

September 14, 2023

DIRECTOR PUBLIC HEARING
AGENDA ITEM 1

REQUEST

PUBLIC HEARING TO CONSIDER (1) APPROVING AN AMENDMENT TO PRIOR DEVELOPMENT REVIEW PERMIT D19-0012 BURGER KING, STARBUCKS, CONVENIENCE STORE, GAS STATION, AND CAR WASH. THE PROJECT IS TO MODIFY THE BUILDING OF THE FORMERLY PROPOSED BURGER KING RESTAURANT TO CONSTRUCT A NEW POPEYES RESTAURANT INSTEAD; AND REPLACE THE FORMERLY PROPOSED CONCRETE BLOCK (CMU) WALL WITH A NEW TRELIS FENCE ALONG SOUTH PROPERTY LINE. THE PROJECT IS LOCATED AT 630 AND 640 E. 11TH STREET; AND (2) DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15332 WHICH PERTAINS TO CERTAIN INFILL DEVELOPMENT PROJECTS. APPLICANT IS CHARLIE BROWN AND PROPERTY OWNER IS SUNNY GHAI (WINTERS GATEWAY, INC.). APPLICATION NUMBER D23-0011.

DISCUSSION

Background

In 2019, a Development Review Permit (D19-0012) was submitted for the construction of a retail shopping center, known at the time as 11th Street Commercial Center, consisting of a 5,584 square foot multi-tenant restaurant/retail building, 2,200 square foot restaurant, gas station, carwash, landscaping, and parking area. Located at 630 and 640 E. 11th Street. The Development Review Permit was approved by the Development Services Director on January 13, 2020. Applicant submitted application for the Development Review Permit amendment to D19-0012 on June 27, 2023, for Winters Gateway formerly known as 11th Street Commercial Center.

Site and Project Description

The existing site consists of approximately 1.91 acres split between two parcels at the southeast corner of MacArthur Drive and 11th Street. (Attachment A: Location Map). The proposed amendment is to modify the formerly proposed Burger King restaurant to a new Popeyes restaurant and formerly proposed concrete block (CMU) wall with a new trellis fence along the south property line. The Popeyes restaurant will feature a mix of materials like brick veneer wainscot and popout, exterior wood siding, and vertical wood slats. The Popeyes restaurant features floor to ceiling windows on the north and west elevation with paint colors that complement the attached convenience store and adjacent 76 gas station. The new 209-foot-long trellis fence is proposed to have trellis elements approximately seven feet wide intermittent every 12 feet along the rear southern property line (Attachment B: Site Plan and Elevations).

Site Analysis

The project site is zoned General Highway Commercial (GHC) and has a General Plan designation of Commercial. The GHC Zone provides for a broad range of commercial uses that include restaurants and convenience stores which are permitted use in the GHC Zone. The proposed amendment would be compatible with the surrounding land uses, which includes industrial and commercial. The project continues to meet the requirements of the GHC Zone.

Environmental Document

The project has been determined to be categorically exempt from the California Environmental Quality Act 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.

RECOMMENDATION

Staff recommends that the Development Services Director (1) approve an amendment to prior development review permit D19-0012 Burger King, Starbucks, convenience store, gas station, and car wash. The project is to modify the building of the formerly proposed burger king restaurant to construct a new Popeyes restaurant instead; and replace the formerly proposed concrete block (CMU) wall with a new trellis fence along south property line. The project is located at 630 and 640 E. 11th Street; and (2) determine the project is categorically exempt from the California Environmental Quality Act pursuant to CEQA guidelines section 15332 which pertains to certain infill development projects, based on the findings contained in the Director Determination dated September 14, 2023 (Attachment C).

Prepared by: Kenny Lipich, Associate Planner

Reviewed by: Alan Bell, Senior Planner

Approved by: Bill Dean, Assistant Director of Development Services

ATTACHMENTS

- A: Location Map
- B: Site Plan and Elevations
- C: Development Services Director Determination
Exhibit 1 – Conditions of Approval



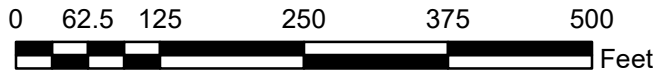
11TH STREET

MACARTHUR DR.

