

NOTICE OF REGULAR MEETING

Pursuant to Section 54954.2 of the Government Code of the State of California, a Regular meeting of the Planning Commission is hereby called for:

Date/Time: **Wednesday, January 11, 2012, 7:00 p.m.**
(or as soon thereafter as possible)

Location: City Hall Council Chambers, and Conference Room 109
333 Civic Center Plaza, Tracy

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Planning Commission on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES APPROVAL

DIRECTOR'S REPORT REGARDING THIS AGENDA

ITEMS FROM THE AUDIENCE

In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2008-140 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Planning Commission Member to sponsor the item for discussion at a future meeting.

1. OLD BUSINESS

A. PUBLIC HEARING TO CONSIDER A PRELIMINARY AND FINAL DEVELOPMENT PLAN APPLICATION FOR A CALIFORNIA HIGHWAY PATROL FACILITY AND A CONDITIONAL USE PERMIT APPLICATION FOR A TELECOMMUNICATION FACILITY ON A SITE TOTALING APPROXIMATELY 4.7 ACRES ON PESCADERO AVENUE, APPROXIMATELY 2,100 FEET EAST OF MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 213-070-75. APPLICANT IS KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS AND PROPERTY OWNER IS PONY UP TRACY, LLC. APPLICATION NUMBERS D11-0007 AND CUP11-0005

2. NEW BUSINESS

A. DOWNTOWN SPECIFIC PLAN STUDY SESSION

3. ITEMS FROM THE AUDIENCE

4. DIRECTOR'S REPORT

5. ITEMS FROM THE COMMISSION
6. ADJOURNMENT

January 6, 2012

Posted Date

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6000), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Development and Engineering Services Department located at 333 Civic Center Plaza during normal business hours.

AGENDA ITEM 1-A

REQUEST

PUBLIC HEARING TO CONSIDER A PRELIMINARY AND FINAL DEVELOPMENT PLAN APPLICATION FOR A CALIFORNIA HIGHWAY PATROL FACILITY AND A CONDITIONAL USE PERMIT APPLICATION FOR A TELECOMMUNICATION FACILITY ON A SITE TOTALING APPROXIMATELY 4.7 ACRES ON PESCADERO AVENUE, APPROXIMATELY 2,100 FEET EAST OF MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 213-070-75. APPLICANT IS KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS AND PROPERTY OWNER IS PONY UP TRACY, LLC. APPLICATION NUMBERS D11-0007 AND CUP11-0005

DISCUSSION

On December 7, 2011, the Planning Commission held a public hearing to review and discuss a proposed California Highway Patrol (CHP) facility, comprised of a public safety office, patrol vehicle storage and service areas, associated equipment and material storage areas, and a freestanding telecommunication facility. The proposed project requires Planning Commission review and City Council approval of a Preliminary and Final Development Plan (PDP/FDP) for the site design and Planning Commission approval of a Conditional Use Permit (CUP) for the telecommunication facility. The staff report dated December 7, 2011 is included as Attachment A to this staff report, and an 11" by 17" reduction of the full-sized site, floor, landscape, and elevation plans that were distributed at the December 7, 2011 meeting are included as Attachment B. The draft minutes are included as Attachment C for reference.

The Commission requested additional information regarding the telecommunication facility and continued the agenda item until that information could be made available. The Commission requested from the applicant a more thorough explanation of the need for the height and size of the tower, photographic examples of other towers of this size, a photosimulation demonstrating what the physical site will look like with the tower built, and a representative from CHP to answer any questions the applicant cannot related to CHP rationale for the height of the tower. The Commission also discussed requesting a peer review of the tower but ultimately did not request it of the applicant. The Commission did not express concerns regarding the site design, building architecture, or circulation of the CHP facility and did not discuss any modifications to the site or buildings as proposed.

Staff communicated clearly with the applicant Planning Commission's request for additional information. The applicant provided staff with a photographic example of a similar tower built in Butte County, included as Attachment D to this staff report. According to the applicant, additional information as requested by the Planning Commission is not yet available and will be presented to the Commission prior to the scheduled public hearing.

