

Wednesday, October 25, 2023, 7:00 P.M.

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

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

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

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

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

Remote Public Comment:

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

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following
 - **Event Number: 2558 504 2648** and **Event Password:** Planning
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - Join by phone by dialing +1-408-418-9388, 2558 504 2648#75266464# Press *3 to raise the hand icon to speak on an item.

- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "New Business" or "Items from the Audience" portions of the agenda:*
 - *Listen for the Chair to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the "New Business" or "Items from the Audience" portions of the agenda will be accepted until the public comment for that item is closed.*

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

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

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

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

Notice – A 90-day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone

else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

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

MEETING AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

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

ROLL CALL

MINUTES – 9/27/23 Regular Meeting

DIRECTOR'S REPORT REGARDING THIS AGENDA

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

1. NEW BUSINESS

- 1.A STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: (1) APPROVING A SIX-MONTH RENEWAL (EXT23-0002) OF CONDITIONAL USE PERMIT CUP22-0004 FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22; AND (2) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS MIKE SOUZA AND THE PROPERTY OWNERS ARE TOSTE FAMILY ENTERPRISES AND J T STORAGE, LP., APPLICATION NUMBER EXT23-0002.

- 1.B STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: (1) APPROVING A SIX-MONTH RENEWAL (EXT23-0004) OF CONDITIONAL USE PERMIT CUP22-0003 FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) 951 N. CENTRAL AVENUE, APN 235-056-07; AND (2) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS STOCKTON GATEWAY, LLC AND THE PROPERTY OWNER IS JIVA TCY, LLC, APPLICATION NUMBER EXT23-0004.

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

Posted: October 19, 2023

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

**MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 27, 2023, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

Chair Orcutt led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner Boakye-Boateng, Commissioner English, Commissioner Penning, Vice Chair Atwal, and Chair Orcutt present. Also present: Bill Dean, Assistant Director of Development Services; Kimberly Matlock, Associate Planner; Al Gali, Associate Engineer; Bijal M. Patel, City Attorney, present via Webex; and Gina Peace, Executive Assistant.

MINUTES

Chair Orcutt introduced the Regular Meeting Minutes from the August 9, 2023 Planning Commission Regular Meeting.

ACTION: It was moved by Vice Chair Atwal and seconded by Commissioner Boakye-Boateng to approve the August 9, 2023 Planning Commission Regular Meeting Minutes. A voice vote found Chair Orcutt, Vice Chair Atwal, and Commissioner Boakye-Boateng in favor; Commissioner English and Commissioner Penning abstained, as they were not present at the meeting. Passed and so ordered; 3-0-0-2.

DIRECTOR'S REPORT REGARDING THIS AGENDA

Bill Dean, Assistant Director of Development Services welcomed and congratulated the two new Planning Commissioners.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

- A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION: (1) APPROVING DEVELOPMENT REVIEW PERMIT D22-0046, AMENDING THE ARCHITECTURE APPROVED UNDER DEVELOPMENT REVIEW PERMIT APPLICATION NUMBER D19-0017, FORA BUILDING EXPANSION OF A PLACE OF WORSHIP AT 350 N. CORRAL HOLLOW ROAD, AND (2) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTALQUALITY ACT PER SECTION 15301. THE APPLICANT IS PETE MITRACOS AND THE**

PROPERTY OWNER IS ISLAMIC SOCIETY OF TRACY, APPLICATION NUMBER D22-0046.

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

Chair Orcutt opened the Public Hearing at 7:12 p.m.

Pete Mitracos, Applicant, 363 W. Eaton, addressed the Commission and provided a handout showing a side-by-side view of the previously approved plans and the new proposed plans.

Chair Orcutt closed the Public Hearing at 7:25 p.m.

Bill Dean, Assistant Director of Development Services addressed questions from the Commission.

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

1. Approving Development Review Permit D22-0046, amending the architecture approved under Development Review Permit Application Number D19-0017 for a building expansion of a place of worship at 350 N. Corral Hollow Road, and
2. Determining that this project is categorically exempt from the California Environmental Quality Act per Section 15301.

A roll call vote found Commissioner Boakye-Boateng, Commissioner English, Commissioner Penning, Vice Chair Atwal, and Chair Orcutt in favor. Passed and so ordered: 5-0-0-0.

2. ITEMS FROM THE AUDIENCE

None.

3. DIRECTOR'S REPORT

None.

4. ITEMS FROM THE COMMISSION

Commissioner Boakye-Boateng stated that he liked having the red-lined version in the report, as it really showcases the proposed changes.

Vice Chair Atwal welcomed the two new commissioners to the Commission.

Commissioner English asked when the Housing Element Update will be on the Planning Commission agenda. Bill Dean, Assistant Director of Development Services, advised that staff is currently diligently working on the Update, and it could be ready to be presented to the Planning Commission as early as the next regular meeting.

Chair Orcutt inquired about the APA California conference. Bill Dean, Assistant Director of Development Services, shared that this conference had already occurred, but we will plan for next year. Chair Orcutt asked for an update on the project on Eleventh Street and MacArthur Drive (Popeye's / Starbucks Project). Mr. Dean said staff will update the Commission in an e-mail.

5. ADJOURNMENT

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

A voice vote found Commissioner Boakye-Boateng, Commissioner English, Commissioner Penning, Vice Chair Atwal, and Chair Orcutt, in favor. Passed and so ordered: 5-0-0-0.

Time: 8:05 p.m.

CHAIR

STAFF LIAISON

Agenda Item 1.A

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

- 1. APPROVING A SIX-MONTH RENEWAL (EXT23-0002) OF CONDITIONAL USE PERMIT CUP22-0004 FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22; AND**
- 2. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

THE APPLICANT IS MIKE SOUZA AND THE PROPERTY OWNERS ARE TOSTE FAMILY ENTERPRISES AND J T STORAGE, LP., APPLICATION NUMBER EXT23-0002.

EXECUTIVE SUMMARY

On October 12, 2022, the Planning Commission granted a Cannabis Conditional Use Permit (CUP) and Development Review Permit to the Garden of Eden Cannabis Dispensary (Cannabis Business Permit CBPA20-0034), which was set to expire on October 27, 2023. Because the applicant is still working on obtaining building permits to construct the improvements and establish the use, he has requested a renewal of the CUP to allow more time to complete the project.

BACKGROUND, LEGISLATIVE HISTORY AND ANALYSIS

On October 12, 2022, the Planning Commission approved Conditional Use Permit CUP22-0004 and Development Review Permit D22-0009 for a cannabis dispensary at 2420 W. Grant Line Road (Attachment A). Pursuant to Tracy Municipal Code (TMC) Section 10.08.3980, development review permits are valid for two years to construct the project, and pursuant to TMC Section 10.08.4350, CUPs allow applicants a period of six months to establish the use; however, CUP22-0004, which took effect on October 27, 2022, was granted a period of one year for the use to be established or for a building permit to be secured and construction diligently pursued toward completion in accordance with TMC Section 10.08.4360. The one-year period was granted to allow the applicant additional time needed to secure other requirements for their cannabis business, such as State licensing, background checks, and a community benefit agreement, and secure building permits for the building interior and exterior improvements associated with the project.

The applicant is in the process of obtaining building permits for construction of the approved improvements and needs additional time to complete the permitting process. While the Development Review Permit is still valid for another year, the CUP expiration date of October 27, 2023 is nearing. Therefore, on August 23, 2023, the applicant submitted an application requesting additional time to establish the use in accordance with Tracy Municipal Code (TMC) Section 10.08.4350, which states that a Conditional Use Permit may be renewed for an additional period of six months or for a greater period, as prescribed in Section 10.08.4360, provided that, prior to the expiration of the time period granted, (1) an application for the renewal

of the use permit is filed with the Commission and (2) the applicant demonstrates “good cause, such as proof of an usual hardship not of the applicant’s own making.”(TMC § 10.08.4360).

The applicant has demonstrated good cause for the extension based on hardships derived from the process of obtaining a satisfactory background check and building permits. In particular, the City had not resolved the process for performing background checks until seven months after the applicant was granted the Conditional Use Permit. The applicant immediately started the background check verification, which has been in process for two months and is still pending results. The applicant is not able to process the Community Benefit Agreement as required by the applicant’s Cannabis Business Permit and, indirectly, the Conditional Use Permit, until the background check is completed. Furthermore, the building permit review process takes time to complete. Upon granting of the Conditional Use Permit, the applicant prepared construction drawings for a building permit application and submitted that application the following March. The applicant has been diligently pursuing the building permit application over the last seven months, which is now in its fifth cycle review and close to receiving approval. The applicant has demonstrated a good faith effort toward completing all of these items since the granting of their Conditional Use Permit and needs additional time to see the remaining items through to completion.

The Commission has the authority to grant or deny an application for the renewal of a use permit. The applicant proposes no changes to the project from what was approved under CUP22-0004 on October 12, 2022. Staff recommends the Planning Commission grant the CUP a six-month renewal and carry over the conditions of approval from CUP22-0004 in accordance with TMC Section 10.08.4350. If granted, the CUP22-0004 would expire on April 27, 2024, allowing the applicant time to complete the permitting process, obtain a building permit, and diligently pursue construction toward completion.

PUBLIC OUTREACH / INTEREST

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

CEQA DETERMINATION

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

ACTION REQUESTED OF THE PLANNING COMMISSION

Staff recommends that the Planning Commission adopt a Resolution:

1. Approving a six-month renewal (EXT23-0002) Of Conditional Use Permit CUP22-0004 for a Cannabis Storefront Retailer (Dispensary) at 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22; and
2. Determining that this Project is categorically exempt from the California Environmental Quality Act.

Prepared by: Kimberly Matlock, Associate Planner

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

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

ATTACHMENTS

Attachment A – CUP22-0004 (Plans, Staff Report, Resolution and Conditions of Approval)

Attachment B – Planning Commission Resolution

Exhibit 1 – Findings

Exhibit 2 – Conditions of Approval

October 12, 2022

Agenda Item 1.A

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION 1) GRANTING A CONDITIONAL USE PERMIT (CUP22-0004) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22 AND 2) APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0009) FOR EXTERIOR MODIFICATIONS TO THE BUILDING; 3) EXTENDING THE TIME PERIOD TO ESTABLISH THE DISPENSARY SITE UNDER THE CONDITIONAL USE PERMIT FROM SIX MONTHS TO TWELVE MONTHS; AND 4) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE APPLICANT IS MIKE SOUZA AND THE PROPERTY OWNERS ARE RT & JT, LLC AND J T STORAGE, LP.

EXECUTIVE SUMMARY

Through this item, staff recommends that the Planning Commission grant a cannabis conditional use permit to Mike Souza on behalf of GOE Tracy, LLC (dba Garden of Eden) to operate a cannabis dispensary in the existing building at 2420 W. Grant Line Road and to approve a Development Review Permit for exterior modifications to the building.

BACKGROUND AND LEGISLATIVE HISTORY

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

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

On September 30, 2020, GOE Tracy, LLC submitted an application for a Cannabis Business Permit, pursuant to Chapter 6.36 of the TMC. The application was comprehensively reviewed by an internal Cannabis Business Permit Review Committee comprised of the Finance Department, Development Services Department, and the South San Joaquin County Fire Authority. Following review and determination that the application was eligible, the Committee forwarded this application to the Police Department for final review and determination. On March 3, 2022, the Tracy Police Chief awarded a provisional Cannabis Business Permit (CBPA20-0034) to GOE Tracy, LLC. The Cannabis Business Permit approves the permittee's business operations and odor control plan, community relations plan, safety and security plan, social equity plan, and community benefits proposal. As noted above, in addition to procuring a Cannabis Business Permit, the

proposed use must also meet the zoning requirements applicable to cannabis dispensaries, including obtaining a Cannabis CUP to operate their business at a specific location.

On March 10, 2022, Mike Souza submitted a conditional use permit application to establish the Garden of Eden cannabis dispensary in a building at 2420 W. Grant Line Road (Attachment A), which is comprised of two lots (APNs 238-600-37 and 238-190-22) and a Development Review Permit for façade modifications to the building. The subject property is designated Commercial in the Tracy General Plan and zoned General Highway Commercial, in which cannabis dispensaries are conditionally permitted. Development review is regulated by TMC Title 10 Article 30, adopted by Ordinance 1236 on July 18, 2017. Because the Development Review Permit is paired with a conditional use permit subject to the Planning Commission, the Development Review Permit is a Tier 2 application subject to Planning Commission review in accordance with TMC Section 10.08.3950.

ANALYSIS

Project Proposal

The applicant proposes to operate a cannabis dispensary consisting of storefront retail and delivery of packaged cannabis products in accordance with local and State cannabis law. Local regulations include locational requirements, site requirements, and operating hours to be established by the conditional use permit. The proposed dispensary is an approximately 2,189 sf tenant space within an existing 4,867 sf building. There is an existing property line that crosses through the building which the property owners intend to remove via a lot line adjustment. Existing uses at this site include a fueling station with convenience store that occupies the remainder of the subject building on APN 238-600-37 and a fast-food restaurant with drive-thru on APN 238-190-22. The dispensary proposes to occupy the southern half of the building while the convenience store would occupy the northern half.

The TMC allows dispensaries to locate in all commercial and industrial zones of the City, subject to the additional condition that such uses are “located at least 600 feet from any parcel containing any of the following sensitive uses as of the date the conditional use permit is issued: school, day care center, or youth center.” Section 10.08.3196(b) of the TMC provides specific definitions of schools, day care centers and youth centers. According to City records, as of the date of publication of this staff report, the subject building is over 600 feet away from a school, day care center, or youth center, as required by TMC Section 10.08.3196.

The cannabis dispensary will operate in a similar manner as a retail store, which is complementary of the commercial area encompassing project vicinity. The applicant proposes to operate daily from 6:00 am to 10:00 pm, as permitted by State law. The storefront retail use will be wholly indoors, and no portion of the retail use, aside from deliveries, will take place outdoors. The proposed dispensary will have a separate and secure lobby wherein age verification will be conducted prior to permitting the customer into the retail area and a vault where cannabis products are stored, as required by TMC Chapter 6.36. Cannabis products will be packaged and loaded into delivery vehicles through the rear of the building in an enclosed area with proposed fencing inaccessible to the public and with direct access to and from Toste Road (Attachment A). The applicant will have two delivery vehicles, which will be in use during normal operating hours and be parked in the loading area behind the building when not in use. There is enough parking on site for the existing uses and proposed dispensary, as 50 spaces are required for the

existing uses and proposed dispensary and delivery vehicles and there is enough room to provide 50 spaces onsite. As part of the project, the applicant will be restriping the existing parking area to meet City standards and reconfiguring the landscape planters to better serve the parking area and provide access to the building entries.