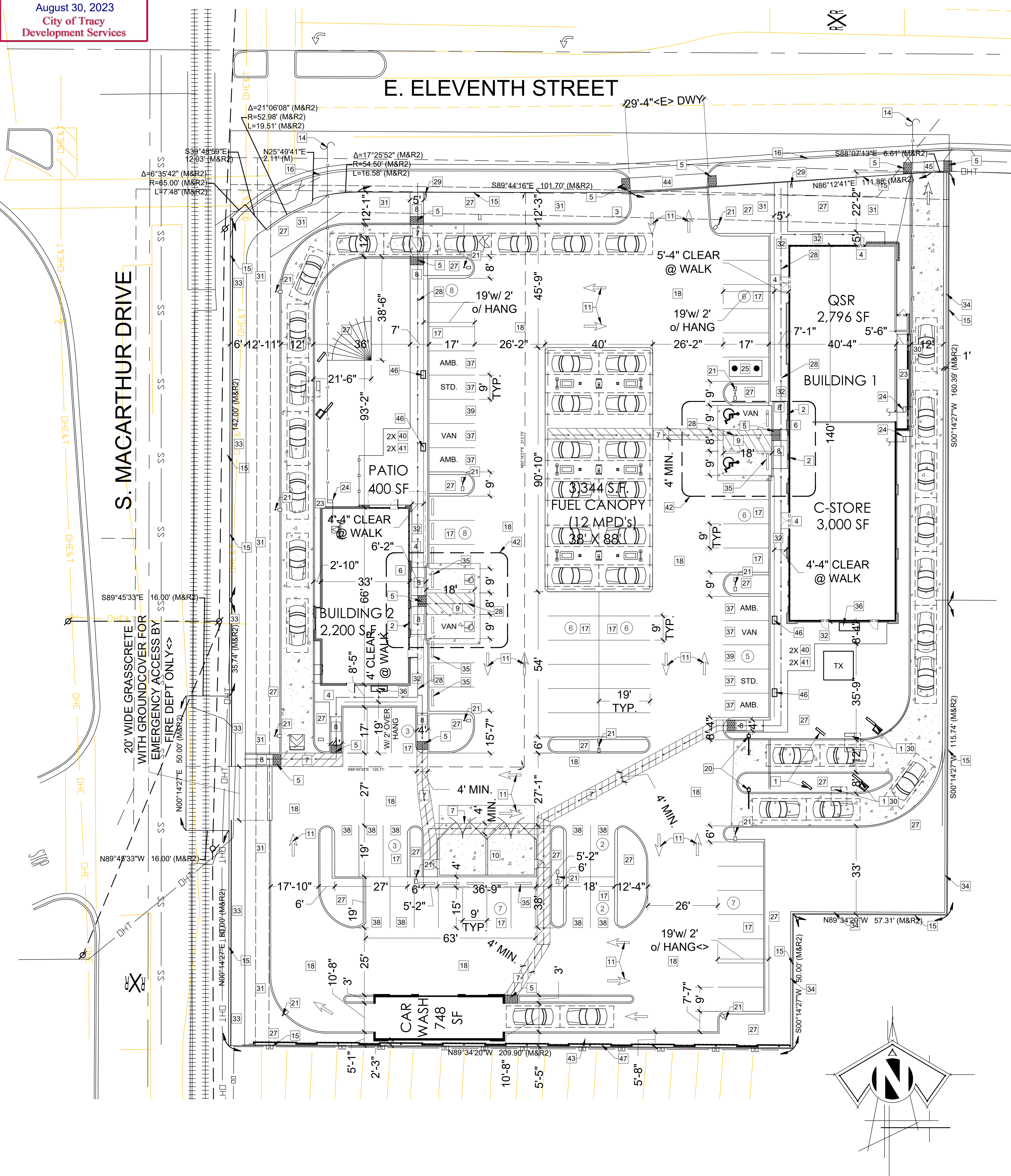
Subject
Property



Think Inside the Triangle™



Attachment B



KEY NOTES

- 1 <N> MENU BOARD & SPEAKERS
- 2 <N> PARKING ACCESSIBILITY SIGNS, SEE (A.3.3) DO NOT DEVIATE FROM DETAIL.
- 3 <N> SITE ACCESSIBILITY SIGN, SEE (11.1.1)
- 4 <N> BUILDING ACCESSIBILITY SIGN SEE (6.5.7) AND <N> LEVEL LANDINGS @ ALL DOORS, LEVEL W/ FINISH FLOOR, MAX 1.95% SLOPE EW. - REFER TO FLOOR PLAN FOR SIZE OF CLR. SPACE REQ.
- 5 <N> 3' DEEP TRUNCATED WARNING DOMES, SEE (18.1.1) MAX 2% SLOPE E.W.
- 6 <N> FIRE & POLICE DEPT. "KNOX BOX" PER CITY STDS. & SPECIFICATIONS CONFIRM LOCATION WITH FIRE DEPARTMENT AND OWNER. MAY BE ORDERED ONLINE AT www.knoxbox.com.
- 7 <N> ACCESSIBLE PATH OF TRAVEL THROUGH SITE W/ MIN. 4" W CONC. SEE SITE PLAN FOR ACTUAL DIMS. COLOR TO BE CONTRASTING COLOR TO ADJACENT AREA OR STRIPED IN WHITE OR CONTRASTING COLOR. DENOTED BY ALL PATHS OF TRAVEL SHALL HAVE A MAXIMUM OF 4.95% SLOPE IN THE DIRECTION OF TRAVEL AND A MAXIMUM OF 1.95% CROSS SLOPE (SEE CIVIL PLANS FOR ACTUAL SLOPES)
- 8 4.95% MAX. RUN SLOPE MAX 1.95% CROSS SLOPING SIDEWALK (NOT A RAMP) MED. BROOM FINISH PER CBC 11B-403. CONFIRM RUNNING SLOPE WITH CIVILS
- 9 <N> STRIPING W/ 4" W. STRIPES 3" O.C.; W/ "NO PARKING" SEE (A.3.3) BORDER IN BLUE. TYP @ ALL ACCESSIBLE PARKING
- 10 <N> CMU TRASH ENCLOSURE SEE DETAIL (1.2.2)
- 11 <N> SINGLE/DOUBLE-HEADED ARROW, PAVEMENT MARKING.
- 12 <N> WATER METER & BACK FLOW TO REMAIN AND PROTECT
- 13 <N> CURB (ALL CURBS ARE NEW CURBS U.N.O.), SEE CIVILS
- 14 PROPOSED GAS LINE LOCATION, CONFIRM WITH CIVIL & PG&E FOR FINAL LOCATION.
- 15 <E> PROPERTY LINE
- 16 <E> CURB, SEE CIVIL PLANS.
- 17 <N> STANDARD PARKING STALLS TO BE 4" WHITE LINES - STRIPED 2'-0" SHORT (1' FRONT/ 1' BACK) OF DIMENSIONED STALLS - EXCEPT DISABLE STALLS TO BE FULL LENGTH & BLUE. SEE DETAIL (A.3.3)
- 18 <N> AC PAVING, BASE, & CURB PER CIVIL DRAWINGS
- 19 <N> 2-SPACE BIKE RIBBON STAND SEE (A.3.3)
- 20 <N> CLEARANCE BAR
- 21 <N> SITE LIGHT, SEE SHEET ELECTRICAL SITE PLAN FOR ADDITIONAL INFORMATION.
- 22 NOT USED.
- 23 <N> BOLLARD - SEE (1.2.3)
- 24 <N> GAS METER LOCATION
- 25 PROPOSED GREASE INTERCEPTOR LOCATION. SEE CIVIL & PLUMBING PLANS FOR SIZE AND INSTALLATION INFORMATION.
- 26 <N> TRANSFORMER LOCATION. CONFIRM WITH CIVIL UTILITY PLAN
- 27 <N> LANDSCAPE THROUGHOUT SITE PLAN, SEE LANDSCAPE PLANS.
- 28 <N> LINE DENOTES ACCESSIBLE PATH OF TRAVEL
- 29 <N> 8"X12" ACCESSIBLE PATH OF TRAVEL SIGN, MOUNT 3'-0" TO BOTTOM OF SIGN. SEE DETAIL (8.1.1)
- 30 PROVIDE AND INSTALL SPEECH AND HEARING ASSISTANCE AVAILABLE SIGNS @ DRIVE THROUGH CUSTOMER ORDER DISPLAY.
- 31 EASEMENT, SEE CIVIL DRAWINGS FOR ADDITIONAL INFORMATION.
- 32 OBJECTS BETWEEN 27" TO 80" ABOVE THE GROUND MAY NOT PROTRUDE MORE THAN 4" INTO THE PATH OF TRAVEL WITHOUT CANE DETECTION
- 33 <N> 6" MIN. WIDE SIDEWALK ALONG MACARTHUR DRIVE. LOCATE SIDEWALK EDGE ALONG PROPERTY LINE WITH GUARD RAIL BETWEEN SIDEWALK AND RAILWAY PER DETAIL 14/A-0.3. CONNECT WITH <E> SIDEWALK AT CORNER. ENSURE 4' PATH OF TRAVEL IS MAINTAINED CONSIDERING ELECTRICAL POLES.
- 34 <N> 7' HIGH MASONRY WALL ALONG THE SOUTHERN AND EASTERN PROPERTY BOUNDARIES (LOCATE 4' AWAY FROM PROPERTY LINE). REMOVE <E> CHAN LINKED FENCE.
- 35 <N> WHEEL STOP PER DETAIL (18.1.1)
- 36 <N> ELECTRICAL SWITCHGEAR, SEE ELECTRICAL DRAWINGS.
- 37 FUTURE PROPOSED EV CHARGING STALLS. SEE ELECTRICAL PLANS FOR REQUIRED PROVISIONS FOR FUTURE INSTALLATION OF CHARGING STATIONS.
- 38 PAINT "CLEAN AIR" VEHICLE GRAPHIC ON PAVEMENT SEE DET. SHEET A0.3
- 39 FUTURE STRIPED "NO PARKING" FOR FUTURE EV CHARGING STALLS. RAMP AND 18'-0" STALL DEPTH TO BE PROVIDED AT TIME OF INSTALLATION WHEN REQUIRED.
- 40 BIKE RACK/SHORT TERM - GC TO SUBMIT SPECIFICATION TO AOR FOR APPROVAL PRIOR TO INSTALLATION.
- 41 BIKE LOCER/LONG TERM - GC TO SUBMIT SPECIFICATION TO AOR FOR APPROVAL PRIOR TO INSTALLATION.
- 42 SEE DETAIL (A.3.3) FOR ACCESSIBLE PARKING STALL INFORMATION.
- 43 FULL GROUTED CMU CONSTRUCTION TO PROVIDE A MINIMUM OF 1 HOUR FIRE RATED CONSTRUCTION.
- 44 EXISTING CURB CUT AND SIDEWALK TO PROTECT AND REMAIN. NEW DETECTABLE WARNINGS TO BE PROVIDED AS NOTED.
- 45 NEW CURB CUT TO MATCH EXISTING, SEE CIVIL PLANS FOR MORE INFORMATION.
- 46 FUTURE E.V. CHARGING STATION, SEE ELECTRICAL PLANS FOR PROVISIONS REQUIRED BY CALGREEN.
- 47 <N> FENCE SEE DETAIL 18/A0.4. REMOVE <E> CHAN LINKED FENCE.

GENERAL NOTE:
 SEE CONCRETE HATCH PATTERN AND CIVIL PLAN FOR CONCRETE THROUGHOUT THE SITE. USE BLACK CONCRETE IN BK DRIVE-THRU AND REGULAR CONCRETE IN OTHER CONCRETE LOCATIONS.

LOT DATA:
 A.P.N.: 250-250-14 & 250-250-15
 TOTAL ACREAGE: 83,200 SF (1.91 AC)

PARKING DATA:
 REQUIRED:
 BUILDING #1 (5,796 SF)
 C-STORE = 3,000 SF (1 PER 250 SF) 12 SPACES
 QSR (2,584 SF)
 DINING AREA = 1,000 SF (1 PER 45 SF) 22 SPACES
 REMAINDER AREA = 1,796 SF (1 PER 250 SF) 7 SPACES
 BUILDING #2 (2,200 SF)
 DINING AREA = 1,000 SF (1 PER 45 SF): 22 SPACES
 REMAINDER AREA = 1,200 SF (1 PER 250 SF): 5 SPACES
 REQUIRED: 68 SPACES
 PROVIDED:
 STANDARD SPACE (9'x19') 65 SPACES
 ACCESSIBLE SPACE (9'x19') 4 SPACES (2 VAN)
 PROVIDED: 69 SPACES

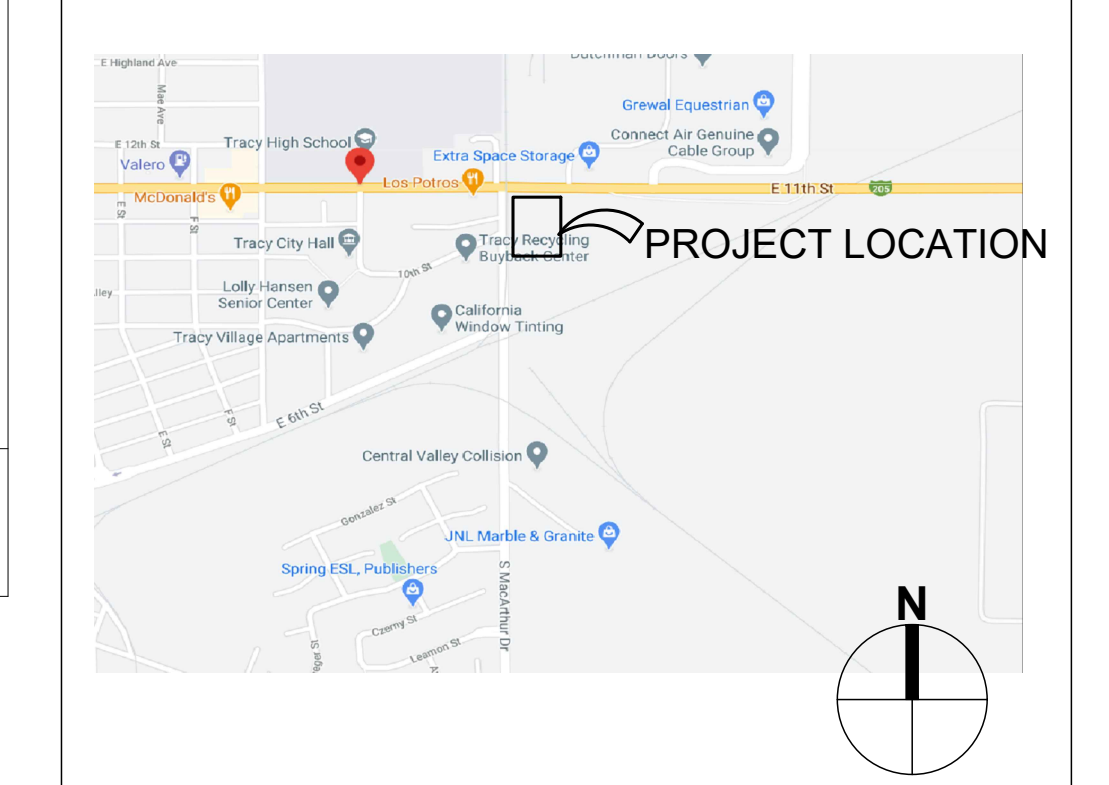
LOT COVERAGE:

BUILDING #1	5,645 SF (6.7%)
BUILDING #2	2,200 SF (2.6%)
QSR	2,584 SF (3.1%)
CARWASH	748 SF (0.9%)
PAVEMENT	44,606 SF (53.7%)
LANDSCAPE	18,742 SF (22.5%)
HARDSCAPE	8,736 SF (10.5%)

SITE ACCESSIBILITY NOTES

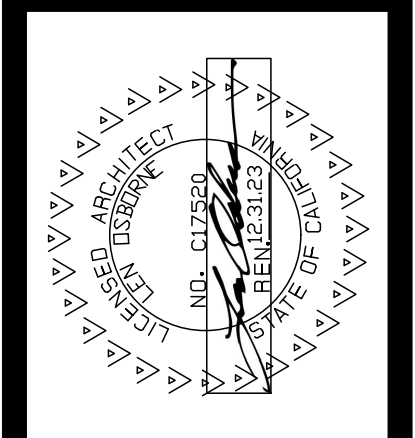
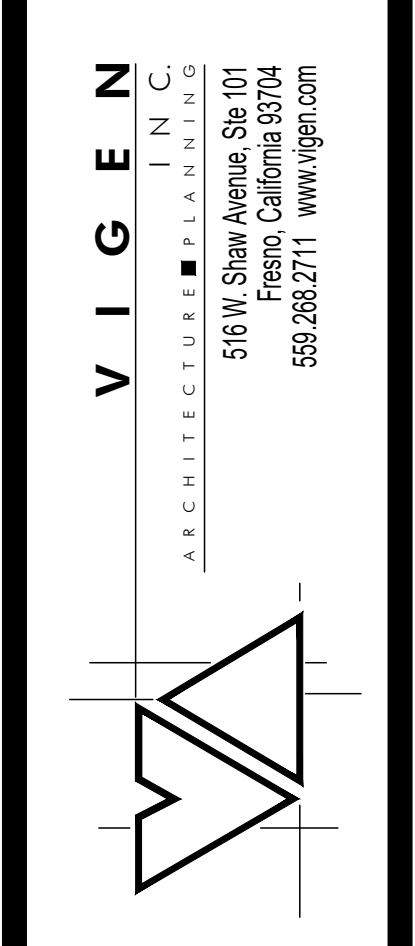
- 1 ACCESS PATHS OF TRAVEL SHALL:
 - a. ACCESSIBLE PER 2019 CBC CHAPTER 11B
 - b. MIN. 4' CLEAR WIDTH
 - c. MAX. 1.95% CROSS SLOPE
 - d. ALL TRANSITIONS ALONG PATHS OF TRAVEL SHALL NOT HAVE ELEVATION CHANGES EXCEEDING 1/2" W/ FIRST 1/4" VERTICAL. REMAINDER @ 1/2 SLOPE. IDEALLY ALL TRANSITIONS WILL BE FLUSH.
 - e. MIN. 5'x5' LEVEL LANDINGS AT ALL DOORS (1.95% MAX. SLOPE IN EACH DIRECTION, INCLUDING TRASH ENCLOSURE DOOR.)
 - f. DETECTABLE WARNINGS (TRUNCATED DOMES) @ ALL CROSSINGS OF TRAFFIC SHALL BE MIN. 4' W & 3' DEEP
 - g. ALL WALKS TO BE MIN. 4' CLEAR EXCLUDING CURBS.
- RAMPS CURB RAMPS (NONE PROVIDED ON THIS JOB)
 - A. ALL WALKS PROVIDED ON THIS JOB ARE DESIGNED AS SUCH TO NOT TO EXCEED 4.95% SLOPE IN THE DIRECTION OF TRAVEL AND 1.95% IN THE CROSS SLOPE. PER CBC 1003.5 ALL WALKS WITH A SLOPE OF LESS THAN 5% IN THE DIRECTION OF TRAVEL AND A CHANGE IN ELEVATION OF LESS THEN 12" ARE NOT CONSIDERED A RAMP AND THEREFORE ARE A SIDEWALK.

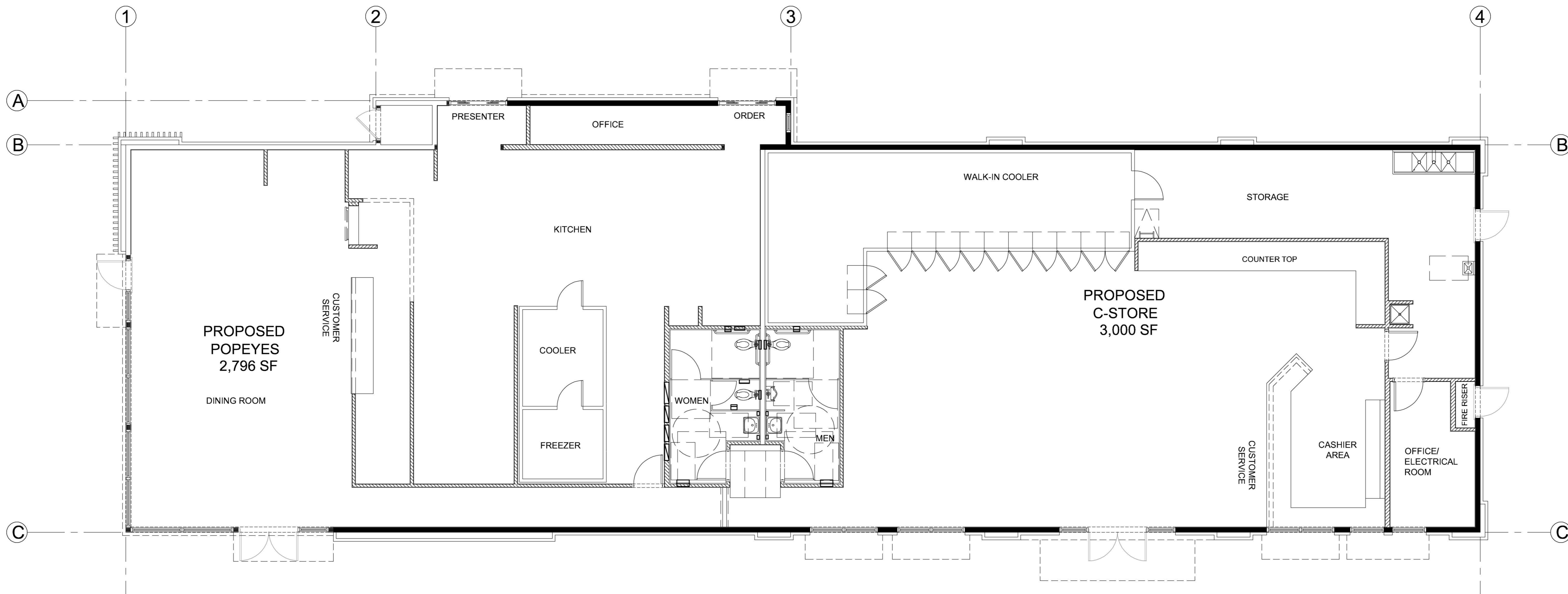
VICINITY MAP



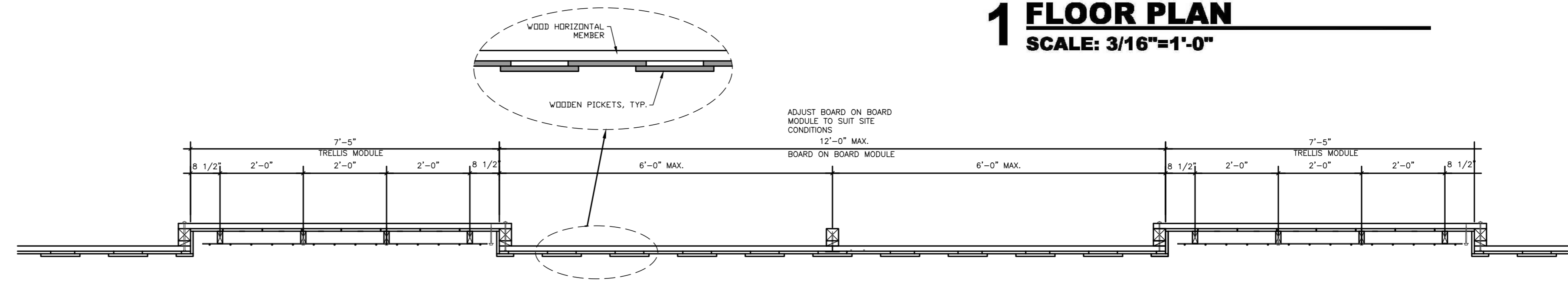
CLIENT: GHAI MANAGEMENT SERVICES, INC.
 25 E. ARWAY BLVD., LIVERMORE, CA 94551
 CONTACT: SUNNY GHAI
 PHONE: (910) 573-5905

ARCHITECTURE & PLANNING: V I G E N
 516 W. Shaw Avenue, Ste 101
 Fresno, California 93704
 559.268.2711 www.vigen.com