RECOMMENDATION

As noted in the staff report on December 7, 2011, Staff recommended Planning Commission recommend approval of the project to City Council. The Planning Commission has several options:

1. Recommend City Council approval of the project as proposed.
2. Recommend City Council denial of the project as proposed.
3. Recommend City Council approval of the project with changes, if any, based on Planning Commission discussion.
4. Continue the agenda item if additional information is needed.

MOTION

The following motion reflects Staff's original recommendation.

Move that the Planning Commission do the following:

- 1) Recommend that the City Council approve the PDP/FDP for the CHP facility and telecommunication tower located on a 4.7 acre site on Pescadero Avenue, Application Number D11-0007, subject to the conditions and based on the findings contained in the Planning Commission Resolution dated January 11, 2012, and
- 2) Approve the CUP application for a two year period, Application Number CUP11-0005, based on the findings contained in the Planning Commission Resolution dated January 11, 2012 and subject to City Council approval of the PDP/FDP of the CHP facility.

Prepared by Kimberly Matlock, Assistant Planner

Approved by Bill Dean, Assistant Development and Engineering Services Director

ATTACHMENTS

Attachment A – Planning Commission Staff Report dated December 7, 2011

Attachment B – Reduced set of site, floor, landscape, and elevation Plans dated November 28, 2011

Attachment C – Excerpt of Draft minutes from December 7, 2011 Public Hearing

Attachment D – Photographic example of a similar CHP telecommunication tower

Attachment E – Planning Commission Resolution for PDP/FDP

Attachment F – Planning Commission Resolution for CUP

AGENDA ITEM 2-B

REQUEST

PUBLIC HEARING TO CONSIDER A PRELIMINARY AND FINAL DEVELOPMENT PLAN APPLICATION FOR A CALIFORNIA HIGHWAY PATROL FACILITY AND A CONDITIONAL USE PERMIT APPLICATION FOR A TELECOMMUNICATION FACILITY ON A SITE TOTALING APPROXIMATELY 4.7 ACRES ON PESCADERO AVENUE, APPROXIMATELY 2,100 FEET EAST OF MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 213-070-75. APPLICANT IS KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS AND PROPERTY OWNER IS PONY UP TRACY, LLC. APPLICATION NUMBERS D11-0007 AND CUP11-0005

DISCUSSIONBackground

In 1996, the City Council adopted the Northeast Industrial Areas (NEI) Concept Development Plan within which the project area is located. The site is zoned Planned Unit Development (PUD), is designated Industrial by the General Plan, and is designated Light Industrial by the NEI Concept Development Plan.

In accordance with Tracy Municipal Code (TMC) Section 10.08.1830, the Planning Commission and the City Council shall review all Planned Unit Development Preliminary and Final Development Plans (PDP/FDP).

Site and Project Description

The project site is one parcel of approximately 4.7 acres located on the south side of Pescadero Avenue, approximately 2,100 feet east of MacArthur Drive and directly north of the Home Depot distribution center (Attachment A). A storm water detention basin and dirt stock pile that serves the site will be developed on an approximately 0.9 acre parcel immediately to the east. The basin and pile will remain until permanent storm water infrastructure is constructed to serve the NEI area and project site.

The proposed project is a California Highway Patrol (CHP) facility, comprised of a 16,367 square foot office building, a 4,793 square foot automobile service building, a patrol car fueling station, storage buildings totaling 1,951 square feet, carports with solar panels, and associated onsite parking and landscaping improvements (Attachment B). The proposal includes a 140-foot tall four-legged lattice telecommunication tower with associated antennas, microwave dishes, and ground equipment. In accordance with State requirements, the project has been designed to comply with the Essential Services Seismic Safety Act (ESA) regulated by the California Health and Safety Code. The project is also aiming to achieve Leadership in Energy and Environmental Design (LEED) Gold standard from the United States Green Building Council (USGBC). According to the applicant, the existing CHP office on Grant Line Road will close upon the opening of the new facility.