According to the applicant, because all cannabis products are entirely packaged, no noticeable odors or smells are expected to emanate from the dispensary; regardless, the applicant will be installing a carbon filtration on the exhaust end of the ventilation system and negatively pressurize the dispensary in relation to the exterior ambient condition such that odors generated inside the dispensary are not detectable outside. According to the applicant, staff will also be trained to recognize and rectify any odors that do escape outside. The use will implement the safety and security plan approved as a part of Garden of Eden's cannabis business permit, and project Conditions of Approval (Attachment C) D.1 through D.4 recommended by the Police Department identify additional means to ensure the business will operate safely and securely.

The existing building was constructed prior to the site's annexation into the City and has undergone minor façade updates over the years, resulting in a building comprised of stucco and three different types of stone in earth tone colors and an orange awning. The applicant proposes to update the entire façade to conform to City standards for high quality architecture. The improvements include painting the stucco with silver and gray paints and black accents, replacing the dated and unmatching stone with a black wainscot, removing the orange awning, and add two tower features at both building entrances in white metal paneling. Some windows that do not work with the proposed floor plan will be removed and replaced by metal landscape trellises. A red awning and light fixtures over the convenience store entrance will complement the red striping recently installed on the adjacent fueling canopy. As indicated above, onsite landscaping will be restored to complement the new façade.

Findings

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

- (a) That there are circumstances or conditions applicable to the land, structure, or use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right;
- (b) That the proposed location of the conditional use is in accordance with the objectives of this [Chapter 10.08 – Zoning Regulations] and the purposes of the zone in which the site is located;
- (c) That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity; and
- (d) That the proposed use will comply with each of the applicable provisions of this [Chapter 10.08 – Zoning Regulations].

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

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

Staff recommends that the Planning Commission make the requisite findings for this project based on the evidence in the record, including, without limitation, the following:

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

DR Permit Findings

- (e) The proposal increases the quality of the project site and enhances the

property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the façade modification will update the building with decorative entry towers, new paint colors and metal accents, and remove dated and unmatching stone and an orange awning from the building. A red awning and light fixtures over the convenience store entrance will complement the red striping recently installed on the adjacent fueling canopy, and onsite landscaping will be restored and parking spaces restriped to meet City standards.

- (f) The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes.

CUP Expiration

Per TMC Section 10.08.4350, CUP approvals are valid for six months following fifteen days from the date of approval, unless a building permit, if required, is issued and construction is commenced, or the use is established. The TMC also permits the Planning Commission to grant a greater time limit to establish a use pursuant to their conditional use permit (TMC Section 10.08.4360). Aside from the conditional use permit, the applicant must also obtain a state license for the operation of the cannabis business and comply with the conditions of their provisional Cannabis Business Permit, as well as obtain building permits for the proposed construction, collectively which may take longer than six months to complete. Therefore, staff recommends that the Planning Commission grant the Cannabis CUP one year to establish as described in project condition of approval A.9.

PUBLIC OUTREACH/ INTEREST

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

COORDINATION

This development application was reviewed by multiple City Departments and the South San Joaquin County Fire Authority as part of the City's normal application review process. This staff report was prepared by the Development Services Planning Division.

CEQA DETERMINATION

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

ACTION REQUESTED OF THE PLANNING COMMISSION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

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

2. GRANTING A CONDITIONAL USE PERMIT (CUP22-0004) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22;

3. APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0009) FOR EXTERIOR MODIFICATIONS TO THE BUILDING;

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

Prepared by: Kimberly Matlock, Associate Planner

Approved by: Bill Dean, Assistant Development Services Director

Attachments:

Attachment A – Vicinity Map, Site and Floor Plans received on August 9, 2022

Attachment B – Planning Commission Resolution

Attachment C – Conditions of Approval



GOE TRACY

CONDITIONAL USE PERMIT APPLICATION

DEVELOPMENT REVIEW PERMIT

2420 WEST GRANT LINE ROAD
TRACY, CALIFORNIA
95377

DEVELOPMENT DATA

ASSESSOR'S PARCEL NUMBER: 238-600-360 / 238-190-220
PROJECT ADDRESS: 2420 WEST GRANT LINE ROAD
 TRACY, CALIFORNIA
 GHC / GENERAL HIGHWAY COMMERCIAL
ZONING: CITY OF TRACY
PROJECT AREA: 2,486 SF AREA 1 - CONVENIENCE STORE (M OCCUPANCY)
 2,040 SF AREA 2 - DISPENSARY (M OCCUPANCY)
 4,526 SF TOTAL
 2,000 SF EXISTING FUEL CANOPY TO REMAIN - NO WORK
OCCUPANCY: M - MERCANTILE
 CBC SECTION 304
STORIES: 1
ALLOWABLE BUILDING AREA: 9,000 SF W/O AREA INCREASES
 CBC SECTION 503
TYPE OF CONSTRUCTION: VB
 CBC SECTION 602.1
FIRE SPRINKLERS: NO, NONE EXISTING
OCCUPANT LOAD: AREA 1 38 OCCUPANTS
 AREA 2 28 OCCUPANTS
 SEE AREA CALCULATION BELOW
 CBC SECTION 1004
RESTROOMS: SEE SANITARY FACILITY CALCULATION ON A-2.0
 CPC SECTION 422
PARKING: SEE CALCULATION ON DRAWING A-1.0

DRAWING INDEX

- GENERAL
- G-1.0 COVER SHEET
- DEMOLITION
- D-1.0 DEMOLITION SITE PLAN
- ARCHITECTURAL
- A-1.0 SITE PLAN
- A-2.0 FLOOR PLAN
- A-5.0 EXTERIOR ELEVATIONS
- A-5.1 EXTERIOR ELEVATIONS
- CIVIL
- T1.1 TOPOGRAPHIC SURVEY

SCOPE OF WORK

CONDITIONAL USE PERMIT APPLICATION & DEVELOPMENT REVIEW PERMIT FOR INTERIOR AND EXTERIOR IMPROVEMENTS TO AN EXISTING BUILDING

WORK SHALL INCLUDE:

DEMOLITION
 EXISTING INTERIOR WALLS AND FIXTURES TO CONVERT BUILDING TO TWO (2) SEPARATE TENANTS

NEW CONSTRUCTION
 INTERIOR WALLS, FINISHES, TRANSACTION COUNTERS FOR DISPENSARY AND CONVENIENCE STORE
 PARKING RE-STRIPE/RE-FRESH TO BRING TO CITY AND ADA COMPLIANCE
 RE-PAINT EXISTING BUILDING
 CONSTRUCTION OF NEW ENTRY TOWERS
 INSTALLATION OF NEW SECURITY FENCING AT DISPENSARY DELIVERY DOOR (WEST SIDE)

PROJECT TEAM

APPLICANT
 SOUZA REALTY & DEVELOPMENT
 MICHAEL SOUZA
 672 W. 11TH STREET, SUITE 110
 TRACY, CA 95376
 PH. (209) 835-8330
 EMAIL MIKE@SOUZARD.COM

ARCHITECT
 COMMERCIALARCH
 STACEY WELLNITZ
 616 14TH STREET
 MODESTO, CA 95354
 PH. (209) 571-8158
 EMAIL SWELLNITZ@COMMERCIALARCH.COM

ARCHITECTURAL SYMBOL LEGEND

NORTH ARROW NORTH DIRECTION ARROW		ROOM IDENTIFICATION ROOM DESIGNATION ROOM IDENTIFICATION NUMBER	
INTERIOR ELEVATION INTERIOR ELEVATION NUMBER		KEYED NOTES KEYED NOTE	
SECTION SECTION NUMBER VIEW DIRECTION DRAWING NUMBER LOCATION		DOOR IDENTIFICATION DOOR IDENTIFICATION NUMBER	
DETAIL DETAIL NUMBER CUT DIRECTION DRAWING NUMBER LOCATION		WINDOW IDENTIFICATION WINDOW IDENTIFICATION NUMBER	
ELEVATION HEIGHT FLOOR FINISH		FIXTURE IDENTIFICATION FIXTURE IDENTIFICATION NUMBER	
		EQUIPMENT IDENTIFICATION EQUIPMENT IDENTIFICATION NUMBER	
		FINISH DESIGNATION FINISH IDENTIFICATION NUMBER	
		REVISIONS ADDENDUM NUMBER REVISION AREA CLOUD	

BUILDING AREA & OCCUPANT LOAD

ROOM #	ROOM NAME	AREA	2019 CALIFORNIA BUILDING CODE - CHAPTER 10, SECTION 1004			2019 CALIFORNIA PLUMBING CODE - CHAPTER 4, SECTION 422			
			ROOM FUNCTION	BUILDING OCCUPANT LOAD FACTOR	NUMBER OF OCCUPANTS	OCCUPANCY	PLUMBING OCCUPANT LOAD FACTOR	NUMBER OF OCCUPANTS	MEN / WOMEN
AREA 1 - CONVENIENCE STORE									
1-100	SALES FLOOR	2102 SF	MERCANTILE	60 SF	36	MERCANTILE	200 SF	11	5.5
1-101	BACK OF HOUSE	284 SF	BUSINESS	150 SF	2	MERCANTILE	200 SF	2	1
1-102	RR	50 SF	ANCILLARY - RESTROOM	0 SF		MERCANTILE	200 SF	1	0.5
1-103	RR	49 SF	ANCILLARY - RESTROOM	0 SF		MERCANTILE	200 SF	1	0.5
		2486 SF			38			15	7.5
AREA 2 - DISPENSARY									
2-100	SALES FLOOR	890 SF	MERCANTILE	60 SF	15	MERCANTILE	200 SF	5	2.5
2-101	HALL	156 SF	ANCILLARY - CIRCULATION	0 SF		MERCANTILE	200 SF	1	0.5
2-102	JANITOR	52 SF	BUSINESS	150 SF	1	MERCANTILE	200 SF	1	0.5
2-103	RR	50 SF	ANCILLARY - RESTROOM	0 SF		MERCANTILE	200 SF	1	0.5
2-104	OFFICE	48 SF	BUSINESS	150 SF	1	MERCANTILE	200 SF	1	0.5
2-105	BREAK ROOM	60 SF	BUSINESS	150 SF	1	MERCANTILE	200 SF	1	0.5
2-106	CANNABIS PRODUCT STORAGE	202 SF	BUSINESS	150 SF	2	MERCANTILE	200 SF	2	1
2-107	PRE-ORDER PROCESSING	196 SF	BUSINESS	150 SF	2	MERCANTILE	200 SF	1	0.5
2-108	CANNABIS PRODUCT RECEIVING	123 SF	BUSINESS	150 SF	1	MERCANTILE	200 SF	1	0.5
2-109	SALES COUNTER	264 SF	BUSINESS			MERCANTILE	200 SF	1	0.5
		2040 SF			23			14	7
		4526 SF			61			29	14.5

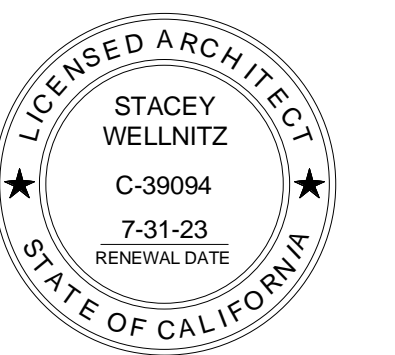
VICINITY MAP

PROJECT LOCATION
 2420 WEST GRANT LINE ROAD
 TRACY, CALIFORNIA

#	REVISION	BY



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GARDEN OF EDEN DISPENSARY

CONDITIONAL USE PERMIT

LOCATION
 2420 WEST GRANT LINE ROAD
 TRACY, CALIFORNIA
 95377

PARCEL
 238-600-360 / 238-190-220

OWNER
 GOE TRACY

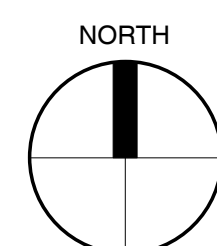
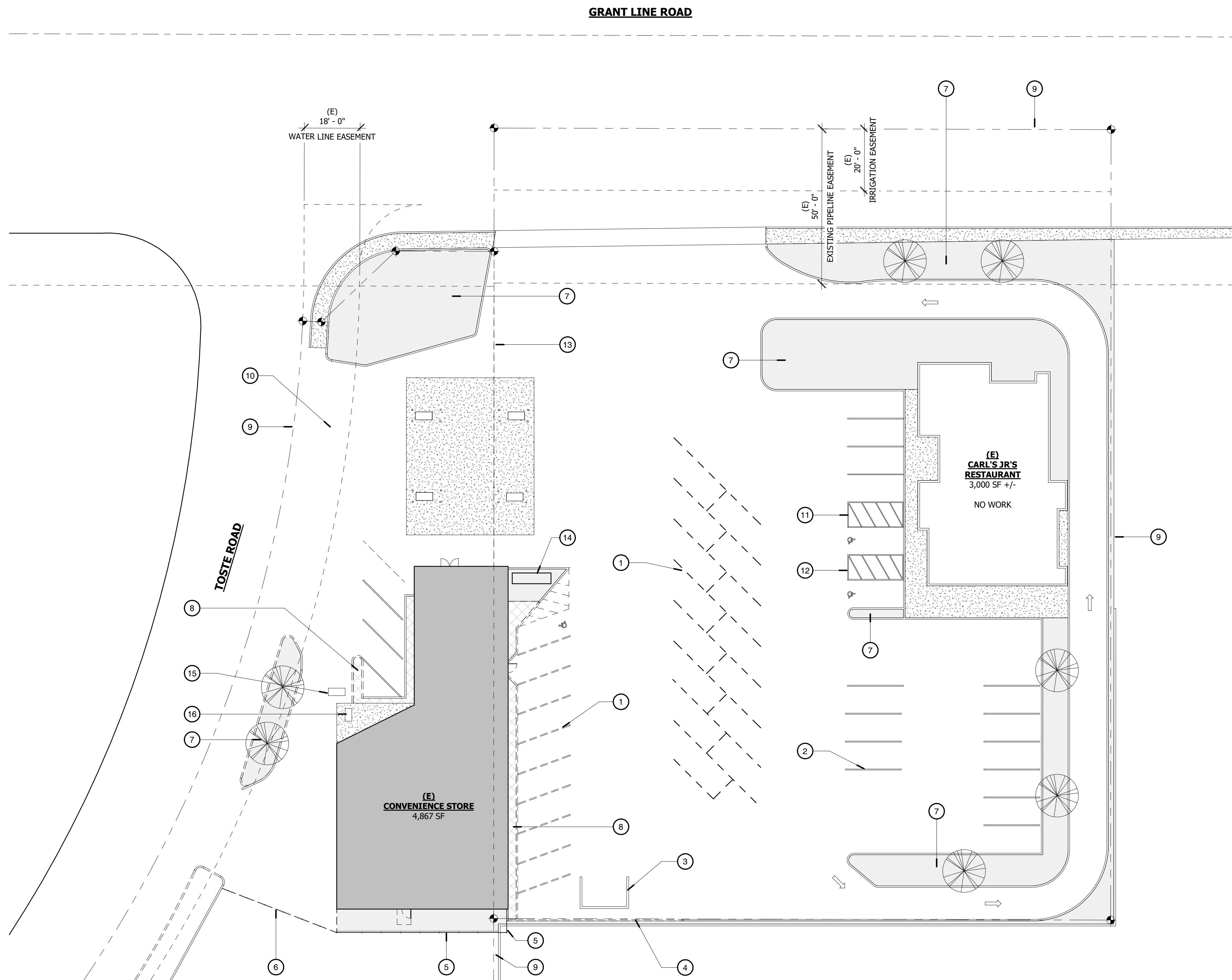
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 CUP22-004 & 022-009