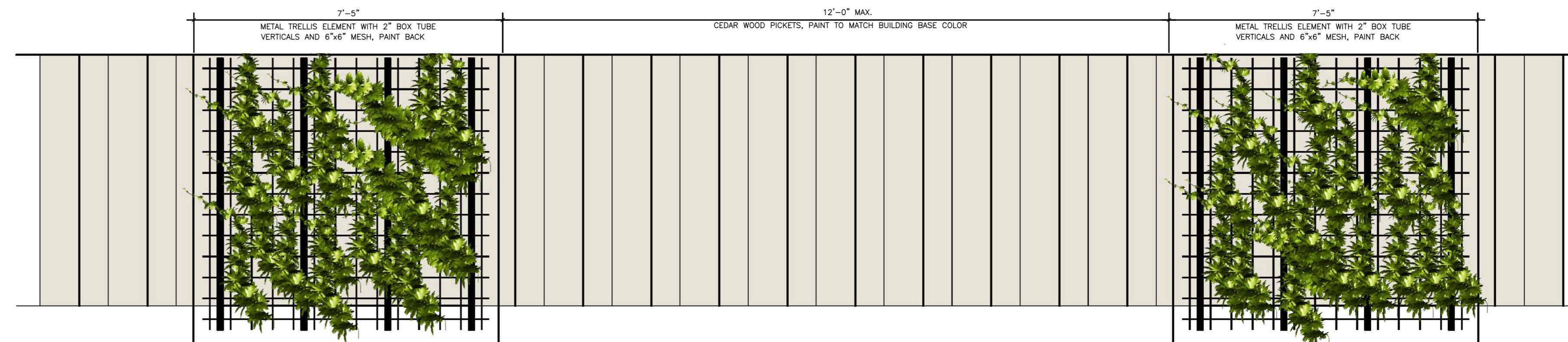




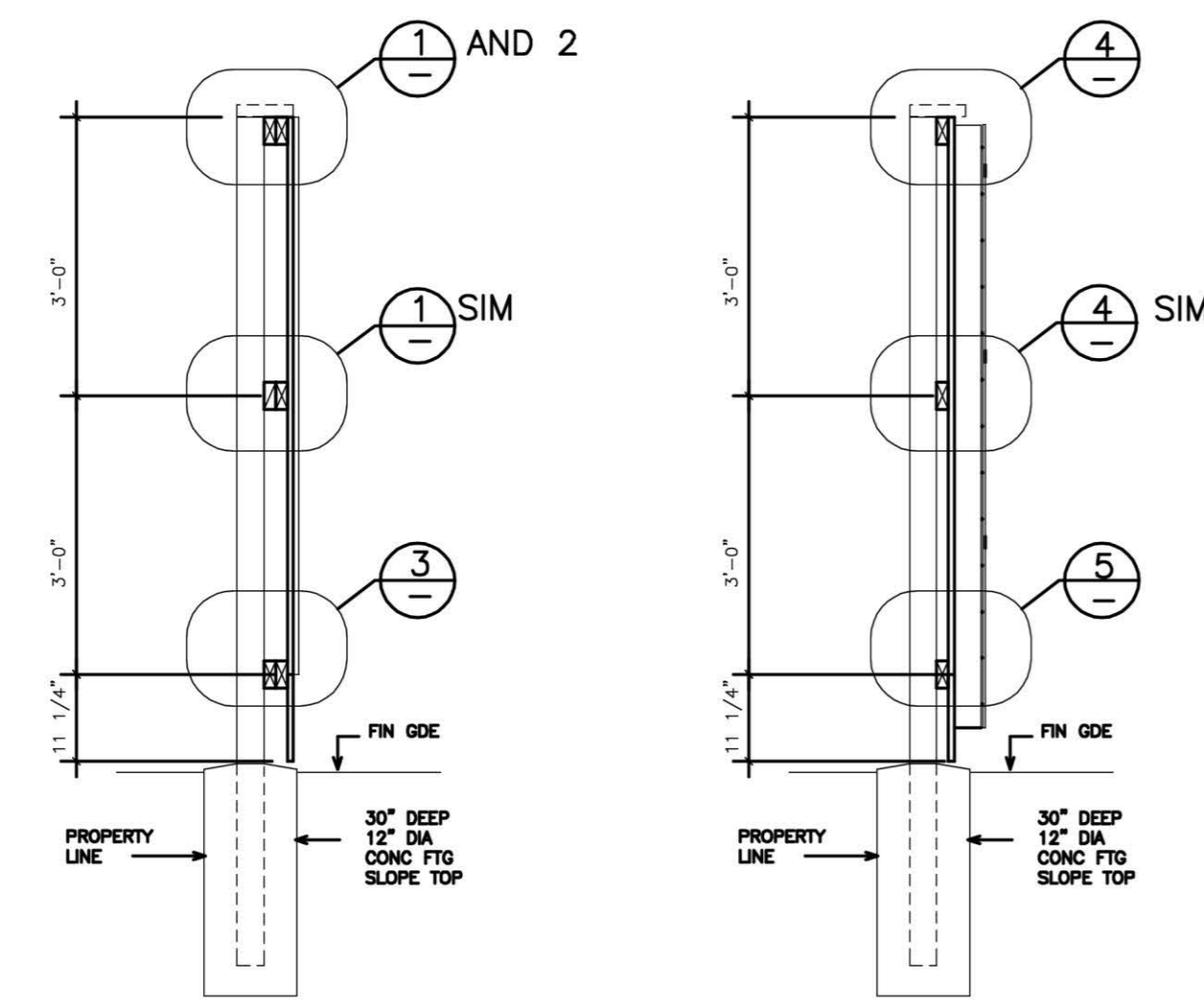
1 FLOOR PLAN
SCALE: 3/16"=1'-0"



PLAN



ELEVATION



SECTION A

SECTION B

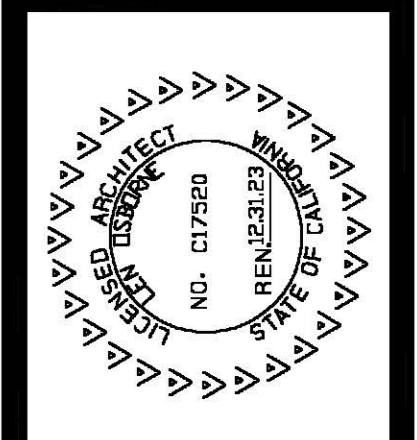
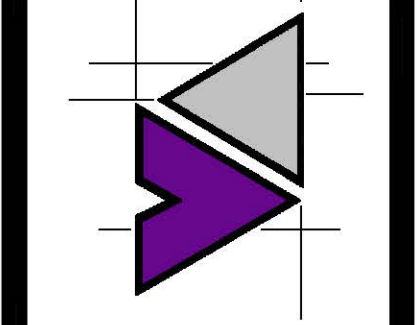
3 SITE FENCE SECTION
SCALE: 1/2"=1'-0"

2 SITE FENCE ELEVATION
SCALE: 1/2"=1'-0"

NO.	DATE	REVISION
A	08-04-21	FIRE DEPARTMENT REVISIONS
B	08-04-21	BUILDING DEPARTMENT REVISIONS
C	08-04-21	MISC. OWNER CHANGES
D	10/18/22	BUILDING 2 SHELL PERMIT
E	1/12/23	WOOD ADD.

CLIENT: **GHAJ MANAGEMENT SERVICES, INC.**
25 E. AIRWAY BLVD.
LIVERMORE, CA 94551
CONTACT: SUNNY GHAI
PHONE: (910) 878-9805

VIGEN
ARCHITECTURE & PLANNING
316 W. Shaw Avenue, Ste 101
Fresno, California 93704
559.268.2711 www.vigen.com



FLOOR PLAN - C-STORE / POPEYES
SITE: **11th STREET COMMERCIAL CENTER**
E ELEVENTH STREET
TRACY, CA

PROJECT #: 2021.010
DATE: 05-01-2020

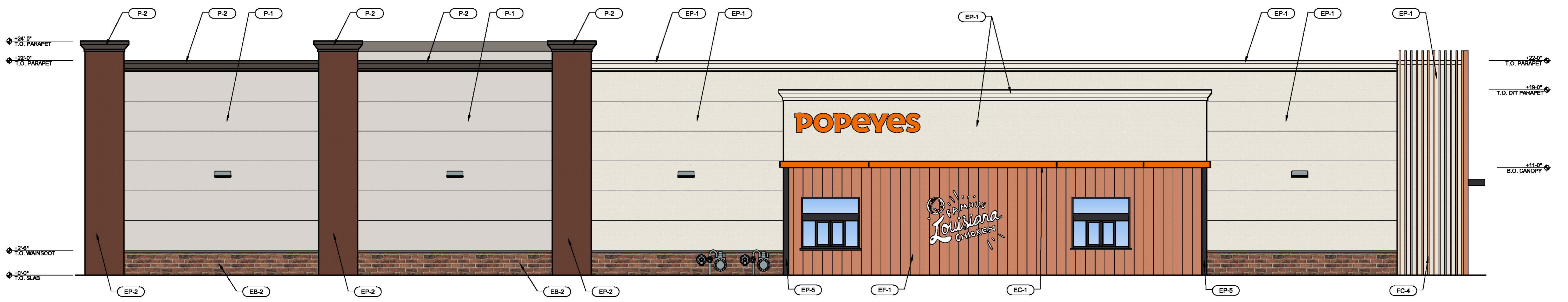
SHEET NO.:

A-1



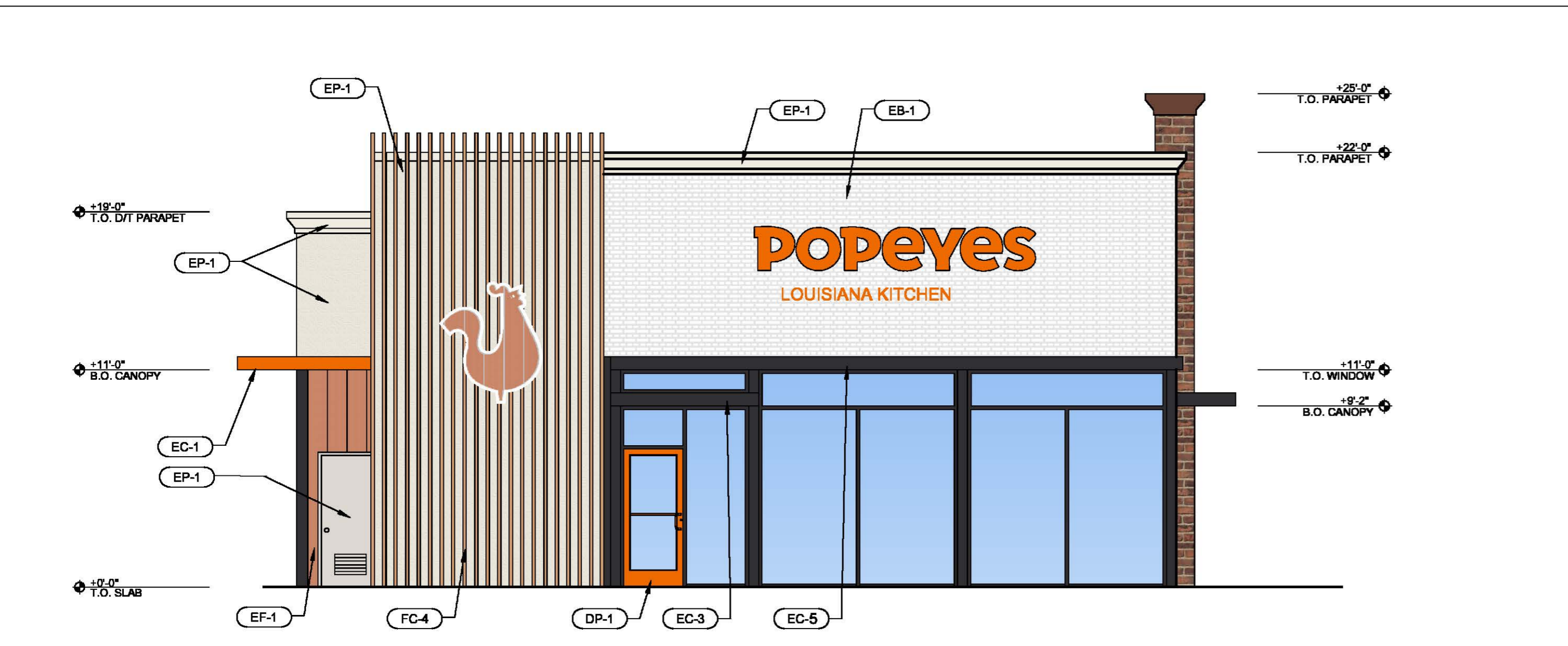
FRONT ELEVATION (WEST)

3/16" = 1'-0" 1



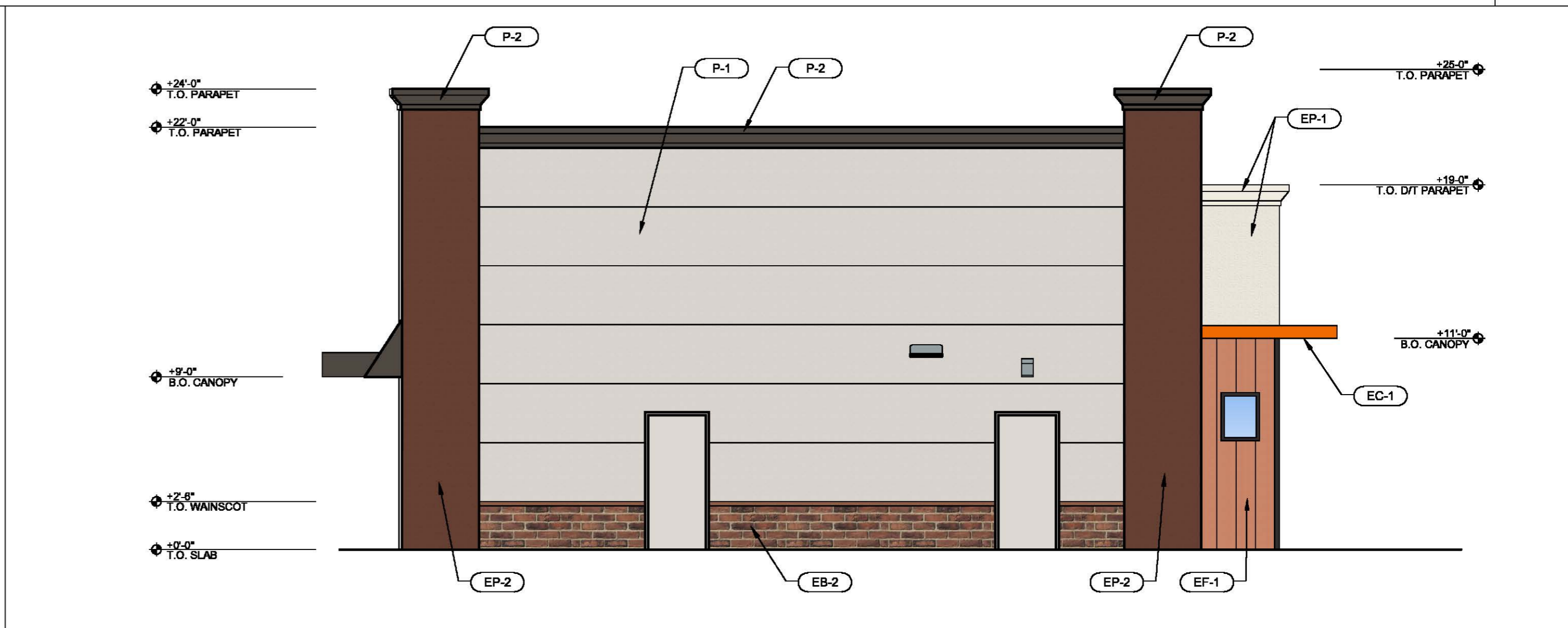
REAR ELEVATION (EAST)

3/16" = 1'-0" 2



SIDE ELEVATION (NORTH)

3/16" = 1'-0" 3



SIDE ELEVATION (SOUTH)

3/16" = 1'-0" 4

COLOR LEGEND

EF-1 EXTERIOR WOOD SIDING: NICHIIA FIBER CEMENT VINTAGE WOOD AWP 3030 "CEDAR"
 FC-4 EXTERIOR VERTICAL SIMULATED WOOD SLATS: "CEDAR"

EB-1 FACE BRICK: GLEN-GERY ASPEN WHITE WIRECUT W804
 EB-2 FACE BRICK: GLEN-GERY CHERRY CREEK WILLIAMSBURG RED

EP-1 PAINT: SHERWIN WILLIAMS SW-7551 "GREEK VILLA"
 EP-2 PAINT: SHERWIN WILLIAMS SW-6062 RUGGED BROWN
 EP-4 PAINT: SHERWIN WILLIAMS "SAFETY YELLOW"
 EP-5 PAINT: SHERWIN WILLIAMS SW-6991 "BLACK MAGIC"

P-1 PAINT: SHERWIN WILLIAMS SW-9166 "DRIFT OF MIST"
 P-2 PAINT: SHERWIN WILLIAMS SW-7020 BLACK FOX

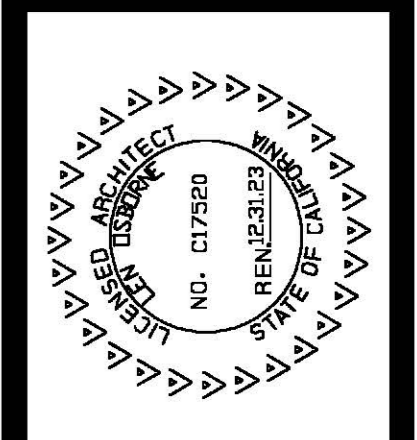
EC-1 METAL CANOPY: PANTONE #3564 C "ORANGE"
 EC-3 METAL WINDOW ANODIZED COLOR
 EC-5 METAL TRELLIS: SHERWIN WILLIAMS SW-6991 "BLACK MAGIC"

DP-1 DOOR: PANTONE #3564 C "ORANGE"

DATE:	
CHECKED BY:	
REVISION	
NO.	DATE
1	09-04-21
2	09-04-21
3	09-04-21

CLIENT: **GHA MANAGEMENT SERVICES, INC.**
 25 E. AIRWAY BLVD.
 LIVERMORE, CA 94551
 CONTACT: SUNNY GHAI
 PHONE: (910) 878-9805

VIGEN
 ARCHITECTURE & PLANNING
 516 W. Shaw Avenue, Ste 101
 Fresno, California 93704
 559.268.2711 www.vigen.com



ELEVATIONS - C-STORE / POPEYES
11th STREET COMMERCIAL CENTER
 E. ELEVENTH STREET
 TRACY, CA

PROJECT #: 2021.010
 DATE: 05-01-2020

SHEET NO.: **CE-1**

CITY OF TRACY

DETERMINATION OF THE DEVELOPMENT SERVICES DEPARTMENT

Application Number D23-0011

A determination of the Development Services Department (1) approving an amendment to prior development review permit D19-0012 Burger King, Starbucks, convenience store, gas station, and car wash. The project is to modify the building of the formerly proposed burger king restaurant to construct a new Popeyes restaurant instead; and replace the formerly proposed concrete block (CMU) wall with a new trellis fence along south property line. The project is located at 630 and 640 E. 11th St.; and (2) determine the project is categorically exempt from the California Environmental Quality Act pursuant to CEQA guidelines section 15332 which pertains to certain infill development projects. The applicant is Charlie Brown, and property owner is Sunny Ghai (Winters Gateway Inc.)

Staff has reviewed the application and determined that the following City regulations apply:

1. General Highway Commercial Zone (TMC Chapter 10.08, Article 19)
2. Development Review (TMC Chapter 10.08, Article 30)
3. City of Tracy Design Goals and Standards

The project is categorically exempt from the California Environmental Quality Act 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.