Architecture

The proposed CHP facility meets the City's Design Goals and Standards for commercial development. The buildings are proposed to be constructed of colored concrete

masonry and metal roofs, including equipment storage areas for architectural consistency throughout the site. The office and auto service buildings are located adjacent to Pescadero Avenue, which results in a strong architectural presence on the street. A majority of the parking area is located behind the office and auto service buildings so that it is not readily visible from the street. The storage buildings and telecommunication tower are located along the rear of the site. Aside from the telecommunication tower, all ground-mounted equipment will be screened from public view with walls or landscaping. Onsite security fencing, which encloses employee parking areas, CHP vehicle storage areas, auto service areas, equipment storage areas, and the telecommunication tower, is proposed to be constructed of metal posts and masonry columns and walls to match and compliment the building architecture.

Circulation, Parking, and Landscaping

The parking area has been designed to provide adequate vehicular and pedestrian circulation as well as security of employee-only areas. A dedicated drive aisle for the truck inspection area is proposed along the east and south perimeters of the site. The primary ingress and egress driveway is proposed on Pescadero Avenue. The site will have access to a private access road that runs from Pescadero Avenue to the Home Depot Distribution Center south of the subject property. An ingress/egress driveway to serve the secured employee-only area and an egress-only driveway from the truck inspection drive is proposed to connect to the private access road. The use of the existing private access road minimizes the need for additional driveways on Pescadero Avenue.

The proposed parking area meets the minimum parking and landscaping requirements established in the TMC and NEI plan. Landscaping of parking areas is required for customer and employee parking areas, but is not required for facilities and equipment storage areas, including automobile service areas and storage of CHP vehicles.

Telecommunication Tower

The TMC Telecommunications Ordinance defines new freestanding telecommunication towers as major facilities. Approval of a Conditional Use Permit (CUP) granted by the Planning Commission is required for major facilities. The Development Review for the facility requires City Council approval as part of the project PDP/FDP.

The Telecommunications Ordinance requires that telecommunication towers taller than thirty-five feet to be monopoles or guyed towers to minimize visibility of the tower from adjacent properties. However, if a self-supporting tower, such as a lattice tower, is required for the capacity or height of the telecommunication use, and evidence is submitted to demonstrate such need, a self-supporting tower may be approved.

According to the applicant, the telecommunication tower is necessary for the operation of the CHP facility. The tower is proposed to be a four-legged lattice tower with a total height of 140 feet. The tower has been designed to ESA standards and to accommodate antennas and microwave dishes for CHP and other local, state, and federal agency use. According to the applicant, this can only be achieved with the design and rigidity of a four-legged freestanding tower. Additionally, the microwave

dishes operate by line of sight, which is dependent upon strategic vertical and horizontal separation between dishes. A monopole, by comparison, does not provide the rigidity or antenna space needed for CHP's antennas and microwave dishes.

While a freestanding lattice tower of this height and size is not preferred over monopoles, CHP has deemed it necessary for the operation of the CHP facility. The Planning Commission Resolution (Attachment C) has been worded such that, should the Planning Commission approve the CUP for the telecommunication tower and associated equipment, approval will not take effect until the City Council approves the PDP/FDP for the CHP facility.

Project Approval and Expiration

Per the TMC, CUP approvals are valid for six months from the date of approval unless a building permit is issued and construction is commenced (TMC Section 10.08.4350). The TMC also permits Planning Commission to grant a greater time limit for CUP approvals (TMC Section 10.08.4360).

The project requires building permit review and approval from the California Department of State Architect (DSA) in addition to the City of Tracy. According to the applicant, DSA review and approval of the project's building permits could take approximately four months, and construction will take approximately fourteen months to complete. While the applicant anticipates occupancy in July 2013, unexpected delays could result in a later occupancy date. As such, the applicant is requesting that the City approve the CUP for a two year period.

Environmental Document

The proposed PDP/FDP is consistent with the Environmental Impact Report (EIR) that was prepared for the Northeast Industrial Areas Concept Development Plan and certified in 1996. In accordance with CEQA Guidelines Section 15183, no further environmental assessment is required. An analysis of the project shows that no significant on or off-site impacts will occur as a result of this particular project that were not already discussed in the Northeast Industrial Areas Concept Development Plan EIR. No evidence exists of any significant impacts to occur off-site as a result of the project because traffic, air quality, aesthetics, land use and other potential cumulative impacts have already been considered within the original environmental documentation. No new evidence of potentially significant effects has been identified as a result of this project.