DATE
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COMMARCH #
 21-164

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COVER SHEET

KEYNOTES	
NO.	NOTE
1	EXISTING PARKING STRIPING TO BE REMOVED, TYPICAL
2	EXISTING PARKING STRIPING TO REMAIN - NO WORK
3	EXISTING TRASH ENCLOSURE TO REMAIN - NO WORK
4	EXISTING +4'-0" CMU RETAINING WALL TO REMAIN - NO WORK
5	EXISTING CHAIN LINK FENCE TO REMAIN - NO WORK
6	EXISTING CHAIN LINK FENCE TO BE DEMOLISHED, TYPICAL
7	EXISTING LANDSCAPE PLANTER TO REMAIN - NO WORK
8	EXISTING LANDSCAPE PLANTER TO BE REMOVED AND REPLACED - SEE SITE PLAN
9	PROPERTY LINE, TYPICAL
10	EXISTING CONCRETE CURB CUT AND DRIVEWAY TO REMAIN - NO WORK
11	EXISTING VAN ACCESSIBLE PARKING STALL AND STRIPPING TO REMAIN - NO WORK
12	EXISTING STANDARD ACCESSIBLE PARKING STALL AND STRIPPING TO REMAIN - NO WORK
13	DASHED LINE INDICATES EXISTING PROPERTY LINE TO BE REMOVED
14	EXISTING FUEL VENTING SYSTEM TO REMAIN
15	EXISTING AIR/WATER DISPENSER TO REMAIN - NO WORK
16	EXISTING PUBLIC TELEPHONE TO BE REMOVED



1 DEMOLITION SITE PLAN

SCALE:
1" = 20'-0"

#	REVISION	BY



GARDEN OF EDEN DISPENSARY

CONDITIONAL USE PERMIT

LOCATION
2420 WEST GRANT LINE ROAD
TRACY, CALIFORNIA
95377

PARCEL
238-600-360 / 238-190-220

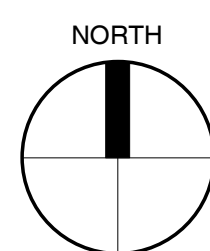
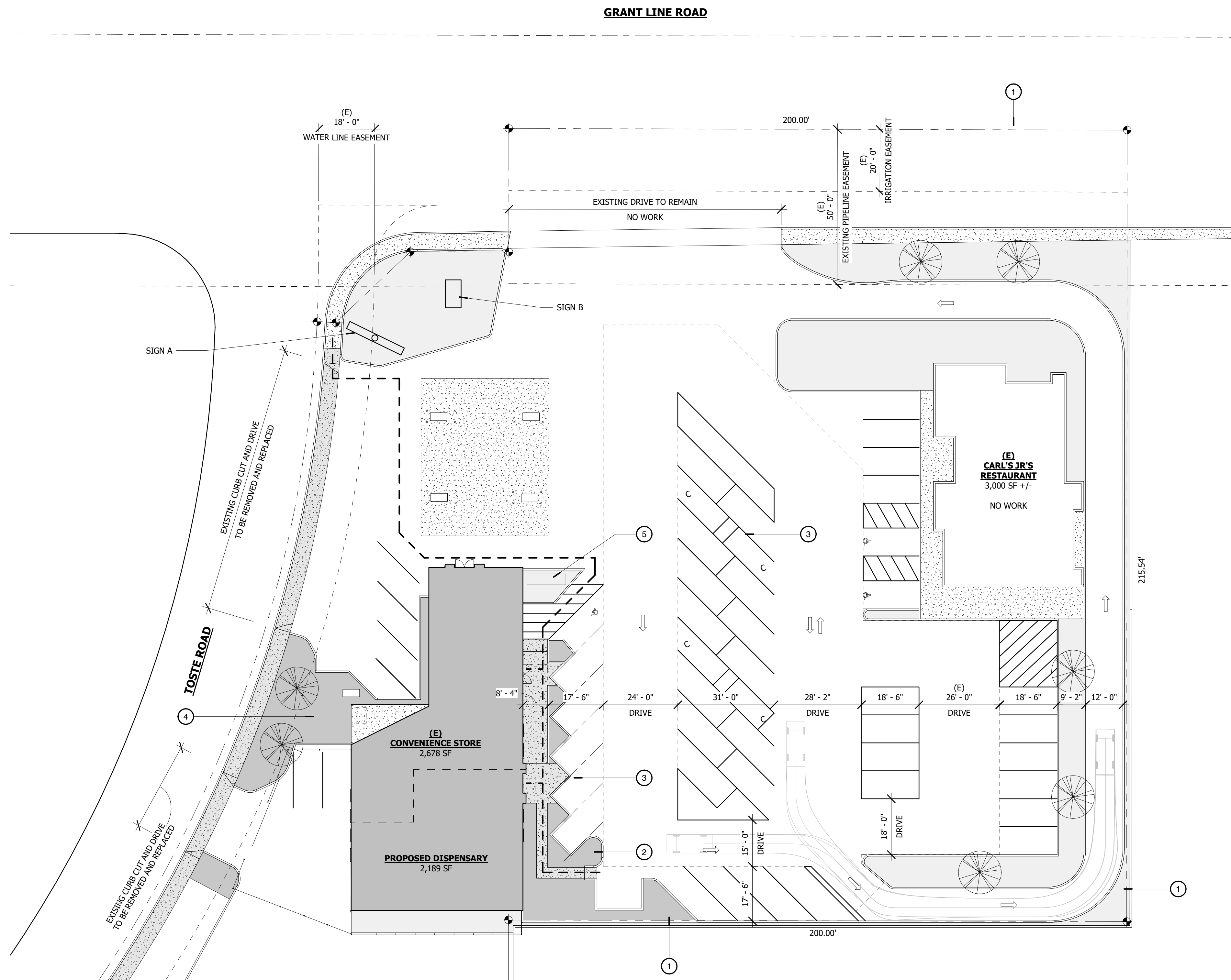
OWNER
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CUP22-0004 & DD22-0009

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DEMOLITION SITE PLAN



1 SITE PLAN

SCALE:
1" = 20'-0"

KEYNOTES	
NO.	NOTE
1	PROPERTY LINE, TYPICAL
2	LANDSCAPE PLANTER, TYPICAL - SEE SITE DEVELOPMENT PERMIT DRAWINGS FOR ASSOCIATED WORK
3	PARKING STRIPING, TYPICAL
4	EXISTING AIR/WATER DISPENSER TO REMAIN - NO WORK
5	EXISTING FUEL VENTING SYSTEM TO REMAIN

PARKING REQUIRED				
NUMBER	NAME	AREA	PARKING RATIO	PARKING REQUIRED
BUILDING A				
SUITE A	CONVENIENCE STORE	2678 SF	250 SF	10.710102
SUITE B	DISPENSARY	2189 SF	250 SF	8.757844
BUILDING B				
KITCHEN	EMPLOYEE AREA	2069 SF	250 SF	8.276387
DINING	CUSTOMER AREA	908 SF	45 SF	20.188776
TOTAL:				47.933109

PARKING PROVIDED	
DESCRIPTION	COUNT
COMPACT STALL - 45 DEGREE	4
STANDARD STALL - 45 DEGREE	26
STANDARD STALL - 90 DEGREE	15
VAN ACCESSIBLE	3
TOTAL:	TOTAL STALLS PROVIDED 48

SIGNAGE TABULATION						
	SIGNAGE WIDTH	SIGNAGE HEIGHT	SIGNAGE DEPTH	SIGNAGE AREA	ILLUMINATED	SIGNAGE DETAIL
*SIGN A POLE SIGN	2 @ 25'-0"	2 @ 8'-0"	6"	2 @ 200 SF	YES	SEE ATTACHED SIGN PROGRAM
*NOT COUNTED TOWARDS TOTAL SIGN AREA						
SIGN B MONUMENT PRICE SIGN	2 @ 5'-0"	2 @ 8'-0"	12"	2 @ 40 SF	YES	SEE ATTACHED SIGN PROGRAM
SIGN C BUILDING SIGN	6'-0"	2'-6"	3"	15 SF	YES	2/A-9.1
SIGN D BUILDING SIGN	6'-0"	2'-6"	3"	15 SF	YES	2/A-9.1
CANOPY SIGN	2 @ 8'-0"	2 @ 2'-6"	3"	2 @ 20 SF	YES	SEE ATTACHED SIGN PROGRAM

TOTAL SIGN AREA ALLOWED (BUILDING DIMENSION x 0.50 SF) (55'-4" + 110'-7") X 0.50 SF -- (E) BUILDING (42'-0" + 52'-0" + 42'-0") X 0.50 SF -- (E) CANOPY	150.9 SF	--
TOTAL SIGN AREA PROPOSED	150 SF	--

LANDSCAPE AREA CALCULATION	
DESCRIPTION	AREA
CONCRETE WALK	
EXISTING CONCRETE WALK TO REMAIN	1173 SF
PROPOSED CONCRETE WALK	1730 SF
	2903 SF
LANDSCAPE PLANTER	
EXISTING LANDSCAPE PLANTER TO REMAIN	7941 SF
PROPOSED LANDSCAPE PLANTER	2109 SF
	10050 SF
LANDSCAPE PLANTER TO BE DEMOLISHED	
EXISTING LANDSCAPE PLANTER TO BE DEMOLISHED	432 SF
	432 SF

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GARDEN OF EDEN DISPENSARY

CONDITIONAL USE PERMIT

LOCATION
2420 WEST GRANT LINE ROAD
TRACY, CALIFORNIA
95377

PARCEL
238-600-360 / 238-190-220

OWNER
GOE TRACY

PLANNING PERMIT NUMBER
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SITE PLAN

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**GARDEN OF EDEN
DISPENSARY**

CONDITIONAL USE PERMIT

LOCATION
2420 WEST GRANT LINE ROAD
TRACY, CALIFORNIA
95377

PARCEL
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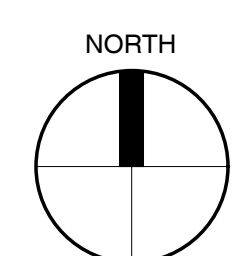
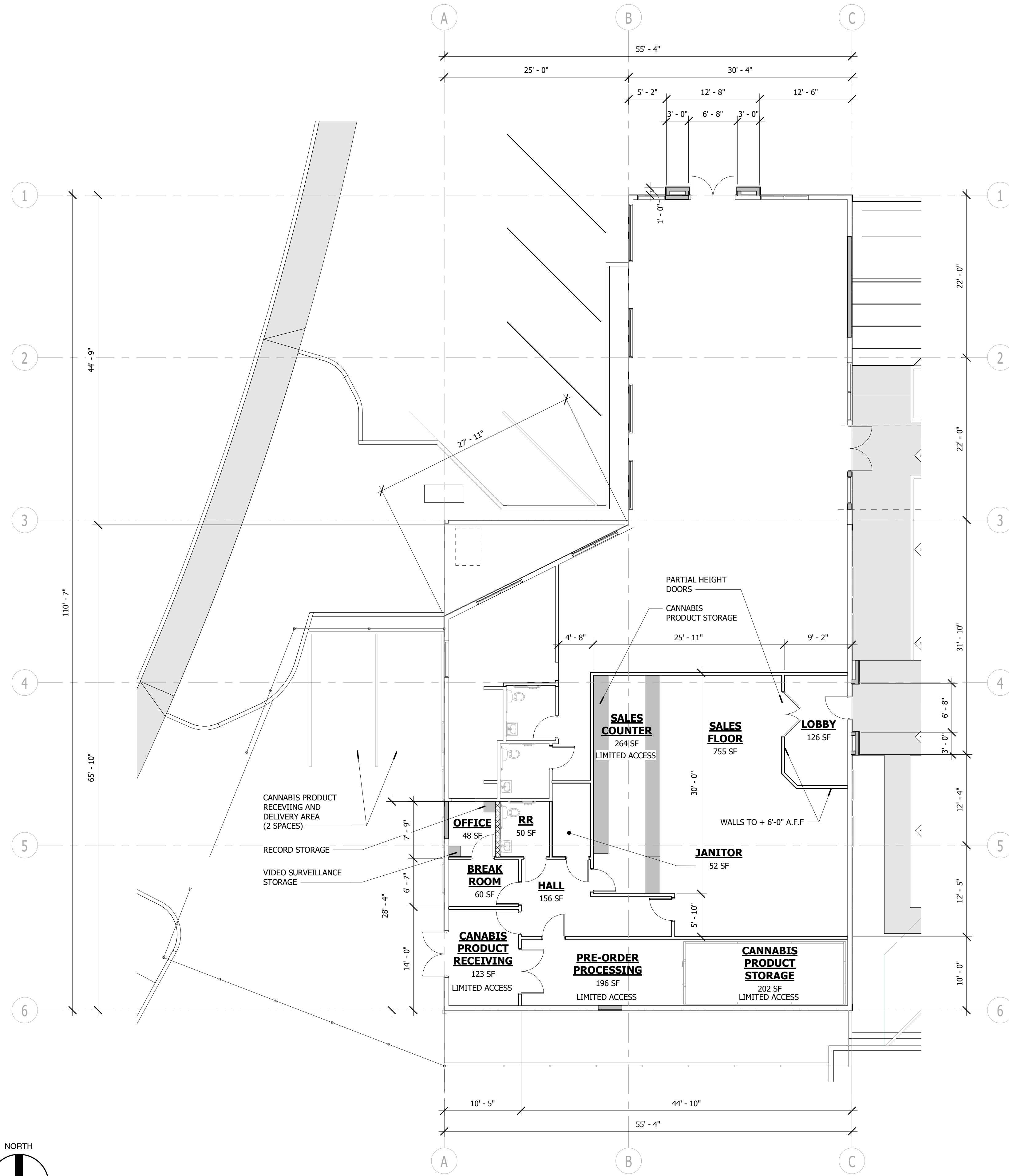
OWNER
GOE TRACY