THE DEVELOPMENT SERVICES DEPARTMENT, AFTER CONSIDERING ALL OF THE EVIDENCE PRESENTED, HEREBY (1) APPROVES AN AMENDMENT TO PRIOR DEVELOPMENT REVIEW PERMIT D19-0012 BURGER KING, STARBUCKS, CONVENIENCE STORE, GAS STATION, AND CAR WASH. THE PROJECT IS TO MODIFY THE BUILDING OF THE FORMERLY PROPOSED BURGER KING RESTAURANT TO CONSTRUCT A NEW POPEYES RESTAURANT INSTEAD; AND REPLACE THE FORMERLY PROPOSED CONCRETE BLOCK (CMU) WALL WITH A NEW TRELLIS FENCE ALONG SOUTH PROPERTY LINE. THE PROJECT IS LOCATED AT 630 AND 640 E. 11TH ST.; AND (2) DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15332 WHICH PERTAINS TO CERTAIN INFILL DEVELOPMENT PROJECTS, SUBJECT TO CONDITIONS CONTAINED IN EXHIBIT 1 AND BASED ON THE FOLLOWING FINDINGS:

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy because the proposed amendment will meet the City's Design Goals and Standards through a complementary design featuring popouts, variation in roof line, and a mix of colors and materials like brick, wood, stucco to match adjacent buildings to create a harmonious amendment to Winters Gateway formerly known as 11th Street Commercial Center.

Development Services Director Determination

Subject: Application Number D23-0011

September 14, 2023

Page 2

2. The project is consistent with the General Highway Commercial Zone, Tracy Municipal Code, the City of Tracy General Plan, the Citywide Design Goals and Standards, and other City regulations because the proposed amendment to modify the building of the formerly proposed Burger King to new Popeyes and formerly proposed concrete block wall with a new trellis fence will be constructed to adhere to all requirements of the General Highway Commercial Zone.

Karin Schnaider
Interim Director of Development Services

Date of Action

City of Tracy
Development Services Director
Conditions of Approval
Popeyes Restaurant and Trellis Fence
Application Number D23-0011
September 14, 2023

A. General Provisions and Definitions.

A.1. Building permits for all the buildings and the site, except for the proposed Popeyes/convenience store building and fuel canopy, have already been issued, as approved by Development Review Permit D19-0012. Therefore, some of these conditions (for this Development Review Permit Amendment) specify the time to be completed prior occupancy or final inspection instead of prior to issuance of building permit.

A.2. General. These Conditions of Approval apply to:

The Project: Amendment to Winters Gateway formerly known as 11th Street Commercial Center for Burger King to Popeyes restaurant and concrete brick wall to trellis fence, Development Review Permit D23-0011.

The Property: 630 & 640 E. 11th St. (APN 250-250-16,17).

A.3. Definitions.

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

applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

- A.3. 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.4. Compliance with laws. The Developer shall comply with all federal, state and local laws, as amended from time to time, related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, *et seq.*)
 - the California Environmental Quality Act (Public Resources Code sections 21000, *et seq.*, "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, *et seq.*, "CEQA Guidelines").
 - Tracy Municipal Code (TMC) Chapter 10.08 and;
 - the Industrial Areas Specific Plan
- A.5. 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.

B. Development Services Department, Planning Division Conditions

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

- B.1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, *et seq.*), the Subdivision Map Act (Government Code sections 66410, *et seq.*), the California Environmental Quality Act (Public Resources Code sections 21000, *et seq.*, "CEQA"), and the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 15000, *et seq.*, "CEQA Guidelines").
- B.2. Unless specifically modified by these Conditions of Approval, the Project shall comply with all City Regulations.
- B.3. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all mitigation measures identified in the General Plan Environmental Impact Report, dated February 1, 2011.
- B.4. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a

protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

- B.5. The project shall be developed in substantial compliance with the plans received by the Development Services Department on December 10, 2019, and as amended by the plans submitted on August 30, 2023, to the satisfaction of the Development Services Director.
- B.6. Prior to final inspection or certificate of occupancy, the back side of any visible roof parapets shall consist of the same material and be painted the same color as the front side of the roof parapets, to the satisfaction of the Development Services Director.
- B.7. Prior to final inspection or certificate of occupancy, the applicant shall submit detailed landscape plan that demonstrate climbing vines underneath the seven-foot-tall trellises along the length of the south property line spaced every 12 feet, to the satisfaction of the Development Services Director. MJ9N
- B.8. Prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way and onto any adjacent private property, to the satisfaction of the Development Services Director.
- B.9. Prior to final inspection or certificate of occupancy, the applicant shall remove any chain-link fence in conjunction with construction, to the satisfaction of the Development Services Director.
- B.10. Prior to final inspection or certificate of occupancy, no roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from any public right-of-way to the satisfaction of the Development Services Director. Plans to demonstrate such compliance shall be submitted to the City prior to the issuance of a building permit.
- B.11. Prior to final inspection or certificate of occupancy, all PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Development Services Director.
- B.12. Prior to final inspection or certificate of occupancy, all vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the adjacent building surface or otherwise designed in harmony with the building exterior, to the satisfaction of the Development Services Director.
- B.13. Prior to final inspection or certificate of occupancy, the enhanced vapor recovery tank shall be demonstrated to be underground and any visible components painted to match adjacent building surfaces, to the satisfaction of the Development Services

Director.

- B.14. No signs are approved as a part of this development application. Approval of a separate sign permit application by the Development Services Department is necessary prior to the installation of any signs.
- B.15. Outdoor vending machines such as newspaper racks or beverage dispensing machines are not permitted.

C. Engineering Division Conditions of Approval

C.1. General Conditions

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

1) NONE

- C.2. RESERVED
- C.3. RESERVED

C.4. Grading Permit

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

- C.4.1 Developer has completed all requirements set forth in this section.
- C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction over the required public and/or private facilities and/or property. Written permission from affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit.
- C.4.3 Developer has obtained a demolition permit to remove any existing structure located within the project's limits.
- C.4.4 All existing on-site water well(s), septic system(s), and leech field(s), if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s), septic system(s), and leech field(s) including the cost of permit(s) and inspection. Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.

- C.4.5 The Improvement Plans for all improvements to serve the Project (on-site and off-site) including the Grading and Drainage Plans shall be prepared in accordance with the City's Subdivision Ordinance (TMC Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.
- C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick polyester film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans approved by the City Engineer for all grading work. All grading work not completed before October 15 may be subject to additional requirements as applicable. Improvement Plans shall specify all proposed erosion control methods and construction details to be employed and specify materials to be used during and after the construction.
- C.4.7 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.
- C.4.8 For Projects on property larger than one (1) acre: Prior to the issuance of the Grading Permit, Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) 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 Developer shall underground existing overhead utilities such as electric, TV cable, telephone, and others. Each dry utility shall be installed at the location approved by the respective owner(s) of dry utility and the Developer shall coordinate such activities with each utility owner. All costs associated with the undergrounding shall be the sole responsibility of the Developer and no reimbursement will be due from the City. Developer shall submit undergrounding plans. Exempt from this condition are high voltage power lines, if any. Referenced and incorporated herein are Title 11 and Title 12 of the Tracy Municipal Code.
- C.4.15 If at any point during grading that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any potential archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan Environmental Impact Report; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.5. Improvement Agreement(s)

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

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

- C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.
- C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers such as benchmarks.
- C.5.1.c. A PDF copy of the Project's Geotechnical/Soils Report, prepared or signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to street pavement thickness, materials, compaction and other pertinent information.
- C.5.1.d. Storm Water - The Project's on-site storm water drainage connection to the City's storm water system shall be approved by the City Engineer. Drainage calculations for the sizing of the on-site storm drainage system. Improvement Plans to be submitted with the hydrology and storm water.

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

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

Developer shall construct a storm water quality treatment basin.

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

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

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

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

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

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

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

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

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

- C.5.2.h. Streets – Developer shall construct their frontage improvements. Frontage improvements include but are not limited to the following: curb, gutter, sidewalk, street widening, landscaping, street lighting, undergrounding of overhead utilities and other improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City.

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

Eleventh Street

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

MacArthur Drive

Developer shall install a decorative pedestrian railing/barrier and sidewalk along the parcel's MacArthur Drive frontage. Developer shall dedicate enough land so that the sidewalk and railing/barrier are in the City's right-of-way. Said dedication will be made prior to temporary or final occupancy. Developer shall dedicate a ten (10) feet wide Public Utility Easement on all public streets if the easement is not present.

Developer shall construct driveways that conform to Section 3.09(F) of the 2008 Design Standards. Driveways shall have one and half (1.5) feet of full-height (i.e. six (6) inches) of vertical curb from the driveway's edge. Driveways shall be fire truck accessible to the satisfaction of the City Engineer.

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

On Eleventh Street, Developer shall landscape and irrigate the existing area as per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc. Developer shall also install street trees in the landscaped area between the existing meandering sidewalk and the curb and gutter. On the opposite side of the sidewalk, Developer shall install additional street trees, shrubs, ground cover, and other landscaping as required. The landscaping and irrigation shall conform to MWEL standards. If recommended, Developer shall use structural soil if the street trees' well is narrower than five (5) feet wide. Developer shall also remove existing sign monument and its appurtenances, and any other existing items such as bollards, mailboxes, etc.

C.5.3. Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and others that will be located within the twenty-four (24) feet wide to forty-six (46) feet wide [the width varies) PUE to be installed to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to the building(s). If necessary, the Developer shall dedicate twenty-two (22) feet wide PUE for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.

C.5.4. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

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

C.5.5. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

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

C.5.6. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates

will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.

C.5.7. If at any point during utility installation, or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any potential archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan Environmental Impact Report; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

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

Developer has received City signed improvement plans.

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

C.5.9 Off-site Public Improvements - Prior to the Developer commencing construction of off-site public improvements, Developer shall possess a fully executed Off-site Improvement Agreement (OIA). Developer shall also complete all of the following requirements to the satisfaction of the City Engineer:

Developer has received City signed improvement plans.