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

RECOMMENDATION

Staff recommends that the Planning Commission do the following:

- 1) Recommend that the City Council approve the PDP/FDP for the CHP facility and telecommunication tower located on a 4.7 acre site on Pescadero Avenue, Application Number D11-0007, subject to the conditions and based on the findings contained in the Planning Commission Resolution dated December 7, 2011, and
- 2) Approve the CUP application for two year period, Application Number CUP11-0005, based on the findings contained in the Planning Commission Resolution dated December 7, 2011 and subject to City Council approval of the PDP/FDP of the CHP facility.

MOTION

Move that the Planning Commission do the following:

- 1) Recommend that the City Council approve the PDP/FDP for the CHP facility and telecommunication tower located on a 4.7 acre site on Pescadero Avenue, Application Number D11-0007, subject to the conditions and based on the findings contained in the Planning Commission Resolution dated December 7, 2011, and
- 2) Approve the CUP application for a two year period, Application Number CUP11-0005, based on the findings contained in the Planning Commission Resolution dated December 7, 2011 and subject to City Council approval of the PDP/FDP of the CHP facility.

Prepared by Kimberly Matlock, Assistant Planner

Approved by Bill Dean, Assistant Development and Engineering Services Director

ATTACHMENTS

Attachment A – Location Map

Attachment B – Site, Floor, Landscape, Civil, and Elevation Plans

Attachment C – Planning Commission Resolution for PDP/FDP

Attachment D – Planning Commission Resolution for CUP

A. PUBLIC HEARING TO CONSIDER A PRELIMINARY AND FINAL DEVELOPMENT PLAN APPLICATION FOR A CALIFORNIA HIGHWAY PATROL FACILITY AND A CONDITIONAL USE PERMIT APPLICATION FOR A TELECOMMUNICATION FACILITY ON A SITE TOTALING APPROXIMATELY 4.7 ACRES ON PESCADERO AVENUE, APPROXIMATELY 2,100 FEET EAST OF MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 213-070-75 - APPLICANT IS KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS AND PROPERTY OWNER IS PONY UP TRACY, LLC. APPLICATION NUMBERS D11-0007 AND CUP11-0005

The staff report was provided by Kimberly Matlock, Assistant Planner. Mrs. Matlock stated the item was really for two proposals; the first being the Preliminary and Final Development Plan for a California Highway Patrol (CHP) facility, and the second for a Conditional Use Permit (CUP) for a telecommunications tower to serve the facility. Mrs. Matlock further stated the site was on Pescadero Avenue in the North East Industrial Area (NEI). Mrs. Matlock stated the architect had designed the project to meet a number of requirements including the Statewide CHP Manual, the Central Services Seismic Safety Act, City Standards, and LEED Standards. Mrs. Matlock indicated the facility was comprised of an office building, a secured area for vehicle services and storage, and a fueling station. Mrs. Matlock stated in the Telecommunication Ordinance there was a preference for telecommunication towers to be of a monopole design. Mrs. Matlock further stated the applicant had said the monopole design would not work for the CHP's needs, and they needed a four-legged lattice tower. Mrs. Matlock indicated staff had looked at the tower, and analyzed the aesthetic impact to the neighborhood. Mrs. Matlock stated the industrial area was probably the best location in the City for such a tower. Mrs. Matlock further stated Tracy Fire Department would be having discussions with the CHP regarding the co-location of Fire Department needs with this site.

Mrs. Matlock stated on the previous day the Commission had been provided revised Conditions of Approval, which were also available at the meeting. Mrs. Matlock further stated staff was recommending an additional Condition of Approval for the Conditional Use Permit that reads "The telecommunication facility shall be primarily used for public safety telecommunication use."

Mrs. Matlock indicated staff recommended approval of the project, and the Conditional Use Permit for the telecommunication tower.

Commissioner Mitracos asked for clarification on the co-location of the Fire House. Mrs. Matlock stated she meant to say co-location of the telecommunication equipment. Commissioner Mitracos asked if there was a limit to the towers in terms of design or height. Mrs. Matlock answered the Code specified preferences from co-location down to new towers as the last preference and in terms of the new towers it ranked monopoles and guide towers as the preference. Mrs. Matlock further stated that should those types not work for a user, and they could provide evidence to such effect, the City could approve something other than a monopole.