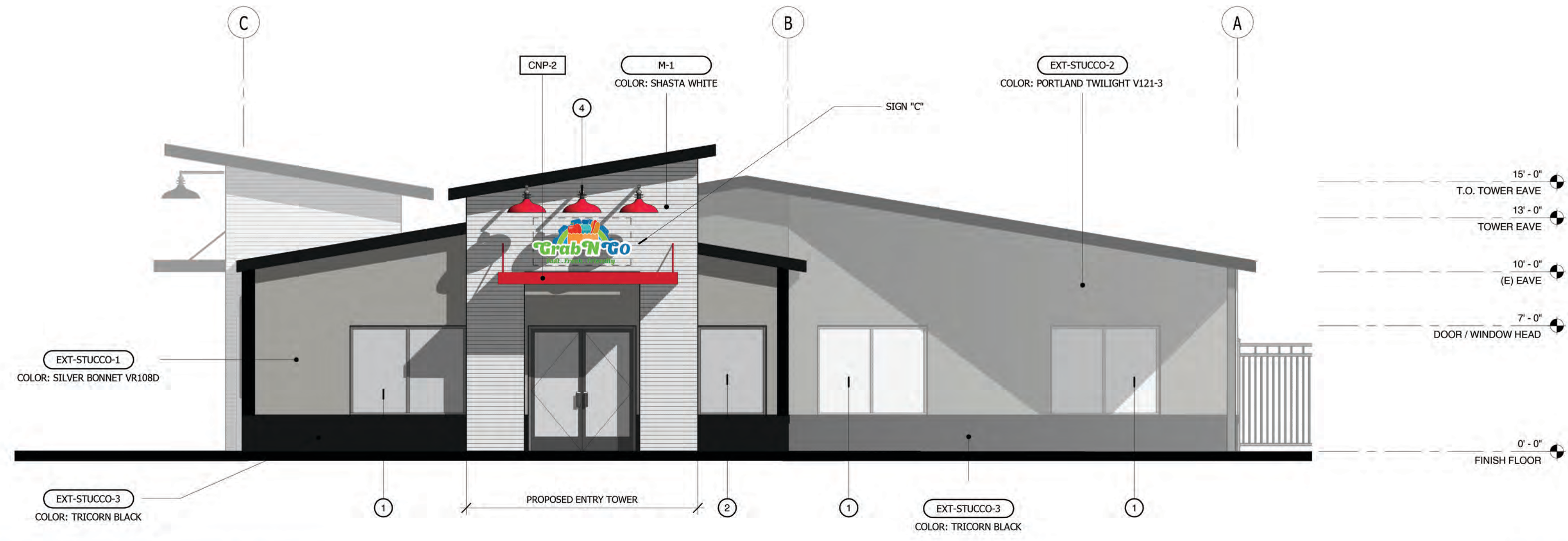
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FLOOR PLAN





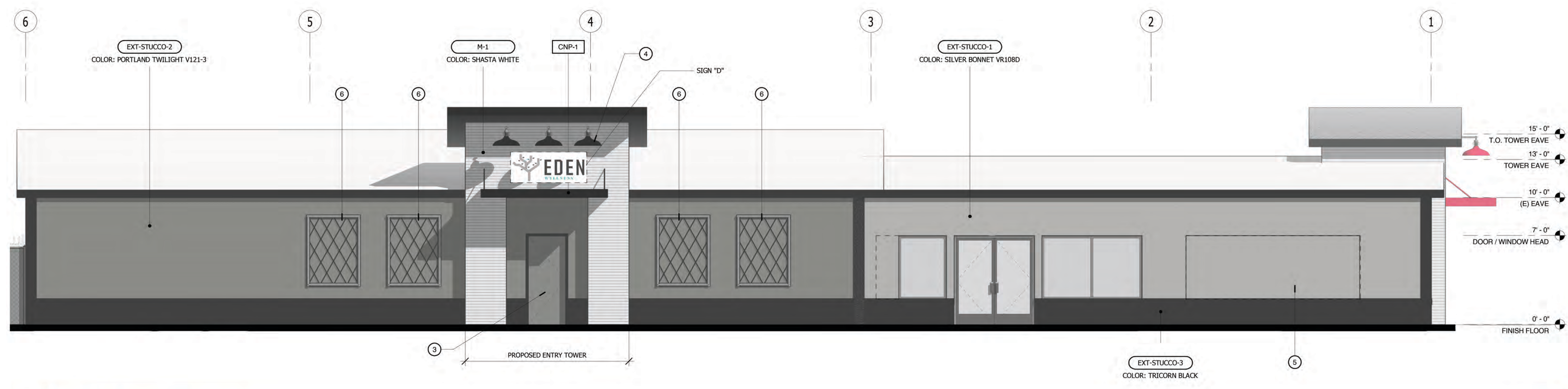
1 NORTH ELEVATION - FRONT VIEW SCALE: 1/4" = 1'-0"

KEYNOTES	
NO.	NOTE
1	EXISTING ALUMINUM STOREFRONT WINDOW TO REMAIN - NO WORK
2	EXISTING ALUMINUM STOREFRONT WINDOW TO BE REMOVED AND REPLACED
3	STEEL DOOR AND FRAME - PAINT TO MATCH EXISTING WALL COLOR, TYPICAL
4	LIGHT FIXTURE, TYPICAL - SEE ELECTRICAL DRAWINGS FOR ASSOCIATED WORK
5	EXISTING ALUMINUM STOREFRONT WINDOW TO BE DEMOLISHED, TYPICAL
6	WALL MOUNTED, STEEL LANDSCAPE TRELIS, TYPICAL

EXTERIOR FINISH SCHEDULE			
MARK	DESCRIPTION	COLOR	MODEL
EXT-STUCCO-1	7/8" - 3-COAT SYSTEM	VALSPAR - SILVER BONNET VR108D	LIGHT-SAND FINISH
EXT-STUCCO-2	7/8" - 3-COAT SYSTEM	VALSPAR - PORTLAND TWILIGHT V121-3	LIGHT-SAND FINISH
EXT-STUCCO-3	7/8" - 3-COAT SYSTEM	DUNN EDWARDS - TRICORN BLACK	LIGHT-SAND FINISH
M-1	16" CORRUGATED METAL PANEL, HORIZONTAL	NATURAL WHITE	HC-16 PANEL, HORIZONTAL
T-1	CEMENT-BOARD WALL TRIM	SHERWIN WILLIAMS - TRICORN BLACK SW6258	--

CANOPY SCHEDULE						
MARK	MFR	MODEL	FINISH	WIDTH	PROJ	DETAIL
CNP-1	MAPES ARCHITECTURAL CANOPIES	SUPERSHADE	BLACK ENAMEL	10' - 0"	4' - 0"	
CNP-2	MAPES ARCHITECTURAL CANOPIES	SUPERSHADE	RED ENAMEL	10' - 0"	4' - 0"	

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2 EAST ELEVATION - SIDE VIEW SCALE: 1/4" = 1'-0"

GARDEN OF EDEN DISPENSARY

CONDITIONAL USE PERMIT

LOCATION
2420 WEST GRANT LINE ROAD
TRACY, CALIFORNIA
95377

PARCEL
238-600-360 / 238-190-220

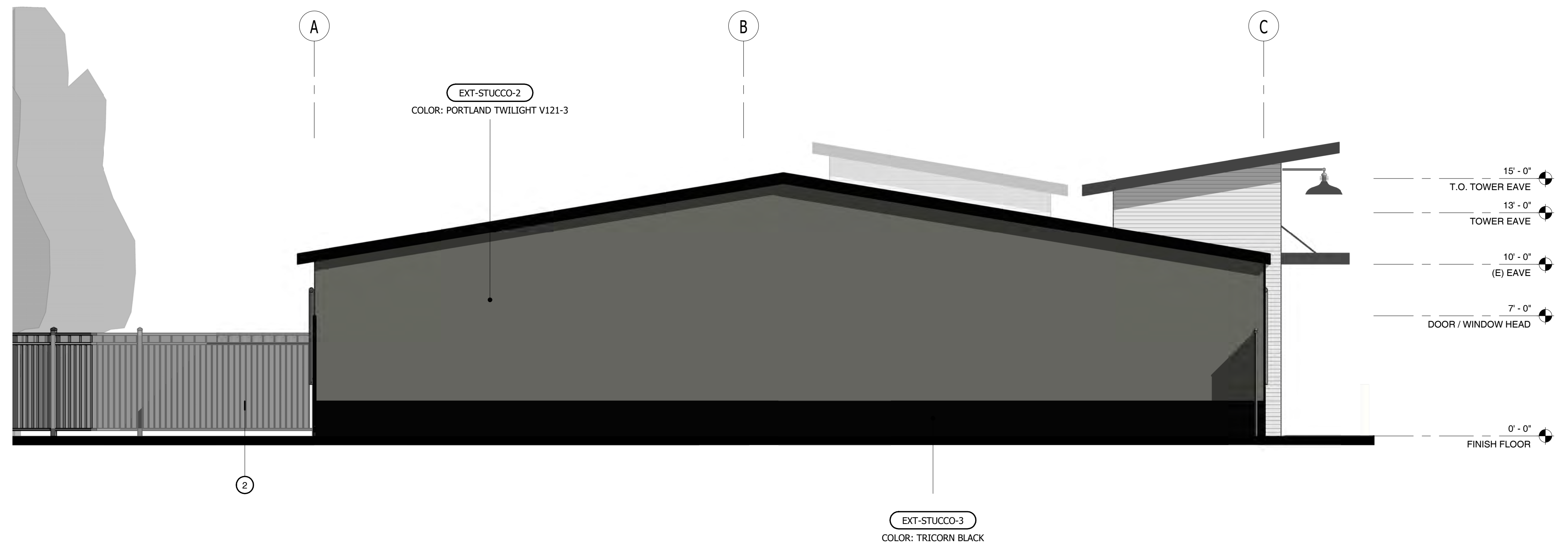
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CUP22-0004 & D22-0009

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EXTERIOR ELEVATIONS

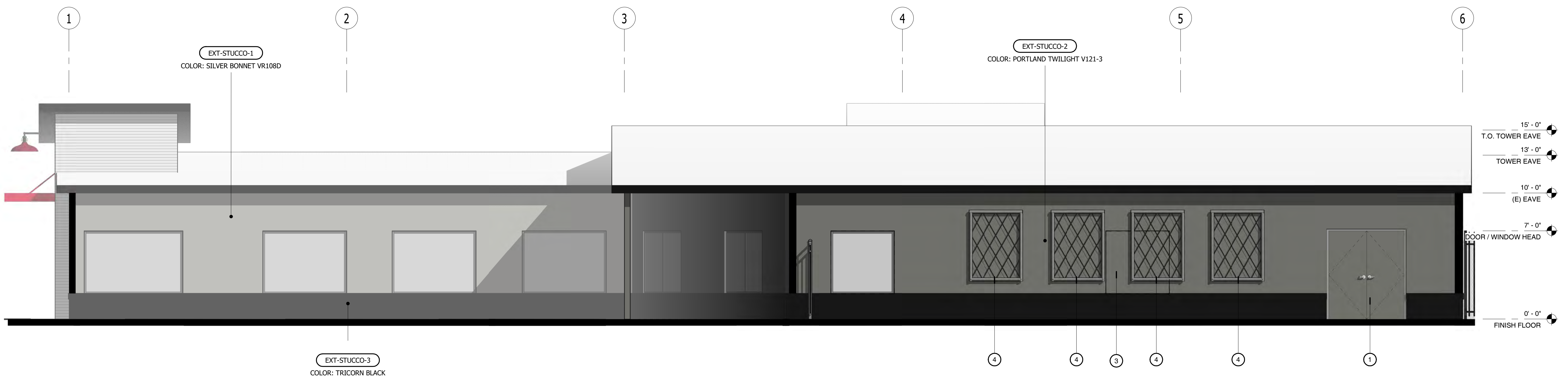


KEYNOTES	
NO.	NOTE
1	STEEL DOOR AND FRAME - PAINT TO MATCH EXISTING WALL COLOR, TYPICAL
2	TUBULAR STEEL FENCE, TYPICAL
3	EXISTING ALUMINUM STOREFRONT WINDOW TO BE DEMOLISHED, TYPICAL
4	WALL MOUNTED, STEEL LANDSCAPE TRELLIS, TYPICAL

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3 SOUTH ELEVATION - REAR VIEW SCALE: 1/4" = 1'-0"



4 WEST ELEVATION - SIDE VIEW SCALE: 1/4" = 1'-0"

GARDEN OF EDEN DISPENSARY

CONDITIONAL USE PERMIT

LOCATION
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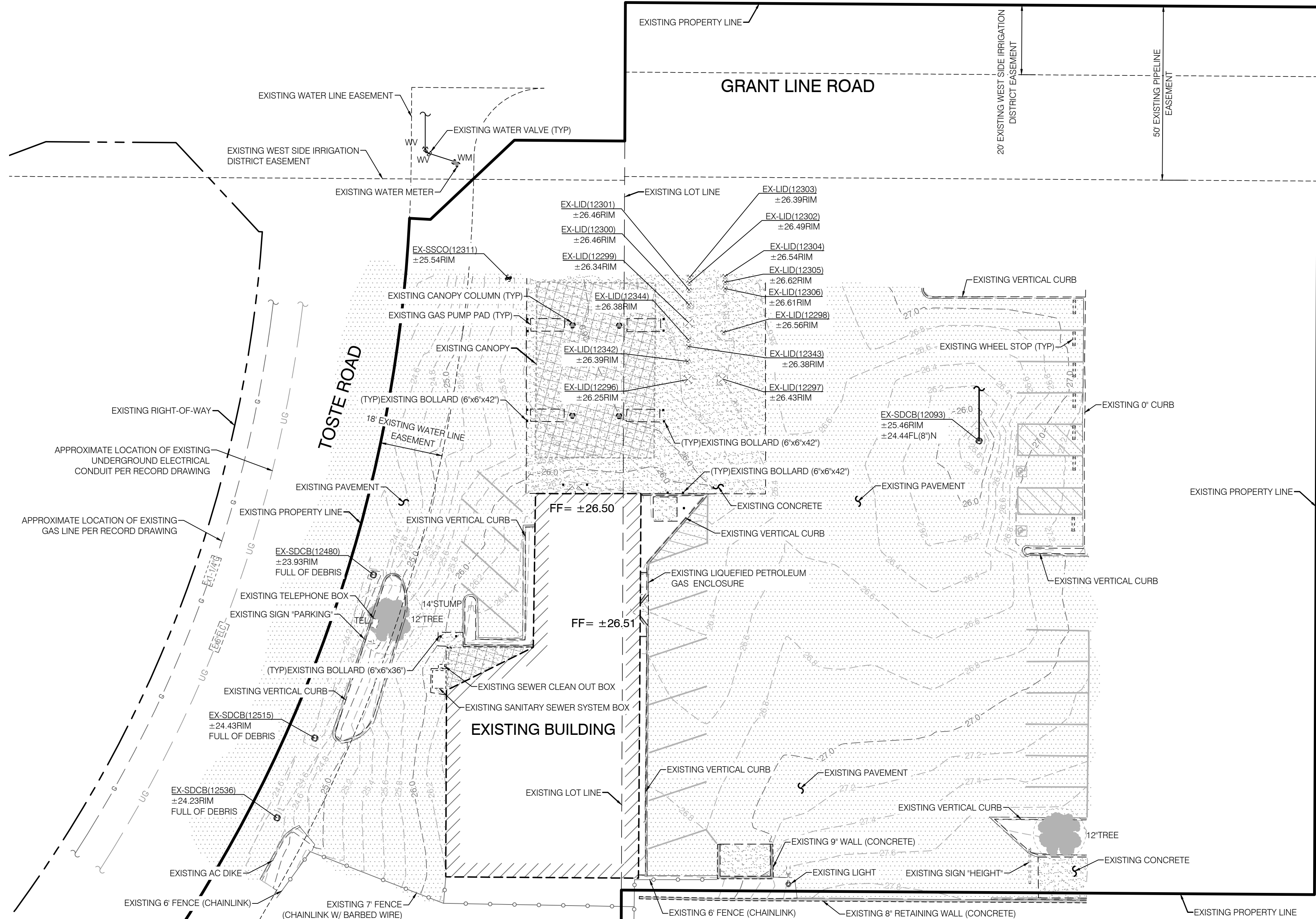
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EXTERIOR ELEVATIONS