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

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

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

C.6. Building Permit

No building permit within the Project boundaries will be approved by the City until the Developer demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

- C.6.1 Developer has completed all requirements set forth in Condition C.1, through C.5, above.
- C.6.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, and City Regulations.

C.7 Acceptance of Public Improvements

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

- C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.
- C.7.2 Developer submitted the Storm Water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.
- C.7.3 Developer has 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. Developer shall also provide the Project's CADD files to the City.
- C.7.5 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.
- C.7.7 Per Section 21107.5/21107.6 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet.

C.7.8 Release of Security – Release of improvement security shall be in accordance with the requirements of Title 12 of the TMC. Monumentation Bond will be released to the Developer after City Council's acceptance of the public improvements and if the Developer meets the terms set in Section 66497(c) of the Subdivision Map Act. All survey monuments shown on the Final Map must be installed. Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2008 Design Standards and is required install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction. Any damage to existing traffic signal detection loops as a result of the Asphalt Concrete grind shall be repaired and/or replaced at the expense of the Developer.
- C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.
- C.8.3 If water is required for the project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.
- C.8.4 Developer shall obtain an account for the water service to the Project and register the water meter with the Finance Department. Developer shall prepare

and submit a map depicting the location of the water meter on a 8.5-inch X 11-inch sheet to Finance Department.

C.8.5 Project Entrance: As stipulated by Section 5.17 of the 2008 Design Standards, a PCC valley gutter is prohibited in the City's right-of-way.

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

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

D.1. Streets and Streetlights

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

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

Or

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

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

Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");

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

Or

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

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

E. 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.
 - a. 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.

- b. 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.
 - c. Fire protection water supply must be submitted separately from construction permit. All piping and installation shall be in accordance with CFC §507 & NFPA standards. Approval of grading and/or on-site improvements does not grant installation of underground fire service.
 - d. Fire sprinklers shall be designed by a licensed fire protection contractor or engineer. Hydraulic calculations, specifications and plans shall be submitted prior to issuance of building permit.
 - e. Fire department connections shall be installed in accordance with CFC §912 and NFPA standards. A hydrant shall be placed within 100' of the FDC, in accordance with NFPA 14 §6.4.5.4. FDC locations shall be approved by the fire code official prior to issuance of construction permit.
 - f. Fire control room locations shall be approved the fire code official prior to the issuance of construction permit.
- 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.
- a. Application processing fees and minimum plan review fees are due at time of submittal of construction documents.
 - b. 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.
 - c. 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. A Knox box shall be required for this 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 that is illuminated in accordance with CFC §505 as amended by the Tracy Municipal Code.
- E.6. Prior to construction, an address must be posted at the construction site entrance. Address must be a minimum of 4 inches high by ½ inch numerals. Address must be

provided so that emergency service personnel can locate the construction site in the event of an emergency.

E.7. Additional comments may occur upon submittal of construction documents.



Director Hearing
Thursday, September 14, 2023
4:00 p.m.





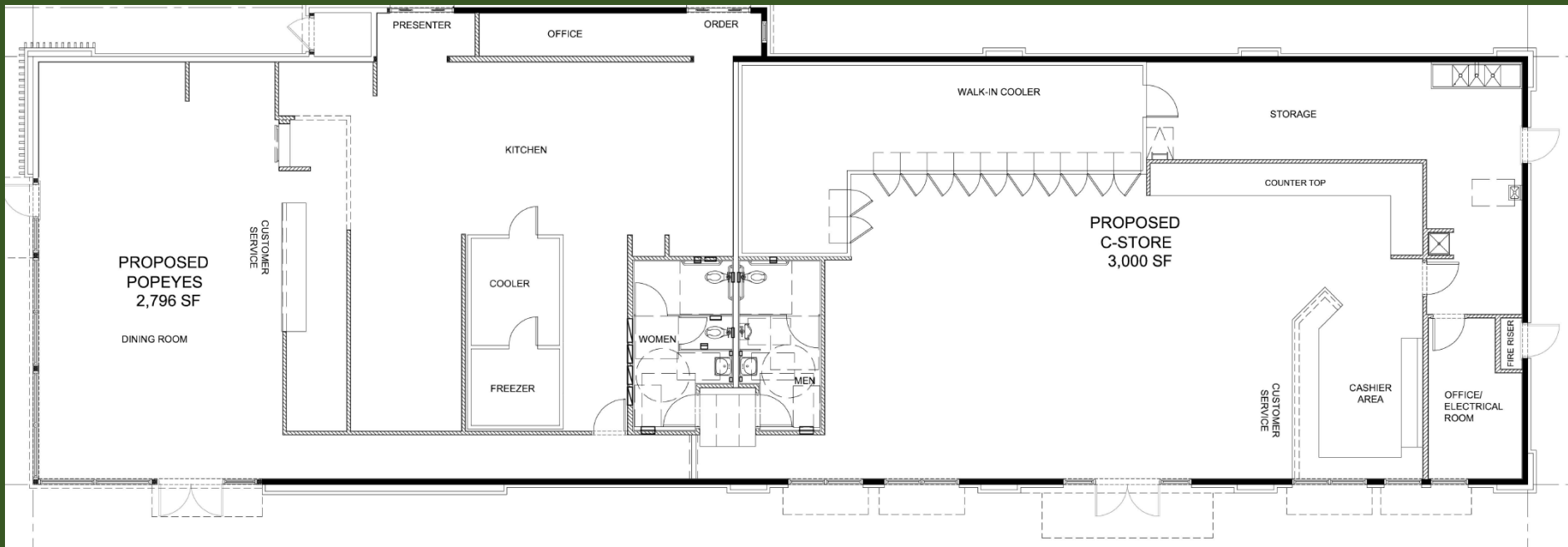
Item 1

A public hearing to consider 1) approving an amendment to prior Development Review Permit D19-0012 to modify formerly proposed Burger King to Popeyes restaurant and replace CMU wall with new trellis fence and (2) Determining the project is categorically exempt from CEQA Guidelines section 15332.

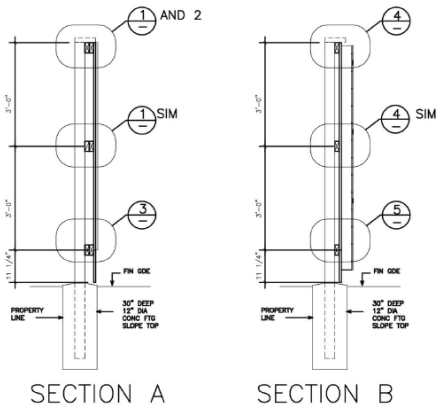
Project Location



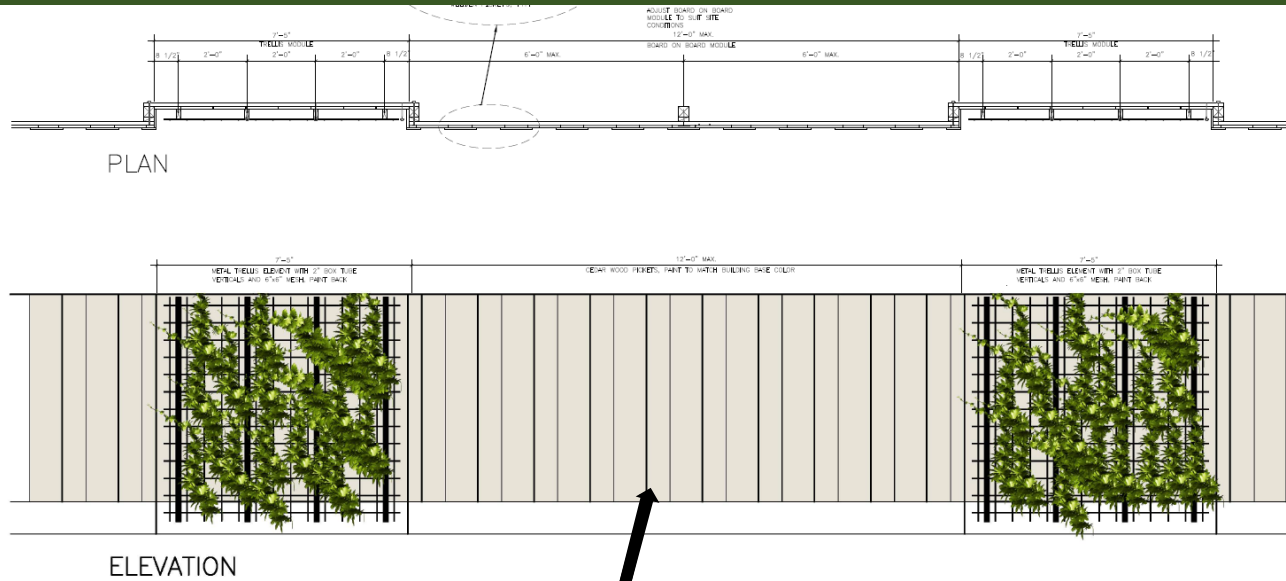
Proposed Floor Plan



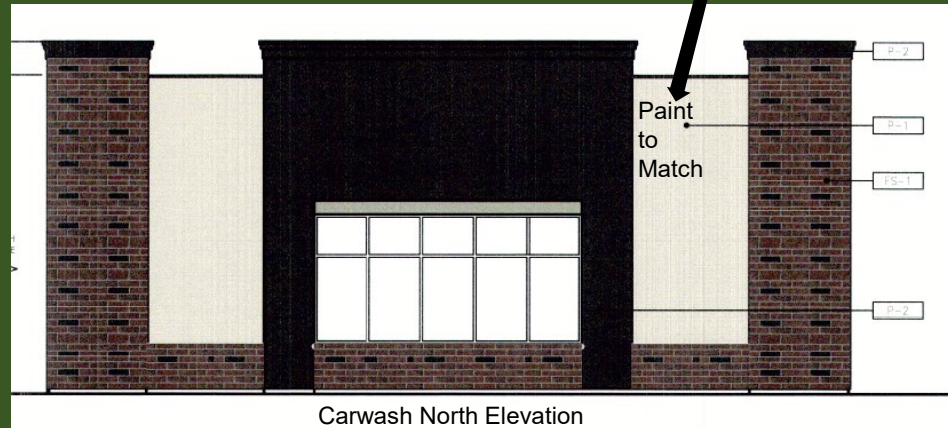
Proposed Fence Elevations



3 SITE FENCE SECTION
SCALE: 1/2"=1'-0"



2 SITE FENCE ELEVATION
SCALE: 1/2"=1'-0"



Burger King to Popeyes Elevation



FRONT ELEVATION (WEST ELEVATION)

