

**MINUTES  
TRACY CITY PLANNING COMMISSION  
REGULAR MEETING  
AUGUST 24, 2022, 7:00 P.M.  
CITY OF TRACY COUNCIL CHAMBERS  
333 CIVIC CENTER PLAZA**

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

**CALL TO ORDER**

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

**PLEDGE OF ALLEGIANCE**

Chair Hudson led the pledge of allegiance.

**ROLL CALL**

Roll Call found Commissioner Augustus, Commissioner Boakye-Boateng, Vice Chair Orcutt and Chair Hudson present. Commissioner Atwal was not present at the time of roll call. Also present were: Bill Dean, Assistant Director of Development Services; Scott Claar, Senior Planner; Victoria Lombardo, Senior Planner; Kimberly Matlock, Associate Planner; Nancy Ashjian, Assistant City Attorney; and Gina Peace, Executive Assistant.

**MINUTES**

Chair Hudson introduced the Regular Meeting Minutes from the August 10, 2022, meeting.

**ACTION:** It was moved by Commissioner Augustus and seconded by Commissioner Boakye-Boateng to approve the August 10, 2022 Planning Commission Regular meeting minutes. A voice vote found Commissioner Augustus, Commissioner Boakye-Boateng, Vice Chair Orcutt and Chair Hudson in favor. Commissioner Atwal was not present at the time of the vote. Passed and so ordered; 4-0-1-0.

Commissioner Atwal entered dais at 7:04 p.m.

**DIRECTOR'S REPORT REGARDING THIS AGENDA**

None.

**ITEMS FROM THE AUDIENCE**

None.

**1. NEW BUSINESS**

- A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION 1) APPROVE A ONE-YEAR EXTENSION OF THE THIRTEEN-LOT (13) LARKSPUR ESTATES UNIT 4 VESTING TENTATIVE SUBDIVISION MAP IN CONJUNCTION WITH THE**

**DEVELOPMENT REVIEW PERMIT (TSM19-0003 AND D20-0005), LOCATED ON THE SOUTH SIDE OF DEBORD DRIVE AND CAIRO COURT AND ON BENTLEY LANE, (ASSESSOR'S PARCEL NUMBERS 246-330-50 AND 246-310-08) TO SEPTEMBER 1, 2023, AND, 2) DETERMINING THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15332. APPLICANT IS BRIGHT DEVELOPMENT, APPLICATION NUMBER EXT22-0003.**

Victoria Lombardo, Senior Planner, presented the staff report and addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 7:10 p.m.

Randy Sasser addressed the Commission regarding interim storm drainage ponds and encouraged the Commission to do everything possible to eliminate these ponds, and advised they are a public nuisance, and liability. Mr. Sasser inquired about one of his ponds that he believes should be returned to him, and not utilized as a backup pond in the upcoming Master Plan update. Mr. Sasser requested that the Commission delegate a commissioner or a committee to investigate this issue.

Chair Hudson closed the Public Hearing at 7:18 p.m.

**ACTION:** It was moved by Commissioner Boakye-Boateng and seconded by Commissioner Augustus the Planning Commission adopt a resolution 1) approving a one-year time extension for the Larkspur Estates Unit 4 Vesting Tentative Subdivision Map (TSM19-0003) in conjunction with the Development Review Permit (D20-0005) to subdivide one lot into 13 and construct 14 single-family homes located on the south side of Cairo Court and De Bord Drive, and Bentley Lane, and 2) determining that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, Application Number EXT22-0003, as stated in the Planning Commission Resolution dated August 24, 2022 (Attachment C – Planning Commission Resolution).

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

**B. STAFF RECOMMENDS THAT THE PLANNING COMMISSION RECOMMEND THAT THE CITY COUNCIL ADOPT A RESOLUTION 1) APPROVING A THREE-YEAR TIME EXTENSION FOR THE DEVELOPMENT REVIEW PERMIT (D16-0036) TO CONSTRUCT A FIVE-UNIT RESIDENTIAL PROJECT LOCATED AT 21, 25, AND 29 E. EIGHTH STREET, AND 2) DETERMINING THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15332. THE APPLICANT IS MARK WATROUS-HEYLIGER. APPLICATION NUMBER EXT22-0001.**

Scott Claar, Senior Planner, presented the staff report and addressed questions from the Commission.

Chair Hudson opened the Public Hearing at 7:27 p.m.

Don Cose addressed the Commission in favor of the project.

Chair Hudson closed the Public Hearing at 7:30 p.m.