TOPOGRAPHIC PLANS FOR GARDEN OF EDEN TRACY, CALIFORNIA

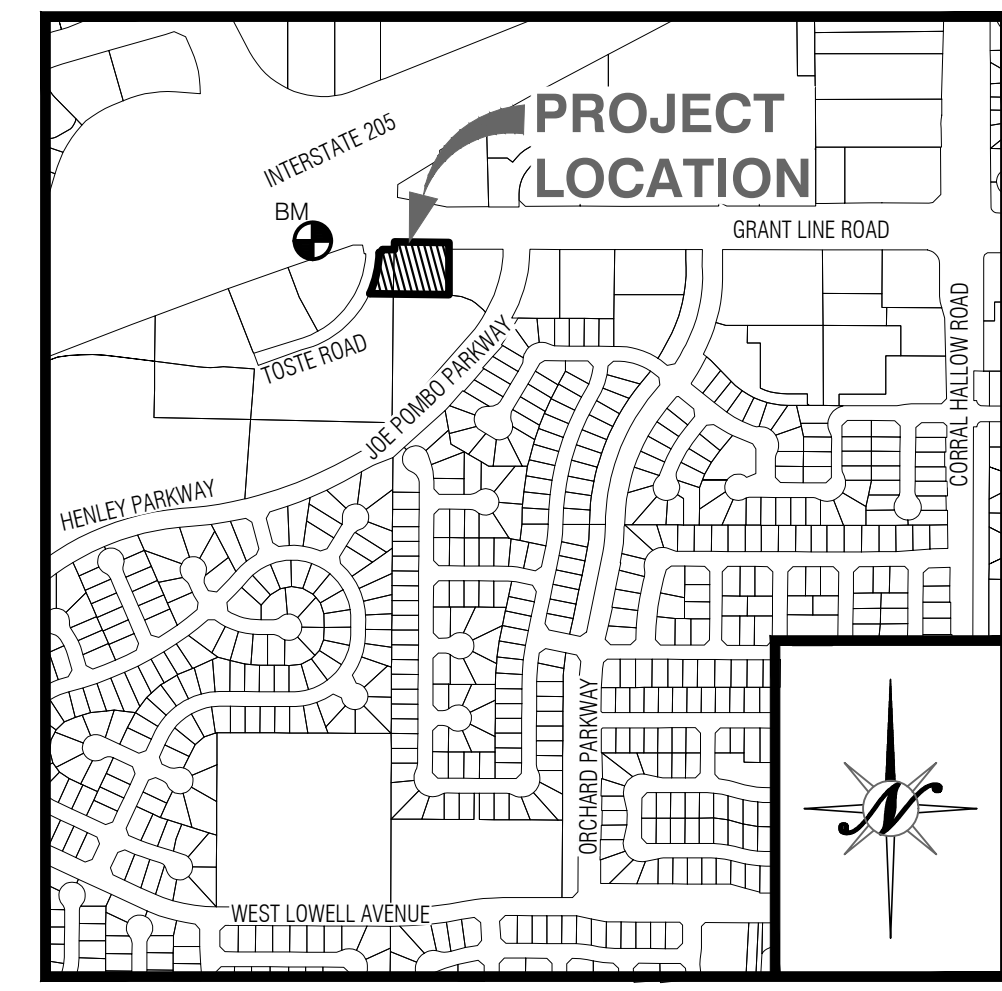
LEGEND

Legend table listing symbols for various utility lines, easements, and features. Includes categories like EXISTING, BOUNDARY LINE, CENTERLINE, etc.



ABBREVIATIONS

Table of abbreviations for symbols used in the plan, such as AT for Aggregate Base, DR for Drive, etc.

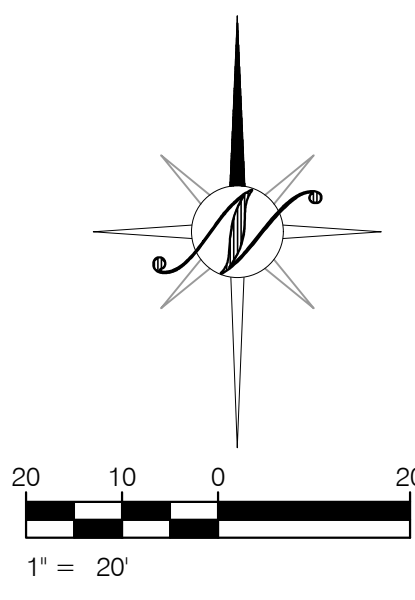


VICINITY MAP NTS

HATCH LEGEND showing patterns for existing pavement, concrete, and overhangs.

TOPOGRAPHY NOTES

- List of 7 topography notes detailing design basis, monument requirements, and utility marking procedures.



PREPARED FOR

CLIENT: GARDEN OF EDEN, TRACY 672 W. 11TH STREET, SUITE 110 TRACY, CA 95376

PROJECT LOCATION

SITE ADDRESS: 2420 W GRANT LINE ROAD TRACY, CA 95377

BENCHMARK

ELEVATION: 23.34 (NAVD 1988) CITY OF TRACY GPS 2 - NAIL IN STEEL PIN IN MONUMENT WELL AT THE SOUTHERLY SIDE OF EASTBOUND 1205 OFFRAMP AT GRANT LINE ROAD IN TRACY AS SHOWN ON THAT CERTAIN RECORD OF SURVEY ENTITLED 'GEODETIC CONTROL NETWORK CITY OF TRACY', FILED FOR RECORD ON JUNE 26, 2007 IN BOOK 36 OF SURVEYS AT PAGE 118, OFFICIAL RECORDS OF SAN JOAQUIN COUNTY.

PLOTTED: 11/19/2021 10:22: PLUTED BY: NorthStar Engineering Group, Inc. DATE PLOTTED: 11/19/2021 10:22: PLOTTED BY: NorthStar Engineering Group, Inc.



Revisions table with columns for NO, DATE, APPROVED, and DESCRIPTIONS.

TOPOGRAPHIC PLAN TOPOGRAPHIC PLANS FOR GARDEN OF EDEN TRACY, CALIFORNIA



Job information table including JOB #, DATE, SCALE, DRAWN, and DESIGN.

SHEET NUMBER

T1.1


CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION 2022-027

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

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

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

WHEREAS, GOE Tracy, LLC doing business as Garden of Eden (Garden of Eden) was awarded a Cannabis Business Permit (application number CBPA20-0034) by the Tracy Police Chief on March 3, 2022, pursuant to the requirements set forth in Chapter 6.36; and

WHEREAS, The applicant submitted a Cannabis Conditional Use Permit application to operate as a cannabis storefront retailer (dispensary) in an existing building at 2420 W. Grant Line Road and a Development Review Permit for exterior modifications to the building on March 10, 2022; and

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

WHEREAS, Cannabis Conditional Use Permits must meet the requirements set forth in TMC Section 10.08.4250, which requirements apply to conditional uses in all zoning districts in the City; and

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

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

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

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

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

WHEREAS, The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, which pertains to minor alterations and additions to existing facilities in an area where all public services and facilities are available and which is not environmentally sensitive; and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the applications on October 12, 2022; now, therefore, be it

RESOLVED: That the Planning Commission of the City of Tracy hereby determines, based on the evidence in the record and its own independent judgment, that the proposed project is categorically exempt from the California Environmental Quality Act pursuant to Guidelines Section 15332 (Infill Development); and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the findings set forth in Exhibit 1, supporting the approval of a development review permit for exterior modifications to the building at 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22; and be it

FURTHER RESOLVED: That the Planning Commission, based on the CEQA determination of exemption and the adoption of requisite findings, hereby approves Development Review Permit (D22-0009) for exterior modifications to the building at 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22, subject to the Conditions of Approval contained in Attachment D to the staff report and based on the findings in Exhibit 1; and be it

FURTHER RESOLVED: That the Planning Commission hereby adopts the findings set forth in Exhibit 1, supporting the grant of a conditional use permit (CUP22-0004) for a cannabis storefront retailer (dispensary) at 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22; and be it.

FURTHER RESOLVED: That the Planning Commission, based upon the CEQA determination of exemption and the adoption of requisite findings, hereby grants a conditional use permit (CUP22-0004) for a cannabis storefront retailer (dispensary) at 2420 W. Grant Line Road, APNs 238-600-37 & 238-190-22, subject to the Conditions of Approval contained in Attachment D to the staff report; and be it

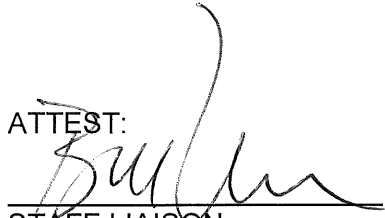
FURTHER RESOLVED: That the Planning Commission hereby extends the time period to establish the use under CUP22-0004 from six months to twelve months pursuant to TMC 10.08.4360 and as further described in the Conditions of Approval.

The foregoing Resolution 2022-027 was adopted by the Planning Commission on October 12, 2022, by the following vote:

AYES: COMMISSION MEMBERS: ATWAL, AUGUSTUS, BOAKYE-BOATENG, HUDSON, ORCUTT
NOES: COMMISSION MEMBERS: NONE
ABSENT: COMMISSION MEMBERS: NONE
ABSTAIN: COMMISSION MEMBERS: NONE

ATTEST:

STAFF LIAISON


CHAIR

City of Tracy
Development Review Permit Findings
Application Number D22-0009

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

City of Tracy
Conditional Use Permit Findings
Application Number CUP22-0004

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

packaged and stored in accordance with the requirements of Chapter 6.36. The dispensary will implement odor control to prevent odors from emanating outside the dispensary as outlined in the business's odor control plan.

City of Tracy
Conditions of Approval
Garden of Eden Cannabis Dispensary
Application Numbers CUP22-0004 & D22-0009

A. General Provisions and Definitions.

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

The Project: Garden of Eden Cannabis Dispensary, Conditional Use Permit and
Development Review Permit Application Nos. CUP22-0004 & D22-0009

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

A.2. Definitions.

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

A.3. Compliance with submitted plans. Prior to the establishment of the use, the project shall be established in substantial compliance with the plans received by the Development Services Department on August 9, 2022 to the satisfaction of the Development Services Director.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all federal, state and local laws, as amended from time to time, related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
 - The Medicinal and Adult-Use Cannabis Regulation and Safety Act;
 - Regulations of the Bureau of Cannabis Control;
 - Tracy Municipal Code (TMC) Chapter 6.36 (Commercial Cannabis Activity); and
 - City of Tracy Procedures and Guidelines for a Cannabis Business Permit adopted by City Council Resolution 2020-137
- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved Cannabis Business Permit No. CBPA20-0034, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. Prior to construction, the applicant shall submit construction documents which meet the requirements of the California Building and Fire Codes and the Tracy Municipal Code to the City of Tracy and the South San Joaquin County Fire Authority for review, approval and inspections.
- A.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a cannabis business permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This conditional use permit shall expire one year following the date on which the use permit became effective unless, prior to the expiration of one year, the use is established in accordance with this use permit, or a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application.

B. Development Services Department, Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@cityoftracy.org

- B.1. Prior to approval of a building permit, the applicant shall provide detailed plans that demonstrate the following:
 - B.1.1. Compliance with TMC Section 6.36.380(k).
 - B.1.2. A parking area of at least 50 parking spaces designed in accordance with TMC Title 10 Article 26 and Standard Plan 141.
 - B.1.3. A landscape plan that shows a combination of trees (24" box min.), shrubs (5 gal min.), and groundcover (1 gal min.) planted in each planter area, with one canopy tree and one accent tree will be planted in every other planter east of the building in a generally alternating pattern that will result in at least four canopy trees and three accent trees, to the satisfaction of the Development Services Director.
 - B.1.4. Existing landscaping around the enhanced vapor recovery equipment shall be protected and any landscape lost shall be replenished to match the site to the satisfaction of the Development Services Director.
 - B.1.5. Enhanced vapor recovery enclosure, piping, and bollards colored to match the adjacent building wall two-tone color to the satisfaction of the Development Services Director. Reflective tape may be applied to the satisfaction of the Fire Marshal.
 - B.1.6. Other bollards colored to match the nearest adjacent structure, such as canopy columns. Reflective tape may be applied to the satisfaction of the Fire Marshal.
- B.2. Prior to issuance of a building permit, the applicant shall provide the following:
 - B.2.1 An application for lot line adjustment or lot merger to eliminate the property line currently crossing through the building and fueling canopy.
 - B.2.2 The applicant shall execute an Agreement for Maintenance of Landscape and Irrigation Improvements and submit financial security to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements or \$2.50 per square foot of on-site landscape area.
- B.3. Prior to final inspection, the applicant shall demonstrate the following:
 - B.3.1 Compliance with TMC Section 6.36.380(l).
 - B.3.2 All landscaping and irrigation shown in the approved building permit construction plans installed to the satisfaction of the Development Services Director.
 - B.3.3 A copy of the recorded document that eliminates the property line currently crossing through the building and fueling canopy.
- B.4. Prior to commencing any cannabis operation, the applicant shall execute a Community Benefit Agreement with the City in accordance with the requirements of their Cannabis Business Permit.
- B.5. Aside from deliveries, the use shall be conducted wholly indoors. The use may not be conducted outside the building, including in the parking lot.