Commissioner Mitracos stated that was typically a cell phone tower and the Code did not reference this kind of tower. Mr. Dean stated it didn't really get into specifics regarding the type of technology for a Public Safety Enterprise. Mr. Dean stated as shown on the plans, the dishes necessary for this type of public safety were huge, more than ten feet in diameter. Commissioner Mitracos stated this tower is a pretty good size and also very wide, and the Holly Sugar towers could be seen by the top of Patterson Pass Road. Mr. Dean stated that is why

Mrs. Matlock wanted to highlight the fact that this was something that would be visible should it get approved.

Vice Chair Ransom asked if there were any alternatives and what alternatives had been discussed. Mrs. Matlock stated staff had asked that a monopole be used, however after analysis it was determined that because of the functional needs of line-of-sight and rigidity, a monopole design would not provide the functionality that they needed. Mr. Dean stated staff was pretty clear about the preference for a monopole, and the applicant was pretty clear that they had specific needs that couldn't be met by a monopole. Mr. Dean further stated that internally, staff had concluded that even with the monopole, once the applicant installed the giant dishes which would stick out over ten feet from the sides; there was not a way to make either option look good.

Commissioner Johnson asked for clarification on the height of the tower. Mrs. Matlock stated that lattice portion of the tower would be 120 feet, with an additional antenna that would rise another 20 feet from the top of the lattice tower.

Mr. Dean stated the CHP had also looked at another site in the I-205 area where staff had many more reservations due to the frequency of visitation to the site by the citizens, and it would be much more noticeable.

Commissioner Johnson asked if the applicant's intention was to vacate the building on Grant Line Road, and move into the new location when it was built. Mrs. Matlock answered yes. Commissioner Johnson asked what the size of the communication tower at the Grant Line location was. Mrs. Matlock answered she did not have that information; however it was nothing like this.

Commissioner Johnson stated he worked for a company that is in direct competition with Kier and Wright, and he should have mentioned this also for the previous item heard, however he could be fair and objective on both items.

Commissioner Johnson asked for information on the storm water collection, Mr. Mina provided a brief description of the system. Commissioner Johnson asked how the water would be treated, because of the fuel and vehicle maintenance system. Mr. Mina answered the applicant would be required to install a filtration system to filter the water before it reaches the temporary basin, and then it would percolate through the ground. Commissioner Johnson asked if this would meet the Regional Water Quality Control Board Standards. Mr. Mina answered there was a storm water regulation that they would have to comply with which would be reviewed by City staff when they submit their grading plans. Commissioner Johnson asked if the City would be the permit holder for the Regional Water Quality Control Board and would be responsible to enforce the regulations. Mr. Mina answered yes.

Chair Manne asked if there would be space on the tower available for co-location by commercial uses, in addition to the co-location for public use on the telecommunication tower. Mr. Dean stated there were no discussions with cell phone companies. Mr. Dean further stated there were no requirements that the tower be made available to other agencies. Chair Manne stated he felt that with the size of the tower, it may reduce the need for other smaller towers and may be beneficial. Mr. Dean answered that was why staff had recommended a condition that it may be limited to public safety telecommunication equipment primarily.

Chris Cammack, a representative of Pony Up, Tracy, addressed the Commission. Mr. Cammack stated that he believed that there would be four microwave dishes, and approximately three or four fiberglass poles. Mr. Cammack stated that the CHP and the State were open to co-location, and one parking space had been reserved for possible location of ground equipment for other public safety entities. Mr. Cammack stated the State would have the option of purchasing the facility after the initial ten years, and they expected the State to exercise that option. Mr. Cammack stated the reason for the type of tower he believed was wind force and rigidity. Mr. Cammack indicated it would be ideal for commercial equipment to locate there, however the State would not want to deal with the security issues of opening their facility to the commercial entities.

Commissioner Mitracos stated he originally thought this was directly for the CHP; however this was a typical development deal. Mr. Cammack stated it was a build-to-suit commissioned by the State, however the State was very specific on their needs and the whole project had to go through the Department of the State Architect. Commissioner Mitracos stated he was interested to know how essential the size of the tower was. Mr. Cammack stated it was very essential, and there were line-of-sight requirements and hilltop requirements. Commissioner Mitracos stated that 140 feet line-of-sight would get you past Sacramento, and did they really need that much? Mr. Cammack answered that was what he has been told. Mr. Cammack added that his understanding this was the prototype for the requirement for the entire state.