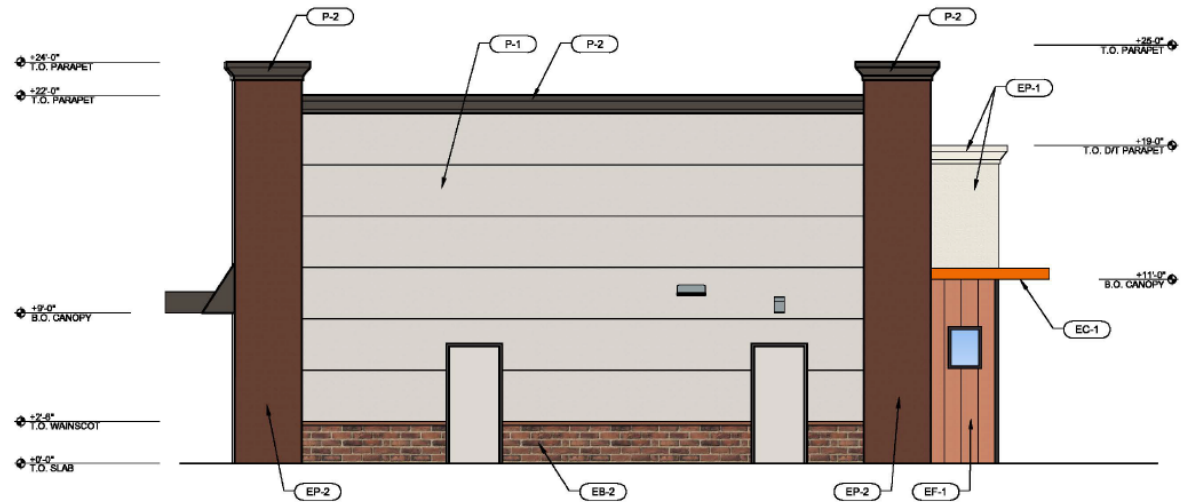
3/16" = 1'-0" 1



Burger King to Popeyes Elevation



SIDE ELEVATION (SOUTH ELEVATION)



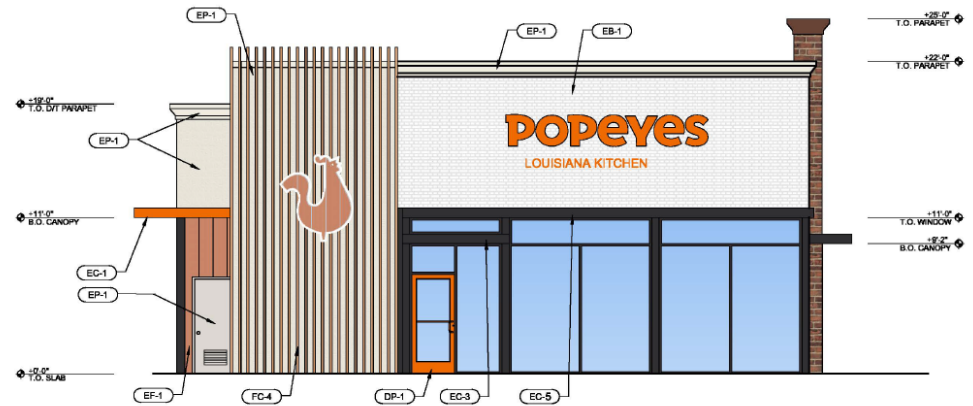
SIDE ELEVATION (SOUTH)

3/16" = 1'-0"

Burger King to Popeyes Elevation



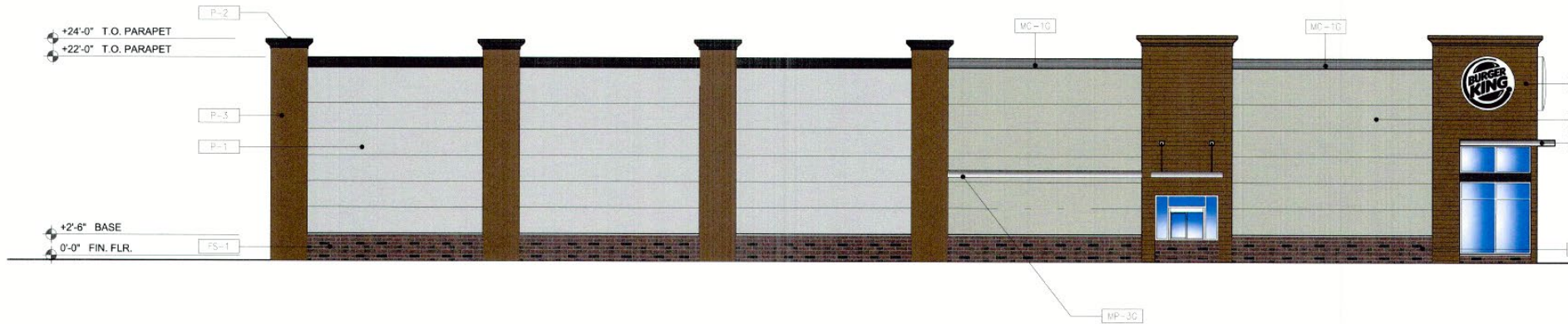
SIDE ELEVATION (NORTH ELEVATION)



SIDE ELEVATION (NORTH)

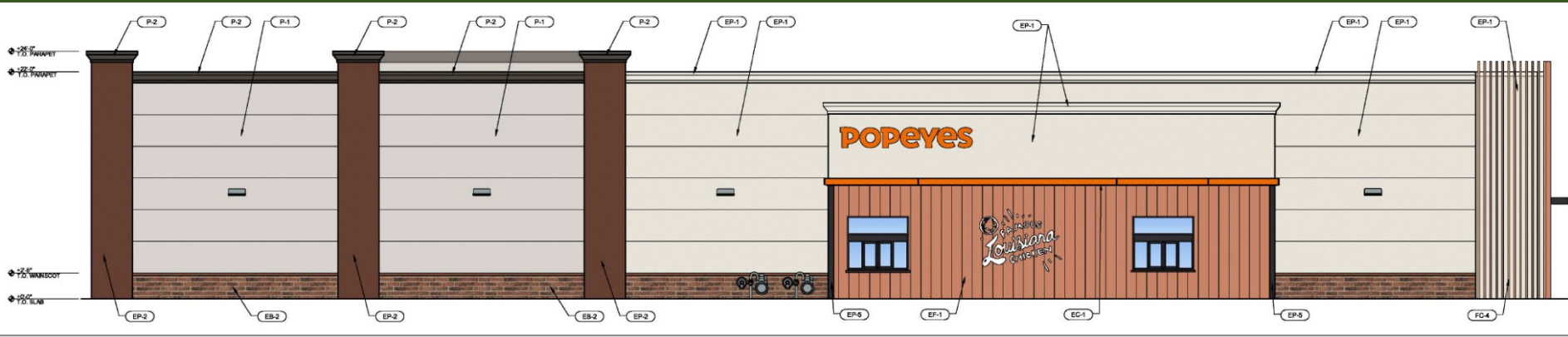
3/16" = 1'-0"

Burger King to Popeyes Elevation



REAR ELEVATION (EAST ELEVATION)

3/16" =



REAR ELEVATION (EAST)

3/16" =

**CITY OF TRACY
DEVELOPMENT SERVICES DIRECTOR PUBLIC HEARING**

The City of Tracy Development Services Director will hold a Public Hearing on Thursday, September 14, 2023, at 4:00 p.m. or as soon thereafter as possible, via teleconference to consider:

D23-0011: Applicant is Charlie Brown, Property Owner is Sunny Ghai – Public hearing to consider (1) Approving an amendment to prior Development Review Permit D19-0012 Burger King, Starbucks, Convenience Store, Gas Station, Car Wash. The project is to modify the building of the formerly proposed Burger King Restaurant to construct a new Popeyes Restaurant instead; and replace the formerly proposed concrete block (CMU) wall with a new trellis fence along south property line. The project is located at 640 E. 11th St.; and (2) Determining the project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15332 which pertains to certain infill development projects. *The Project Planner is Kenny Lipich, Associate Planner, (209) 831-6443, Kenneth.Lipich@cityoftracy.org.*

All interested persons are invited to participate by joining the meeting via Microsoft Teams by viewing the Public Hearing Login information at <https://www.cityoftracy.org/government/public-notice> or by calling the Microsoft Teams teleconference line at **(209) 425-4338** Conference ID: **58952509 #** to submit statements orally during the meeting; or submit comments in writing before the meeting by sending written statements to publiccomment@cityoftracy.org.

Should you decide to challenge the decision of the Development Services Director, you may be limited to those issues that were raised for consideration at the hearing.

Information concerning this matter may be obtained on the City's website on *Friday, September 8, 2023* at the following page: <https://www.cityoftracy.org/our-city/departments/planning/director-hearings>.

Karin Schnaider
Interim Development Services Director