submit plans that are prepared by a registered design professional per CBC 107.1.
- F.6. At time of building permit submittal, applicant to demonstrate compliance with CBC 11B-202.4 and 206 for path of travel requirements to new areas of alteration/addition, to right of way, between buildings, and to facilities on site, including the accessible trash enclosure.
- F.7. At time of building permit submittal, applicant shall provide an emergency egress plan from the new building to the public right-of-way that complies with CBC Chapter 10, as applicable to the project.
- F.8. At the time of building permit application submittal, the applicant shall show compliance with CBC 1010, as applicable for the types of doors and door-locking mechanisms that will be used for this project.
- F.9. At time of building permit application, the applicant shall provide details of accessible parking stall and their access aisles per CBC 11B-502, as applicable.

F.10. At time of building permit application submittal, applicant shall provide accessible stall to be on the shortest accessible route from parking to an entrance complying CBC 11B-206.4.

F.11. At the time of building permit application submittal, the applicant shall provide a calculation for the minimum required number of toilet facilities per CPC Chapter 4.

F.12. Prior to construction of any structures, applicant shall submit a building permit application along with all pertinent construction documents such as plans, specifications, and/or calculations to the Building Safety Division prior to the construction of the canopy. Construction documents shall conform to the Title 24 California Code of Regulations edition effective on the date of application for a building permit.

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

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

G.1. Streets and Streetlights

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

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

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, Developer must do the following:
 - 1) Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric

utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");

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

Or

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

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

G.2. Landscaping Maintenance

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

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

Or

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

4. Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of public landscape maintenance. The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

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