- B.6. The hours of operation shall be limited to 6:00 am to 10:00 pm in accordance with State law. Should the hours of operation established in the State law become more restrictive, the use shall comply with the more restrictive regulations.

C. Development Services Department, Engineering Conditions of Approval

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

C.1. General Conditions

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

- 1) Not Applicable.

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

C.5. Improvement Agreement(s)

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

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

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

Grant Line Road

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

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

Toste Road

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

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

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

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

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

C.5.2. RESERVED

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

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

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

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

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

C.5.6 If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

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

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

C.6. Building Permit

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

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

C.7 Acceptance of Public Improvements

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

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

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required install

a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.

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

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

C.8.4 Prior to the release of the Certificate of Occupancy, Developer shall record with San Joaquin County Recorder a document to adjust the two parcels.

D. Tracy Police Department Conditions

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

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

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

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

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

- D.3. Prior to approval of a building permit, the applicant shall submit plans that demonstrate the lobby area will have a secured commercial grade, non-residential door which is lockable separating the lobby floor (check-in area) from the sales area as required in section 6.36.380 Cannabis Storefront (Dispensary) Retailer Permit Requirements to the satisfaction of the Police Chief or his designee.
- D.4. Prior to establishment of the use, the applicant shall submit to the Police Department a copy of the actual detailed security plan, including the full names and current contact information for onsite security, to the satisfaction of the Police Chief or his designee. The security and emergency response plan will include the actual security measures and procedures.

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

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

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

E. South San Joaquin County Fire Authority Conditions

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

- E.1. Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.
- E.1.1. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.
- E.1.2. Deferred submittals shall be listed on the coversheet of each page. Each deferred submittal shall be submitted, reviewed and approved by SSJCFA prior

to installation.

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

F. Development Services Department, Building Division Conditions

Contact: Danis Isho

(209) 831-6484

danis.isho@cityoftracy.org

- F.1. Prior to the construction of any structures, applicant shall submit construction plans and details that demonstrate conformance with parking spaces and accessible routes requirements per California Building Code 11B.
- F.2. Prior to the construction of any structures, applicant shall submit construction documents and associated details that demonstrate compliance with path of travel requirements in alterations, additions and structural repairs per California Building Code 11B-202.4.
- F.3. Prior to the construction of any structures, applicant shall submit construction documents, engineering analysis and calculation, specifications etc. that conform with the current Title 24 California Code of Regulations at time of application.

- F.4. Prior to the construction of any structures, applicant shall submit construction documents that demonstrate compliance with egress door hardware and operation conforming to California Building Code section 1010.1.
- F.5. Prior to the construction of any structures, applicant shall submit construction documents that demonstrate compliance with CBC Table 1006.2.1 for egress from the cannabis storage area in conjunction with the limitations for egress to intervening spaces per CBC 1016.2.

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

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

G.1. Streets and Streetlights

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

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

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, Developer must do the following:
 - 1) Form a Property Owner's Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");
 - 2) Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the

final inspection, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) of the POA to ensure the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure");

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

Or

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

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

G.2. Landscaping Maintenance

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

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

Or

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

Or

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

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION 2023-_____

-
- 1. APPROVING A SIX-MONTH RENEWAL (EXT23-0002) OF CONDITIONAL USE PERMIT CUP22-0004 FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 2420 W. GRANT LINE ROAD, APNS 238-600-37 & 238-190-22; AND**
 - 2. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

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

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

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

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

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

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

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

WHEREAS, pursuant Tracy Municipal Code Sections 10.08.4350 and 10.08.4360, Conditional Use Permits may be renewed for an additional period of six (6) months or greater; provided the applicant demonstrates "good cause, such as proof of an usual hardship not of the applicant's own making; and

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

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

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

RESOLVED: That the Planning Commission approves a six-month renewal of Conditional Use Permit CUP22-0004 (Application Number EXT23-0002), based on the findings contained in Exhibit 1 and subject to the conditions of approval in Exhibit 2; and

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

The foregoing Resolution 2023-_____ was adopted by the Planning Commission on October 25, 2023, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

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

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

- (a) There are circumstances applicable to the use which make the granting of a use permit renewal necessary for the preservation and enjoyment of substantial property right, because a conditional use permit is necessary for the operation of a cannabis dispensary in the General Highway Commercial zone under the Tracy Municipal Code. The proposed project meets the intent of the General Highway Commercial zone and otherwise complies with development regulations of the zone.
- (b) The proposed location of the use and the conditions under which it would be operated or maintained is in accordance with the objectives of Tracy Municipal Code Chapters 6.36 and 10.08. Additionally, the project site is located at least 600 feet away from a parcel containing a school, day care center, or youth center as defined in Chapter 10.08, and the use will be operated wholly indoors. The use is a retail store, which is complementary to the surrounding commercial area.
- (c) The project will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use, or to the general welfare of the City. The proposed use of a cannabis dispensary will function in a complementary manner to the surrounding retail uses in the vicinity and will comply with City standards. The dispensary will implement all safety and security conditions of approval prepared by the Tracy Police Department.
- (d) The project is consistent with the zoning, commercial cannabis activity regulations, and other elements of the Tracy Municipal Code the City of Tracy General Plan, the Design Goals and Standards, City Standards, California Building Codes, California Fire Codes, and California cannabis regulations. There will be no odors or similar objectionable impacts to other businesses in the vicinity as all cannabis products will be entirely packaged and stored in accordance with the requirements of Chapter 6.36. The dispensary will implement odor control to prevent odors from emanating outside the dispensary as outlined in the business's odor control plan.
- (e) The applicant applied for a renewal to the conditional use permit prior to expiration of the original time period granted. Pursuant to Tracy Municipal Code Sections 10.08.4350 and 10.08.4360, the applicant has experienced unusual hardships not of the applicant's own making, including time necessary for obtaining approvals and permits following the Planning Commission's original granting of the conditional use permit, and therefore requires additional time to obtain building permits and diligently pursue construction or occupy the site with the approved cannabis business. In particular, the applicant was not able to begin the required background check process until the City provided instructions seven months after the applicant's Conditional Use Permit was granted. The background check has been in process for two months and is still pending results. Furthermore, the applicant is not able to process the Community Benefit Agreement as required by the applicant's Cannabis Business Permit and, indirectly, the Conditional Use Permit, until the background check is completed. Additionally, the applicant has been actively pursuing a building permit over the last seven months and is close to approval and issuance of the building permit, pending completion of the background check and execution of a Community Benefit Agreement. For these reasons, the Commission finds good cause for the extension of the conditional use permit.

City of Tracy
Conditions of Approval
Garden of Eden Cannabis Dispensary CUP22-0004 Renewal
Application Number EXT23-0002
Planning Commission - October 25, 2023

A. General Provisions and Definitions.

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

The Project: Six-month renewal of Garden of Eden Cannabis Dispensary Conditional Use Permit number CUP22-0004

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

A.2. Definitions.

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

A.3. Compliance with submitted plans. Prior to the establishment of the use, the project shall be established in substantial compliance with the plans received by the

Development Services Department on August 9, 2022 to the satisfaction of the Development Services Director.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all federal, state and local laws, as amended from time to time, related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
 - The Medicinal and Adult-Use Cannabis Regulation and Safety Act;
 - Regulations of the Bureau of Cannabis Control;
 - Tracy Municipal Code (TMC) Chapter 6.36 (Commercial Cannabis Activity); and
 - City of Tracy Procedures and Guidelines for a Cannabis Business Permit adopted by City Council Resolution 2020-137
- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved Cannabis Business Permit No. CBPA20-0034, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. Prior to construction, the applicant shall submit construction documents which meet the requirements of the California Building and Fire Codes and the Tracy Municipal Code to the City of Tracy and the South San Joaquin County Fire Authority for review, approval and inspections.
- A.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a cannabis business permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This conditional use permit shall expire six months following the date on which the use permit became effective unless, prior to the expiration of one year, the use is established in accordance with this use permit, or a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application.

B. Development Services Department, Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@cityoftracy.org

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

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

C. Development Services Department, Engineering Conditions of Approval

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

C.1. General Conditions

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

- 1) Not Applicable.

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

C.5. Improvement Agreement(s)

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

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

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

Grant Line Road

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

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

Toste Road

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

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

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

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

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

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

C.5.2. RESERVED

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

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

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

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

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

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

C.5.6 If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

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

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

C.6. Building Permit

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

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

C.7 Acceptance of Public Improvements

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

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

C.8 Special Conditions

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

C.8.4 Prior to the release of the Certificate of Occupancy, Developer shall record with San Joaquin County Recorder a document to adjust the two parcels.

D. Tracy Police Department Conditions

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

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

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

D.3. Prior to approval of a building permit, the applicant shall submit plans that demonstrate the lobby area will have a secured commercial grade, non-residential door which is lockable separating the lobby floor (check-in area) from the sales area as required in section 6.36.380 Cannabis Storefront (Dispensary) Retailer Permit Requirements to the satisfaction of the Police Chief or his designee.

D.4. Prior to establishment of the use, the applicant shall submit to the Police Department a copy of the actual detailed security plan, including the full names and current contact information for onsite security, to the satisfaction of the Police Chief or his designee. The security and emergency response plan will include the actual security measures and procedures.

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

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

D.5. Prior to establishment of the use, the applicant shall establish and maintain an updated on-call list of responders with their alarm service provider and current alarm permit with the City of Tracy, to include the on-site security manager. This shall be provided prior to the establishment of the use.

D.6. Trash containers and enclosures shall be locked and not accessible by the public at all times.

E. South San Joaquin County Fire Authority Conditions

Contact: Tim Spears, Fire Marshal (209) 831-6707

tim.spears@sicfire.org

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

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

F. Development Services Department, Building Division Conditions

Contact: Danis Isho

(209) 831-6484

danis.isho@cityoftracy.org

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

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

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

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

G.1. Landscaping Maintenance

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

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

Or

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

Or

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

Agenda Item 1.B

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION ADOPT A RESOLUTION:

- 1. APPROVING A SIX-MONTH RENEWAL (EXT23-0004) OF CONDITIONAL USE PERMIT CUP22-0003 FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) 951 N. CENTRAL AVENUE, APN 235-056-07; AND**
- 2. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

THE APPLICANT IS STOCKTON GATEWAY, LLC AND THE PROPERTY OWNER IS JIVA TCY, LLC, APPLICATION NUMBER EXT23-0004.

EXECUTIVE SUMMARY

On September 14, 2022, the Planning Commission granted a Cannabis Conditional Use Permit (CUP) to operate the Jiva TCY Cannabis Dispensary (Cannabis Business Permit CBPA20-0017), which was set to expire September 29, 2023. Because the applicant is still working on establishing the use, the applicant has requested a renewal of the CUP to allow more time to establish the use.

BACKGROUND, LEGISLATIVE HISTORY AND ANALYSIS

On September 14, 2022, the Planning Commission approved Conditional Use Permit CUP22-0003 for a cannabis dispensary at 951 N. Central Avenue (Attachment A). Pursuant Tracy Municipal Code Section 10.08.4350, conditional use permits allow applicants a period of six months to establish the use or obtain a building permit and diligently pursue construction toward completion; however, CUP22-0003, which took effect on September 29, 2022, was granted a time limit of one year for the use to be established in accordance with TMC Section 10.08.4360 to allow the applicant additional time needed to secure other requirements for their cannabis business, such as State licensing, background checks, and a community benefit agreement.

The applicant did not anticipate pulling a building permit or establishing the use prior to the expiration date of September 29, 2023, as they are currently in the process of complying with requirements of their Cannabis Business Permit and obtaining building permits for their tenant improvement. Therefore, on September 18, 2023, the applicant submitted an application requesting additional time to obtain a building permit and establish the use in accordance with Tracy Municipal Code (TMC) Section 10.08.4350, which states that a conditional use permit may be renewed for an additional period of six months or for a greater period, as prescribed in Section 10.08.4360, provided that, prior to the expiration of the time period granted, (1) an application for the renewal of the use permit is filed with the Commission and (2) the applicant demonstrates "good cause, such as proof of an usual hardship not of the applicant's own making."(TMC § 10.08.4360).

The applicant has demonstrated good cause for a Conditional use Permit renewal based on hardships derived from the process of obtaining a satisfactory background check and

completion of the Community Benefit Agreement (a requirement of the Cannabis Business Permit, and indirectly, of the Conditional Use Permit) In particular, the City had not resolved the process for performing background checks until eight months after the applicant was granted the Conditional Use Permit, and the background check verification took an additional month to process. The applicant wasn't able to process the Community Benefit Agreement until the background check was completed, and that is still in process with the City pending City approval of a business name change needed by the applicant. Furthermore, the applicant has been diligently working on obtaining a building permit, which is in its eighth submittal in response to prior corrections provided by the City is currently under review. All of these items must be completed prior to issuance of a building permit, and the applicant has demonstrated a good faith effort toward completing all of these items since the granting of their Conditional Use Permit and needs additional time to see the remaining items through to completion.

The Commission has the authority to grant or deny an application for the renewal of a use permit. The applicant proposes no changes to the project from what was approved under CUP22-0003 on September 14, 2022. The applicant has been working on completing the remaining requirements of their Cannabis Business Permit and obtaining a building permit for construction of their storefront. Staff recommends the Planning Commission grant the CUP a six-month renewal and carry over the conditions of approval from CUP22-0003 in accordance with TMC Section 10.08.4350. If granted, the CUP would expire on March 29, 2024.

PUBLIC OUTREACH/ INTEREST

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

CEQA DETERMINATION

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

ACTION REQUESTED OF THE PLANNING COMMISSION

Staff Recommends that the Planning Commission adopt a Resolution:

1. Approving a six-month renewal (EXT23-0004) of Conditional Use Permit CUP22-0003 for a Cannabis Storefront Retailer (Dispensary) 951 N. Central Avenue, APN 235-056-07; and
2. Determining that this Project is categorically exempt from the California Environmental Quality Act.

Agenda Item 1.B
October 25, 2023
Page 3

Prepared by: Kimberly Matlock, Associate Planner

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

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

ATTACHMENTS

Attachment A – CUP22-0003 (Plans, Staff Report, Resolution and Conditions of Approval)

Attachment B – Planning Commission Resolution

Exhibit 1 – Findings

Exhibit 2 – Conditions of Approval

September 14, 2022

AGENDA ITEM 2.B

RECOMMENDATION

STAFF RECOMMENDS THAT THE PLANNING COMMISSION 1) ADOPT A RESOLUTION APPROVING A CONDITIONAL USE PERMIT (CUP22-0003) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) LOCATED AT 951 N. CENTRAL AVENUE (ASSESSOR'S PARCEL NUMBER 235-056-07), 2) ALLOW THE CONDITIONAL USE PERMIT ONE YEAR TO BE ESTABLISHED, AS DESCRIBED IN CONDITION OF APPROVAL A.9, AND 3) DETERMINE THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO GUIDELINE SECTION 15301 PERTAINING TO EXISTING FACILITIES. THE APPLICANT IS JIVA TCY LLC AND THE PROPERTY OWNER IS STOCKTON GATEWAY, LLC

EXECUTIVE SUMMARY

A request for the Planning Commission to grant a Conditional Use Permit for Dr Greenthumb's (Jiva TCY LLC) to operate a cannabis dispensary in the existing building located at 951 N. Central Avenue.