**ACTION:** It was moved by Commissioner Augustus and seconded by Commissioner Atwal the Planning Commission recommend that the City Council adopt a resolution 1) approving a three-year time extension for the Development Review Permit (D16-0036) to construct a five-unit residential project located at 21, 25, and 29 E. Eighth Street, and 2) determining that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, Application Number EXT22-0001, as stated in the Planning Commission Resolution dated August 24, 2022 (Attachment C – Planning Commission Resolution).

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

**C. STAFF RECOMMENDS THAT THE PLANNING COMMISSION 1) ADOPT A RESOLUTION APPROVING A CONDITIONAL USE PERMIT (CUP22-0009) AND A DEVELOPMENT REVIEW PERMIT (D22-0031) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 239 W. ELEVENTH STREET, APN 233-113-03, 2) ALLOW THE CONDITIONAL USE PERMIT TO BE VALID FOR ONE YEAR, AS DESCRIBED IN THE CONDITIONS OF APPROVAL, AND 3) DETERMINE THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT GUIDELINES SECTION 15301. THE APPLICANT IS JOSEPH DEVLIN AND THE PROPERTY OWNER IS RT FINANCIAL, INC.**

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

John Palmer, and Joe Delvin, Applicant, addressed the Commission, and answered various questions from the Commission.

Miguel Contreras responded to Vice Chair Orcutt's inquiry regarding crime statistics.

Chair Hudson opened the Public Hearing at 8:13 p.m.

Megan Roe read a letter to the Commission from Deborah Skinner, the Academy of Performing Arts dance academy owner (APA), 124 West 10<sup>th</sup> Street, in opposition to the Project.

Commissioner Atwal left the dais at 8:42 p.m.

Jason Fell, 38-year resident; Elizabeth Villareal, a mother of an APA dance student; Bob Tanner; Nav Chima; Dino Margaros, Tracy City Center Association (TCCA); Byron Alvarez, 421 W. Eleventh Street; Bernell Sholl; Mike Warda, attorney, Turlock, Ca; Ken Cefalo, 251 Forrest Hills, owner Main Street Music, 45 W. 10<sup>th</sup> Street; Alice English; Rachel Knight Scott, a mother of APA students; Ben Casey; Dan Evans; and Cecelie Hymes; all addressed the Commission in opposition to the Project.

Karen Moore addressed the Commission in favor of the Project.

Commissioner Atwal re-joined the meeting virtually.

Chair Hudson closed the Public Hearing at 9:08 p.m.

**ACTION:** It was moved by Chair Hudson and seconded by Commissioner Augustus the Planning Commission 1) Adopt a resolution approving a Conditional Use Permit (CUP22-0009) and a development review permit (D22-0031) for a cannabis storefront retailer (dispensary) at 239 W. Eleventh Street, APN 233-113-03, 2) allow the Conditional Use Permit to be valid for one (1) year, as described in the Conditions of Approval, and 3) determine that this project is categorically exempt from the California Environmental Quality Act pursuant Guidelines Section 15301.

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

**D. STAFF RECOMMENDS THAT THE PLANNING COMMISSION 1) ADOPT A RESOLUTION APPROVING A CONDITIONAL USE PERMIT (CUP22-0001) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 104 W. TENTH STREET, APN 235-054-06, 2) ALLOW THE CONDITIONAL USE PERMIT TO BE VALID FOR ONE YEAR, AS DESCRIBED IN THE CONDITIONS OF APPROVAL, AND 3) DETERMINE THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT GUIDELINES SECTION 15301. THE APPLICANT IS MOM TR, INC. AND THE PROPERTY OWNER IS PETER MAGLARAS.**

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

Megan Souza, Founder & CEO, Megan's Organic Market, Nick Andre, Megan's Organic Market, and Dotty Nygard, Applicants, addressed the Commission, and presented a PowerPoint presentation.

Chair Hudson opened the Public Hearing at 9:46 p.m.

Conrad Levoit; Ken Cefalo, 251 Forrest Hills, owner Main Street Music, 45 W. 10<sup>th</sup> Street; Lindsay Roe, 57-year resident and APA customer; Harold K. Reich, Reich's Pharmacy; Frances Swenson; Bob Tanner; Elizabeth Villareal, 25-year resident, a mother of an APA dance student for 10 years; Joan Fell, 510 Racquet Drive, 42-year resident; Megan Roe, 20-year APA member; Jason Fell; Alice English; Byron Alvarez, 421 W. Eleventh Street; Dan Evans, 26-year resident; and Dino Margaros,

Tracy City Center Association (TCCA); all addressed the Commission in opposition to the Project.

Cheryl Hayes, Mitch Harnett, and Nicholas Langarica each addressed the Commission in favor of the Project.

Byron Alvarez, Vivian Johnson, and one anonymous commenter, sent in letters to the city, in opposition to the Project. Letters were not read out loud but will be included as part of the record.

Chair Hudson closed the Public Hearing at 10:30 p.m.