Commissioner Alexander asked if the 140 foot lattice tower was the industry standard. Mr. Cammack stated he did not know what the industry standard was, and there were several different types of lattice towers, and then there were guideline towers, and monopole towers. Commissioner Alexander asked if the equipment being located on the tower was standard, and what the range would be. Mr. Cammack answered he believed they would be able to communicate down to Fresno and over to Sacramento.

Vice Chair Ransom asked if this was something Mr. Cammack designed, or if it was the same all over the state. Mr. Cammack stated the tower was a prototype that would be used all over the state, but the buildings would be designed by different architects, and would be built at different sizes.

Commissioner Mitracos stated he was not comfortable with the tower without being able to talk to someone from the State or CHP to find out why it was needed. Commissioner Mitracos indicated he could not support it.

Vice Chair Ransom asked what Commissioner Mitracos had in mind. Commissioner Mitracos stated he wanted to ask why it was needed, what was the purpose, and if it was necessary to be this big and tall?

Mr. Dean stated the Telecommunication Ordinance does provide a clause that should the Commission feel more information is necessary, a third party review could be done at the applicant's expense. Commissioner Mitracos stated it made sense to him, and would satisfy him.

Vice Chair Ransom asked about the difference of the existing 90 foot tower versus the 140 foot tower. Commissioner Mitracos answered it was the width he was concerned with, and it was hard for him to visualize what the tower would look like.

Mr. Cammack stated they had provided elevations which included the tower, and that should help the Commission to envision what it would look like. Mr. Cammack indicated he could try to get a letter from the state.

Commissioner Johnson stated he was concerned with the height of the tower and the appearance; however because of the industrial area in which it would be located it didn't concern him that much. Commissioner Mitracos stated it was a large tower and would be visible from a long way away. Commissioner Johnson stated that didn't concern him because it would be in the industrial area, and so close to existing transmission lines.

Vice Chair Ransom asked how long the process would take if the Commission asked for a third party review for additional information. Mr. Dean stated it would be at least a month, and probably about 2 months before it would be before the Commission again. Vice Chair Ransom asked if it was a situation where the answers could be received from the CHP or the State. Mr. Dean stated that may be more expeditious, and he just wanted to make sure the Commission was aware of different tools at their disposal.

Vice Chair Ransom asked when the applicant wanted to begin construction. Mrs. Matlock answered spring, and they intended to occupy the building by the summer of 2013.

Commissioner Mitracos asked if the plans were finished. Mr. Cammack stated they were about 75% finished.

Mr. Cammack stated if the tower did not get approved, the CHP would abandon this site, and go to another site, most likely in the County and they would still build the tower. Commissioner Mitracos stated he felt the Commission was entitled to an explanation for the need for such a larger tower.

Commissioner Alexander stated he would prefer to ask questions of the CHP and not the Developer.

Mr. Cammack stated there was a letter provided to staff by the CHP which explained the need for the telecommunication tower. Chair Manne asked staff if there was a letter which had not been provided. Mrs. Matlock answered yes, there was a two-page letter from the CHP, which she had summarized in the staff report on pages two and three, under the section titled "Telecommunication Tower".

Commissioner Johnson stated there were a lot of tanks in the City which were visible all over, and those tanks were probably only 80 or 90 feet high.

Chair Manne stated he didn't think the difference between a 90 foot tower and a 120 foot tower would be that noticeable. Chair Manne stated his issue was the width of the tower, and he had no idea what it would look like. Chair Manne stated he was not for or against the tower; however he would like to ask more questions.

Vice Chair Ransom asked if it would be an appropriate motion to table the item until the Commission received more information. Mr. Dean stated that would be appropriate, but he urged the Commission to be very clear with the request so the applicant knew what the Commission was looking for.

Commissioner Mitracos stated he was hearing either a peer review, someone from the CHP to answer questions, or photographs and the CHP representative.