BACKGROUND AND LEGISLATIVE HISTORY

California state law allows local governments to regulate commercial cannabis activities in their respective jurisdictions. On December 3, 2019, the City Council of the City of Tracy adopted Ordinance 1277 (Tracy Municipal Code (TMC) Chapter 6.36) establishing permitting regulations for commercial cannabis activity in the City of Tracy and Ordinance 1278 (TMC Section 10.08.3196) establishing zoning and locational requirements for commercial cannabis activity in Tracy. The primary regulatory framework governing the location of such uses is the City's zoning ordinance (Title 10 of the Tracy Municipal Code). TMC Title 10 Article 34, which was adopted by Ordinance 449 on January 17, 1978, and amended by Ordinance 1177 on January 15, 2013, describes the purpose, process, and requirements for the granting of Conditional Use Permits, stating that the Planning Commission is the authority for such permits.

On September 29, 2020, Jiva TCY, LLC submitted an application for a Cannabis Business Permit, pursuant to TMC Chapter 6.36. The application was comprehensively reviewed by an internal Cannabis Business Permit Review Committee comprised of the Finance Department, Development Services Department, and the South San Joaquin County Fire Authority personnel. Following review and deeming the application eligible, the Committee forwarded this application to the Police Department for final review and determination. On March 3, 2022, the Tracy Police Chief awarded a Cannabis Business Permit (application number CBPA20-0017) to Jiva TCY, LLC. The Cannabis Business Permit approves the permittee's business and operations plan, community relations plan, safety and security plan, social equity plan, and community benefits proposal. In addition to the requirements of the Cannabis Business Permit, the proposed use must also meet the zoning requirements applicable to cannabis dispensaries, including obtaining a Conditional Use Permit to operate their business at a specific location.

On March 8, 2022, the permit awardee submitted a Conditional Use Permit application to establish a cannabis storefront retailer (dispensary) at 951 N. Central Avenue, a site designated Downtown in the General Plan and zoned Central Business District and wherein cannabis dispensaries are a conditionally permitted use. The proposed project for Dr Greenthumb's Dispensary has met all Cannabis Business Permit standards and applicable zoning regulations.

ANALYSIS

Project Description

The proposed project is located on the southwest corner of Central Avenue and Tenth Street. The building was previously a bank and has been vacant for several years. The applicant proposes to operate a cannabis dispensary consisting of pre-packaged cannabis products and accessories in accordance with local and State cannabis law. City regulations include locational requirements, site requirements, and operating hours are established by the TMC Section 10.08.3196 and the conditions of approval placed on the Conditional Use Permit. According to City records as of the date of publication of this staff report, the subject site is over 600 feet away from any school, day care center, or youth center, as required by the TMC Section 10.08.3196(d). The 600 foot radius map is included as Attachment A.

The cannabis dispensary will operate in the same manner as a retail store, which is complementary of the commercial area encompassing the project vicinity. Additionally, the project applicant and owner met with the Tracy City Center Association (TCCA) on January 13, 2022 and TCCA provided a letter of support of the project (Attachment B). Because all cannabis products are pre-packaged and there is no onsite cultivation, it is anticipated that no odors or smells will emanate from the dispensary which is a regulation of TMC Section 6.26.320.d. The applicant proposes some interior tenant improvements as shown in the attached floor plan, and no exterior modifications are proposed as part of the project. The use will be wholly indoors and any windows that would allow cannabis products to be seen from the exterior will have an opaque film for screening. The proposed use will have a lobby wherein age verification will be conducted prior to permitting the customer into the retail area and additionally, all customers entering the store will be logged. All cannabis products will be located within a secured and locked storage area, as required by TMC Chapter 6.36.180. The proposed site plan, rendering, and floor plan can be viewed in Attachment C.

The applicant proposes to operate from 10:00 am to 10:00 pm, which is in conformance with State law. As described in the recommended conditions of approval, onsite security will include two armed guards during business hours and one armed guard during closed hours as well as a video surveillance system.

Project Expiration

Per the Tracy Municipal Code (TMC) Section 10.08.4350, Conditional Use Permit approvals are valid for six months following fifteen days from the date of approval unless the use is established or a building permit is issued and construction is commenced. The

TMC also permits Planning Commission to grant a greater time limit for Conditional Use Permit approvals (TMC Section 10.08.4360). Aside from the Conditional Use Permit, the applicant must also obtain a State license for the operation of the cannabis business and comply with the conditions of their provisional Cannabis Business Permit, which may take longer than six months to complete. Therefore, staff recommends that the Planning Commission grant the Conditional Use Permit for one year as described in the project Condition of Approval A.9.

FISCAL IMPACT

This agenda item will not require any expenditure of funds. The applicant paid the application processing fees established by the City Council for the conditional use permit application. The applicant will also pay all appropriate building permit upon the commencement of project improvements.

PUBLIC OUTREACH/ INTEREST

A public hearing notice for the project was mailed to all property owners within a 300-foot radius of the project site, posted on the City website, and also published in the Tracy Press on September 2, 2022. The Planning Commission agenda packet was posted on the City website and can be accessed at City Hall and the Tracy Branch Library as of September 8, 2022.

COORDINATION

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

CEQA DETERMINATION

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

STRATEGIC PLAN

This item implements the City Council's Economic Development Strategic Priority Goal 5, Policy 2: Complete Conditional Use Permit processes for Cannabis Business Permit holders.

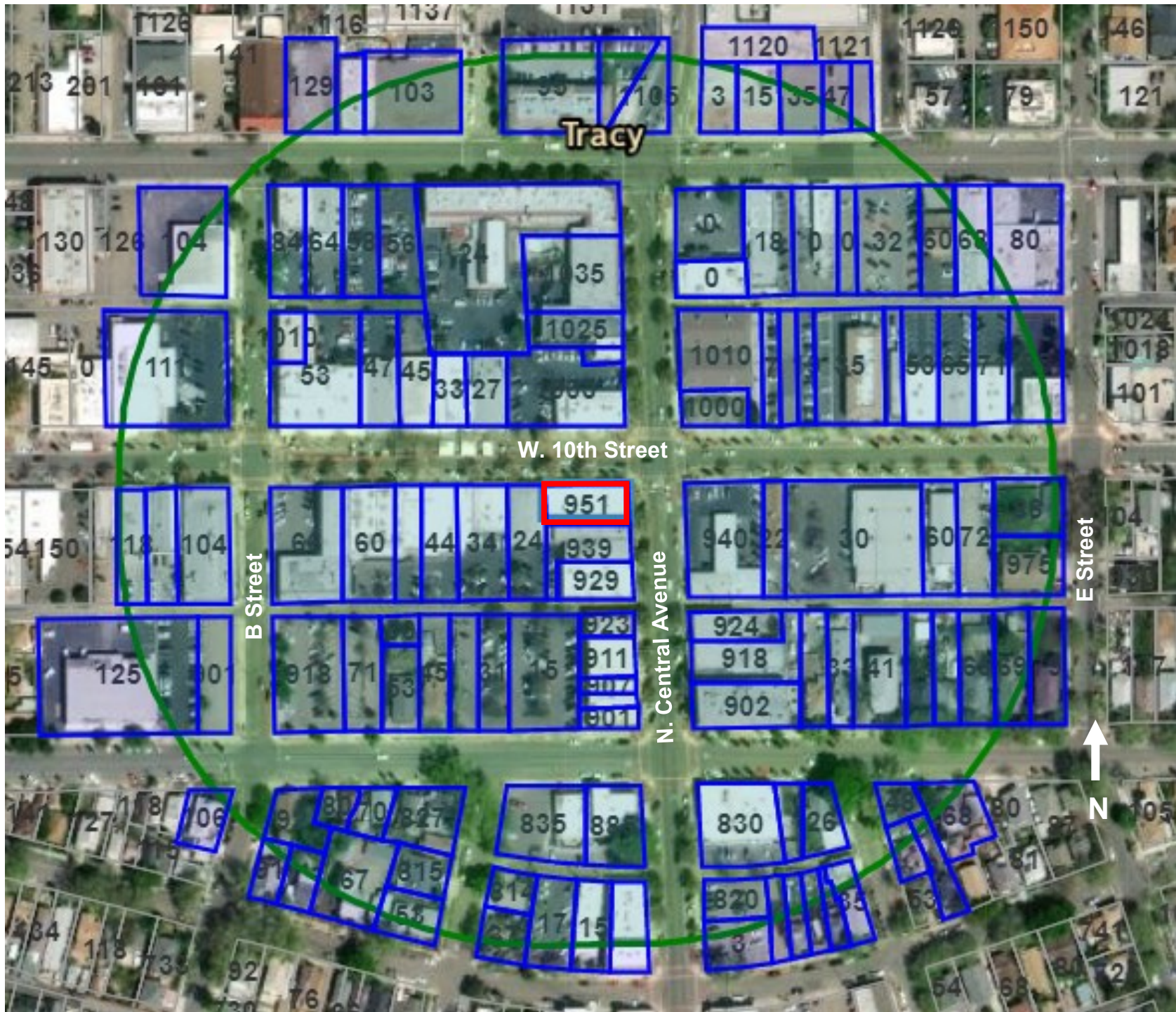
ACTION REQUESTED OF THE PLANNING COMMISSION

1) Adopt a resolution approving a Conditional Use Permit (CUP22-0003) for a cannabis storefront retailer (dispensary) located at 951 N. Central Avenue (Assessor's Parcel Number 235-056-07), 2) Allow the Conditional Use Permit one year to be established, as described in Condition of Approval A.9, and 3) Determine that this project is categorically exempt from the California Environmental Quality Act pursuant to Guideline Section 15301 pertaining to existing facilities

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

Attachments:

Attachment A – 600 Foot Sensitive Uses Map
Attachment B – Tracy City Center Association Letter of Support
Attachment C – Site Plan, Rendering and Floor Plan received on March 8, 2022
Attachment D – Planning Commission Resolution including Exhibit 1 Conditions of Approval



600-foot Radius Map: 951 N. Central Avenue



DOWNTOWN
TRACY
TRACY CITY CENTER
ASSOCIATION



January 25, 2022

City of Tracy
Development Services Department
333 Civic Center Plaza
Tracy, CA 95376
PlanningAdmin@CityofTracy.org
Peggy.Beeuwsaert@cityoftracy.org

Re: Jiva TCY LLC [CBPA20-0017]

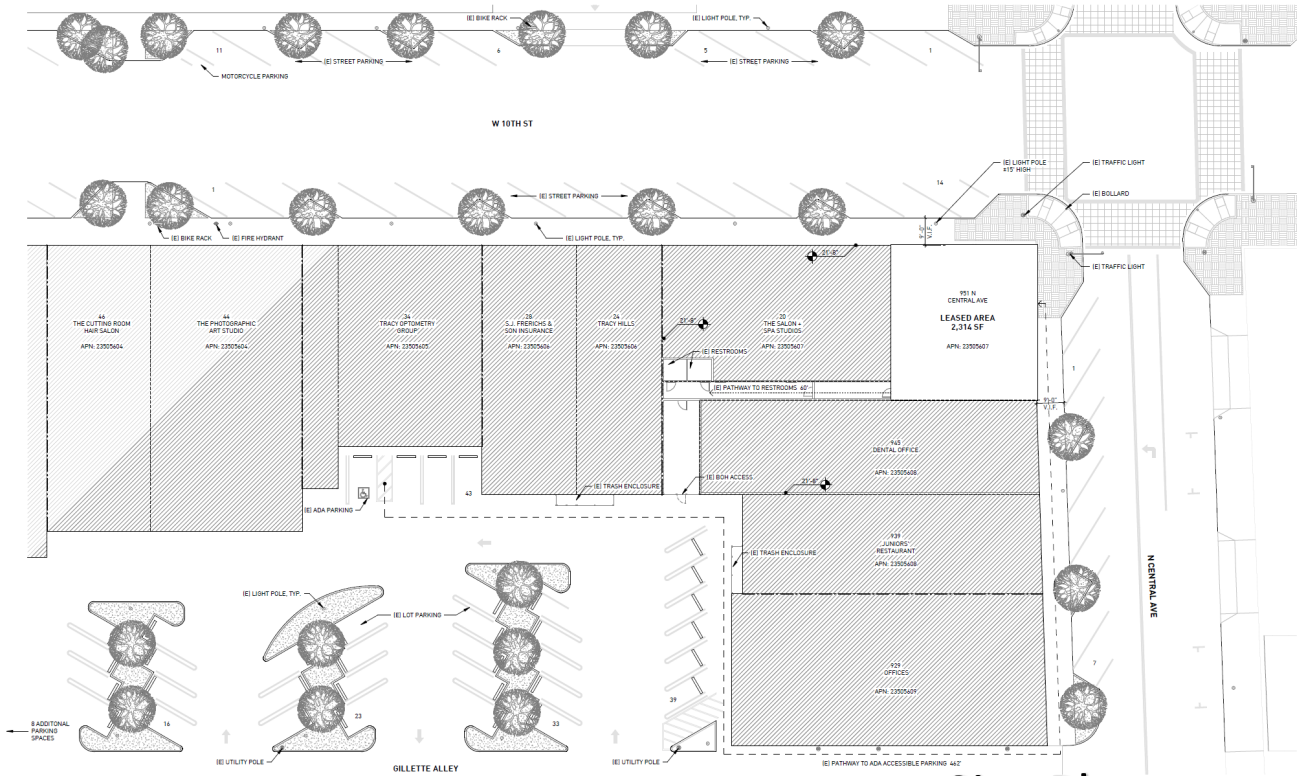
On behalf of the Tracy City Center Association (TCCA), I am writing to express this letter of support for Jiva TCY LLC as their organization looks to expand its commercial cannabis operations into the City of Tracy and specifically our downtown.

Managing Director Raj Pottabathni and downtown property owner Kevin Dougherty made a presentation to our board at our meeting on January 13th, 2022 with respect to plans for the property at 951 N. Central Avenue. The presentation was described by several of our board members as the model we would like to see moving forward with high expectations for design and operational standards for a new cannabis retailer in the city of Tracy.

We appreciate Jiva's approach to the industry, the professionalism their team has demonstrated during our discussions, and look forward to working together collaboratively to better our community.