**ACTION:** It was moved by Commissioner Atwal and seconded by Commissioner Augustus that the Planning Commission continue this item [(1) Adopt a resolution approving Conditional Use Permit CUP22-0001 for a cannabis storefront retailer (dispensary) at 104 W. Tenth Street, APN 235-054-06, 2) allow the Conditional Use Permit to be valid for one (1) year, as described in the Conditions of Approval, and 3) determine that this project is categorically exempt from the California Environmental Quality Act pursuant Guidelines Section 15301] to the next regularly scheduled Planning Commission meeting, to give citizens the opportunity to speak at the next City Council meeting.

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

**E. STAFF RECEIVE AN INFORMATIONAL REPORT REGARDING CITY REGULATIONS OF TRUCK STOPS AND TRUCK USES AROUND INDUSTRIAL AREAS ACROSS THE CITY.**

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

Chair Hudson opened the Public Hearing at 11:03 p.m.

Jim Rubnitz, 17610 Blanchard Drive, Monte Sereno, Ca, addressed the Commission.

Karen Moore addressed the Commission and suggested the map be updated.

Dotty Nygard suggested staff look at this item from a regional standpoint.

Chair Hudson closed the Public Hearing at 11:10 p.m.

Planning Commission received the informational report regarding the City's regulations of truck stops and truck uses around industrial areas across the City.

No action was taken.

**2. ITEMS FROM THE AUDIENCE**

None.

**3. DIRECTOR'S REPORT**

Bill Dean, Assistant Director of Development Services, advised Commissioners to contact Kellie Jones regarding APA Conference details.

Mr. Dean also announced that for the next Planning Commission meeting, staff will introduce new templates for staff reports and resolutions.

**4. ITEMS FROM THE COMMISSION**

Chair Hudson requested a message be sent to Council to address the density issue downtown for Cannabis dispensaries.

Commissioner Atwal questioned the basis on which Planning Commission can deny a CUP. Commissioner Atwal also requested that staff broach City Council with the density and distance buffer issue and bring it in front of the Planning Commission.

Nancy Ashjian, Assistant City Attorney, and Bill Dean, Assistant Director of Development Services, answered questions from the Commission.

**5. ADJOURNMENT**

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

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

Time: 11:31 p.m.

  
STAFF LIAISON

  
CHAIR

**Public Comment** -- Received 08.23.2022

Re: **Item 1.D** -- CONDITIONAL USE PERMIT  
(CUP22-0001) FOR A CANNABIS STOREFRONT  
RETAILER (DISPENSARY) AT 104 W. TENTH STREET

August 23, 2022

RECEIVED

AUG 23 2022

CITY OF TRACY  
Development Services

City of Tracy Planning Commission

Dear Commission members,

In 2008 Leon Churchill the city manager indicated he was bringing some big companies to Tracy and that we needed to do something with the downtown.

At the same time Dino Maragos, Dan Schack and our own City of Tracy Andrew Malik worked to establish the TCCA Tracy City Center Association.

With the establishment of the TCCA our family Alvarez along with the Cose family cleared out our marginal tenants and made huge concessions to restaurants to locate in downtown. This decisive actions was picked up by Channel 3 KCRA and Channel 40 news about the incentives offered by these owners to locate restaurants in downtown Tracy.

Over the next 3 years the incentives resulted in 10 new restaurants and numerous new business's locating in the downtown.

We accomplished a complete renaissance of the downtown in less than 3 years.

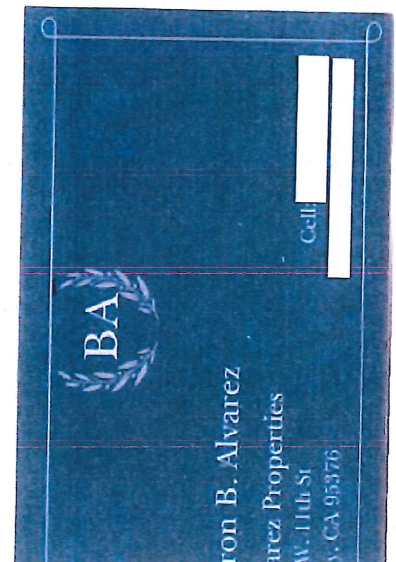
We all now enjoy the success and vitality of this downtown renaissance.

Now we find out that our own City is processing 5 cannabis in the downtown area with 4 on Tenth street. One of which is a 20,000 sq.ft cannabis in the middle of Main Street Music, Performing Arts Studio , T4 Boba Tea and Barristas. These businesses have in excess of 1,000 children and students at their business's all within 200 feet of this giant cannabis in the former J.C. Penney's building at 104 W. 10<sup>th</sup> st. Megans Organic Market. "MOM"

We are asking the Planning Commission to not sabotage our downtown success by allowing 4 cannabis on 10<sup>th</sup> st. and in particular the worst located (within 200 feet of 1,000 children and students) cannabis Megans Organics Market at 104 W. 10<sup>th</sup> st.