Sincerely,

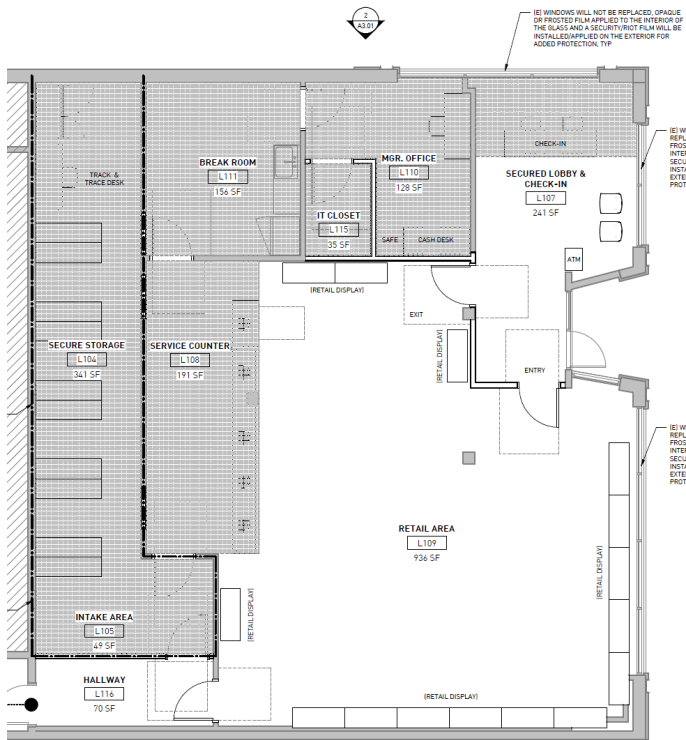
Dino Margaros
Executive Director



Site Plan

SITE PLAN 1
1/8" = 1'-0"

SHEET NOTES	GRAPHICS LEGEND
<p>LAND USE/ZONING</p> <p>ALL PROPERTIES SHOWN ON THIS SHEET (PARCELS/BUILDINGS) HAVE THE FOLLOWING DESIGNATIONS:</p> <ul style="list-style-type: none"> • GENERAL PLAN: DOWNTOWN • ZONING: CENTRAL BUSINESS DISTRICT (CBD) <p>PARKING SUMMARY</p> <p>PER TRACY, CALIFORNIA - CODE OF ORDINANCES, CHAPTER 10.08, ZONING REGULATIONS, ARTICLE 24 - OFF-STREET PARKING REQUIREMENTS, 10.08.3482 PARKING SPACES REQUIRED.</p>	<ul style="list-style-type: none"> — PROPERTY LINE — EXISTING BUILDING (I.C.I.) — LANDSCAPE (I.C.I.) — UTILITY POLE — STREET LIGHT — TRAFFIC LIGHT — ESTIMATED BUILDING HEIGHT



Floor Plan



Rendering

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION NO. 2022-023

-
1. **APPROVAL OF A CONDITIONAL USE PERMIT (CUP22-0003) FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 951 N. CENTRAL AVENUE, APN 235-056-07. THE APPLICANT IS JIVA TCY LLC AND THE PROPERTY OWNER IS STOCKTON GATEWAY, LLC;**
 2. **ALLOW THE CONDITIONAL USE PERMIT ONE YEAR TO BE ESTABLISHED, 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.**

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

WHEREAS, Commercial cannabis activities require a cannabis business permit to operate in Tracy and a conditional use permit to operate cannabis businesses at specific locations; and

WHEREAS, Dr Greenthumb's was awarded a cannabis business permit (Application Number CBPA20-0017) by the Tracy Police Chief on March 3, 2022; and

WHEREAS, The applicant submitted a conditional use permit application to operate a cannabis storefront retailers (dispensary) in an existing building at 951 N. Central Avenue, on March 8, 2022; and

WHEREAS, The subject site is designated Downtown in the Tracy General Plan and has a zoning designation of Central Business District (CBD) wherein cannabis dispensaries are a conditionally permitted use; and

WHEREAS, Conditional use permits are valid for six (6) months, under Tracy Municipal Code (TMC) section 10.08.4350; and

WHEREAS, The applicant must also obtain a State license for the operation of the cannabis business and comply with the conditions of their approved cannabis business permit, which may take longer than six (6) months granted under the conditional use permit; and

WHEREAS, Under TMC 10.08.4360 the Planning Commission may grant a greater time limit for conditional use permit approvals and that the recommended time extension for this project is one year; and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the application on September 14, 2022; now, therefore, be it

RESOLVED: That the Planning Commission adopts a resolution approving a conditional use permit (CUP22-0003) for a cannabis storefront retailer (dispensary) at 951 N. Central Avenue, APN 235-056-07, subject to the Conditions of Approval contained in Exhibit 1 and based on the findings below.

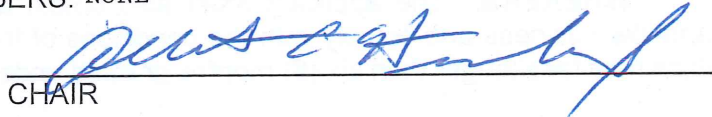
1. There are circumstances applicable to the use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right, because a conditional use permit is necessary for the operation of a cannabis dispensary in the CBD Zone as required by the Tracy Municipal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

FURTHER RESOLVED: That the Planning Commission allow the conditional use permit one year to be established, as described in the Conditions of Approval; and be it

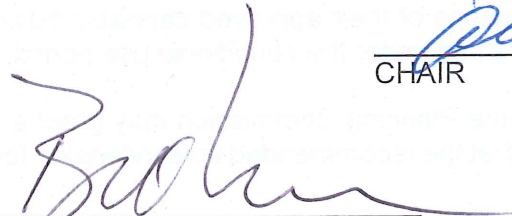
FURTHER RESOLVED: That the Planning Commission determines that this project is categorically exempt from the California Environmental Quality Act pursuant Guidelines Section 15301.

The foregoing Resolution 2022-020 was adopted by the Planning Commission on September 14, 2022, by the following vote:

AYES:	COMMISSION MEMBERS: AUGUSTUS, BOAKYE-BOATENG, HUDSON, ORCUTT
NOES:	COMMISSION MEMBERS: ATWAL
ABSENT:	COMMISSION MEMBERS: NONE
ABSTENTION:	COMMISSION MEMBERS: NONE



 CHAIR

ATTEST: 

 STAFF LIAISON

City of Tracy
Conditions of Approval
Dr Greenthumb's Cannabis Dispensary
Application Number CUP22-0003

A. General Provisions and Definitions.

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

The Project: Dr Greenthumb's Cannabis Dispensary, Conditional Use Permit number
CUP22-0003

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

A.2. Definitions.

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

A.3. Compliance with submitted plans. Prior to the establishment of the use, the project shall be established in substantial compliance with the plans received by the Development Services Department on March 8, 2022 and the security plan received

by the Development Services Department on July 20, 2022 to the satisfaction of the Development Services Director.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all federal, state and local laws, as amended from time to time, related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
 - The Medicinal and Adult-Use Cannabis Regulation and Safety Act;
 - Regulations of the Bureau of Cannabis Control;
 - Tracy Municipal Code (TMC) Chapter 6.36 (Commercial Cannabis Activity); and
 - City of Tracy Procedures and Guidelines for a cannabis business permit adopted by City Council Resolution 2020-137
- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved cannabis business permit No. CBPA20-0017, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. Prior to construction, the applicant shall submit construction documents which meet the requirements of the California Building and Fire Codes and the Tracy Municipal Code to the City of Tracy and the South San Joaquin County Fire Authority for review, approval and inspections.
- A.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a Cannabis Business Permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This the conditional use permit shall expire one year following the date on which the use permit became effective unless, prior to the expiration of one year, the use is established in accordance with this use permit, or a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application.

B. Development Services Department, Planning Division Conditions

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

- B.1. Prior to approval of a building permit, the applicant shall provide detailed plans that demonstrate compliance with TMC Section 6.36.380(k) regarding floor plan and storage requirements.
- B.2. Prior to final inspection, the applicant shall demonstrate compliance with TMC Section 6.36.380(l) regarding signage.
- B.3. Community Benefit Agreement. Prior to commencing any cannabis operation, the applicant shall execute a Community Benefit Agreement with the City in accordance with the requirements of their Cannabis Business Permit.
- B.4. The use shall be conducted wholly indoors.
- B.5. Hours of operation. The hours of operation shall be limited to 6:00 am to 10:00 pm in accordance with State law. Should the hours of operation established in the State law become more restrictive, the use shall comply with the more restrictive regulations.

C. Development Services Department, Building Division Conditions

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

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

D. Tracy Police Department Conditions

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

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

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

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

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

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

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

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

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION NO. 2023-_____

-
- 1. APPROVING A SIX-MONTH RENEWAL (EXT23-0004) OF CONDITIONAL USE PERMIT CUP22-0003 FOR A CANNABIS STOREFRONT RETAILER (DISPENSARY) AT 951 N. CENTRAL AVENUE, APN 235-056-07; AND**
 - 2. DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

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

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

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

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

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

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

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

WHEREAS, pursuant Tracy Municipal Code Sections 10.08.4350 and 10.08.4360, Conditional Use Permits may be renewed for an additional period of six (6) months or greater: provided the applicant demonstrates "good cause, such as proof of an usual hardship not of the applicant's own making; and

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

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

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

RESOLVED: That the Planning Commission approves a six-month renewal of Conditional Use Permit CUP22-0003 (Application Number EXT23-0004), based on the findings contained in Exhibit 1 and subject to the Conditions of Approval in Exhibit 2; and

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

The foregoing Resolution 2023-_____ was adopted by the Planning Commission on October 25, 2023, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

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

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

- (a) There are circumstances applicable to the use which make the granting of a use permit renewal necessary for the preservation and enjoyment of substantial property right, because a conditional use permit is necessary for the operation of a cannabis dispensary in the Central Business District zone under the Tracy Municipal Code. The proposed project meets the consumer service intent of the Central Business District zone.
- (b) The proposed location of the use and the conditions under which it would be operated or maintained is in accordance with the objectives of Tracy Municipal Code Chapters 6.36 and 10.08. Additionally, the project site is located at least 600 feet away from a parcel containing a school, day care center, or youth center as defined in Chapter 10.08, and the use will be operated wholly indoors. The use is a retail store, which is complementary to the surrounding commercial area.
- (c) The project will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use, or to the general welfare of the City. The proposed use of a cannabis dispensary will function in a complementary manner to the surrounding retail uses in the vicinity and will comply with City standards. The dispensary will implement all safety and security conditions of approval prepared by the Tracy Police Department.
- (d) The project is consistent with the zoning, commercial cannabis activity regulations, and other elements of the Tracy Municipal Code the City of Tracy General Plan, the Design Goals and Standards, City Standards, California Building Codes, California Fire Codes, and California cannabis regulations. There will be no odors or similar objectionable impacts to other businesses in the vicinity as all cannabis products will be entirely packaged and stored in accordance with the requirements of Chapter 6.36.
- (e) The applicant applied for a renewal to the conditional use permit prior to expiration of the original time period granted. Pursuant to Tracy Municipal Code Sections 10.08.4350 and 10.08.4360, the applicant has good cause for requesting a permit renewal for reasons relating to time necessary for obtaining approvals and permits following the Planning Commission's original granting of the conditional use permit, and therefore requires additional time to obtain building permits and diligently pursue construction and occupy the site with the approved cannabis business. In particular, applicant experienced hardships resulting from the length of time it took for the City to finalize and begin the background check and Community Benefit Agreement processes required for the Conditional Use Permit and associated Cannabis Business Permit. The applicant has been diligently pursuing these items as well as a building permit for the business's tenant improvement over the past year and is close to completion of these items, and a six-month extension is reasonable based on the size, nature and complexity of the proposed development. For these reasons, the Commission finds good cause for the renewal of the conditional use permit.

City of Tracy
Conditions of Approval
Jiva TCY Cannabis Dispensary CUP22-0003 Renewal
Application Number EXT23-0004
Planning Commission – October 25, 2023

A. General Provisions and Definitions.

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

The Project: Six-month renewal of Jiva TCY Cannabis Dispensary Conditional Use
Permit number CUP22-0003

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

A.2. Definitions.

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

A.3. Compliance with submitted plans. Prior to the establishment of the use, the project shall be established in substantial compliance with the plans received by the Development Services Department on March 8, 2022 and the security plan received

by the Development Services Department on July 20, 2022 to the satisfaction of the Development Services Director.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all federal, state and local laws, as amended from time to time, related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
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- A.6. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City and State Regulations and the approved cannabis business permit No. CBPA20-0017, which includes business operations requirements, the safety and security plan, and the odor control plan.
- A.7. Prior to construction, the applicant shall submit construction documents which meet the requirements of the California Building and Fire Codes and the Tracy Municipal Code to the City of Tracy and the South San Joaquin County Fire Authority for review, approval and inspections.
- A.8. At all times, applicant (or its successor) shall maintain all necessary permits to operate a cannabis business pursuant to Municipal Code Chapter 6.36. Neither the applicant, nor any other entity, shall have an entitlement or other property right to operate a cannabis business at the property without holding such a Cannabis Business Permit, which may be approved, denied, renewed, or revoked in accordance with the requirements of Chapter 6.36.
- A.9. This the conditional use permit shall expire six months following the date on which the use permit became effective unless, prior to the expiration of one year, the use is established in accordance with this use permit, or a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application.

B. Development Services Department, Planning Division Conditions

Contact: Genevieve Federighi

(209) 831-6435

genevieve.federighi@cityoftracy.org

- B.1. Prior to approval of a building permit, the applicant shall provide detailed plans that demonstrate compliance with TMC Section 6.36.380(k) regarding floor plan and storage requirements.
- B.2. Prior to final inspection, the applicant shall demonstrate compliance with TMC Section 6.36.380(l) regarding signage.
- B.3. Community Benefit Agreement. Prior to commencing any cannabis operation, the applicant shall execute a Community Benefit Agreement with the City in accordance with the requirements of their Cannabis Business Permit.
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- B.5. Hours of operation. The hours of operation shall be limited to 6:00 am to 10:00 pm in accordance with State law. Should the hours of operation established in the State law become more restrictive, the use shall comply with the more restrictive regulations.

C. Development Services Department, Building Division Conditions

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

- C.1. Prior to the construction of any structures, applicant shall submit construction plans and details that demonstrate conformance with parking spaces and accessible routes requirements per California Building Code.
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- C.3. Prior to the construction of any structures, applicant shall submit construction documents prepared and sealed by a licensed professional per B&P Code.
- C.4. Prior to the construction of any structures, applicant shall submit construction documents, engineering analysis and calculation, specifications etc. that conform with the current Title 24 California Code of Regulations at time of application.

D. Tracy Police Department Conditions

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

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

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

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

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