Byron B. Alvarez  
Alvarez Properties  
421 W. 11 th St.  
Tracy, CA 95376

27, 29, 31 W. 10<sup>th</sup> st  
47, 49, 51 W. 10<sup>th</sup> st  
110 & 112 W. 10<sup>th</sup> st  
118 A & B W. 10<sup>th</sup> st.  
154 W. 10<sup>th</sup> St.  
135, 145 & 165 W. 10<sup>th</sup> st.  
1003 A. Street



**Public Comment** -- Received 08.24.2022

Re: **Item 1.D** -- CONDITIONAL USE PERMIT  
(CUP22-0001) FOR A CANNABIS STOREFRONT  
RETAILER (DISPENSARY) AT 104 W. TENTH STREET

From: [Vivian Johnson](#)  
To: [Public Comment](#)  
Subject: Pot dispensary Bstreet and tenth  
Date: Wednesday, August 24, 2022 3:16:28 PM

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I am writing to your today to object the proposal of a pot dispensary at the old JCPenney building my daughter has been currently dancing at the APA (academy of performing arts) since she was 3 1/2 and now she is a freshman at Tracy High. I'm sorry but I don't know how you can even consider this location! There are small children whose parents walk them past this building every evening and in summer every day and nite since we have youth camps for theater and dance during this time. What is this saying to our youth and honestly do you really think these people will buy there drugs and just take it home no many of them will light eat or drink there products right there and the get in there cars and drive. This area we have homecoming parades, Christmas parades(which APA) has participated in for many years. Children trick or treating, Fourth of July and Farmers market. This location is right next to T4 one of the most used locations of many teenagers. I'm sorry but this city is going in the wrong direction first you put a vape shop across from a high school and now you want to put two pot dispensaries within walking distance of the high school. I completely object to this location and thank you for your time. Vivian Johnson

Sent from my iPhone



**From:** longtimeresident  
**Sent:** Wednesday, August 24, 2022 4:25 PM  
**To:** Andrew Malik  
**Cc:** Public Comment; Tracy City Council;  
**Subject:** PLEASE DELAY CUP 22001 – MOMS TR Inc. Up for Approval at Tonight's Planning Commission Meeting

## RE CUP 22001 – MOMS TR Inc. Up for Approval at Tonight's Planning Commission Meeting

**Do not approve this CUP tonight.** If you do, you will be approving an enterprise involved in a massive, and still unfolding political corruption scandal in San Luis Obispo regarding Megan's Organic Market that was facilitated by Nick Andre. Andre, who is listed on the current application and documents as a partial owner of the enterprise in Tracy, and also partially owned the operation in San Luis Obispo. Andre's then associate, cannabis Kingpin Helios Dayspring, is expected to testify tomorrow in Federal Court about the corruption – and name names. All I ask is that you wait until the next Planning Commission meeting when there will be additional clarity.

Nick Andre was part of SLO operation with Helios Dayspring. He was named on documents as COO. He cannot say he was not involved with an organization that had its license revoked – he was. He then left and became owner of licenses with Megan's Organic Markets (MOMS). MOMS was also sued by SLO County for illegal cultivation.

### For additional detail:

<https://www.newtimesslo.com/sanluisobispo/overwhelmed/Content?oid=11480057>

<https://calcoastnews.com/2022/08/slo-county-upstarts-grab-a-slice-of-cannabis-kingpins-empire/>

<https://www.newtimesslo.com/sanluisobispo/dayspring-claims-he-bankrolled-other-slo-cannabis-dispensaries-companies-and-city-push-back/Content?oid=12792214>

<https://www.pacbiztimes.com/2021/07/29/cannabis-grower-pleads-guilty-to-bribing-slo-county-supervisor/>

<https://www.newtimesslo.com/sanluisobispo/undue-influence-slo-county-grapples-with-the-fallout-from-the-helios-dayspring-adam-hill-bribery-scandal/Content?oid=11429960>

<https://calcoasttimes.com/2021/08/01/the-dirty-underbelly-of-slo-countys-marijuana-industry/>

<https://www.newtimesslo.com/sanluisobispo/county-sues-megans-organic-market-to-shut-down-cannabis-grow/Content?oid=3181840#:~:text=County%20sues%20Megan's%20Organic%20Market%20to%20shut%20down%20cannabis%20grow,-By%20Peter%20Johnson&text=The%20remote%20California%20Valley%20isn,with%20a%20recent%20county%20policy.>