Vice Chair Ransom asked if the Commission was looking for the tower to be reduced to something more reasonable, in which case the Commission would need to determine what was reasonable, or was it looking for a definitive answer by whoever was mandating the tower as to why the tower needed to be this tall and this wide?

Commissioner Mitracos stated he had talked to a consultant and what he gathered that there were a lot of variations to these towers and what you get was not always what was necessary.

Chair Manne asked Commissioner Mitracos if the CHP had come to the meeting and had said this tower was absolutely necessary and this is the reason why, would he vote yes.

Commissioner Mitracos stated he was not technically versed enough to know what was necessary and what was not. Commissioner Mitracos added he would prefer the tower be smaller if at all possible.

Commissioner Johnson stated he would have liked to see computer generated graphics which showed the proposed tower in the site that is was to be on.

Garrett Readler of Kier and Wright addressed the Commission. Mr. Readler asked if short of the peer review, the CHP were to come before the Commission or provide a letter to explain the circumstances of why they needed a tower of this height and width, would that satisfy the Commission. Commissioner Mitracos stated what he had heard was this was a prototype, and this was not necessarily one-size-fits-all. Mr. Readler stated that he felt what the Commission was looking for was a technical letter stating specific requirements such as a 10 foot microwave dish located at 90 feet in height to communicate to Sacramento, rather than a peer review. Commissioner Mitracos stated he disagreed, and would want to see a third party review.

Vice Chair Ransom asked what staff felt would be the ideal tower height and width for the City. Mr. Dean stated this came down to aesthetics as it related to what tower looks like. Mr. Dean further stated he felt that the Ordinance got it right when it specified a preference for a monopole; however there were going to be technical circumstances when that will not work. Mr. Dean added that when the project came in, staff discussed the tower at length and in the end, they were able to make the recommendation because they determined that when you place ten foot wide dishes on the tower, it would not make that much difference if it was a lattice tower, or a monopole with the dishes hanging off. Mr. Dean further stated staff had asked for the minimum height, and the CHP provided the letter trying to explain why.

Vice Chair Ransom asked if there was a way to negotiate down to say 90 feet, and then if in the future the CHP needed to go higher, they could come back before the Commission. Mr. Dean stated there were several different ways to proceed such as pursue third party verification, or photos and other information, or recommend that City Council limit the height to a specific number, and then it becomes their application.

Commissioner Mitracos stated he thought that would complicate things. Commissioner Mitracos stated he would give his approval to a 140 foot tower if he was convinced that was what was necessary.

Chair Manne asked what staff based the recommendation on. Mr. Dean stated staff did not solicit third party review, and had based their recommendation on proximity to residential areas, visibility, dialog with the applicant, previous towers in the City, proximity to power lines, etc.

Vice Chair asked if the CUP could be approved, but work on the tower at a later date. Mr. Dean stated he would not recommend that, and he felt that the Commission should take their action when they were comfortable with the tower. Vice Chair Ransom stated she felt the Commission was comfortable with the project, but had varying degrees of comfort with the tower.

Commissioner Mitracos stated even though this was for the CHP, the City was entitled to information and a fair evaluation before a decision was made.

Commissioner Alexander stated he would like to see a third party review.

Vice Chair Ransom stated she wished there was a way for the Commission to show a commitment to the facility, while showing its concern with the tower.

Chair Manne stated he was all in favor with the CHP project, and he thought it was a great project and the site was a great location for the project; however he would like to continue the discussion and receive more information.

Mr. Dean indicated for the Commission's consideration, the last time a third-party review had been sought; it was for a cell tower, and the need was map-able by coverage areas. Mr. Dean stated that his concern if this project was to go for a third party review would be who would be the arbiter. Mr. Dean added if the CHP stated they need to communicate to Washington D.C., who would question that fact?

Commissioner Mitracos stated his feeling was if they were unable to find the third party, then the Commission would talk to the CHP, however he felt the Commission should try to locate a third party.

It was moved by Commissioner Mitracos that the item be continued until there was further information from a third party peer review, photos, and more information from the CHP. Commissioner Alexander seconded the motion. Vote found Commissioner Mitracos, and Commissioner Alexander in favor, with Commissioner Johnson, Vice Chair Ransom, and Chair Manne apposed; motion failed 2-3-0-0.

Vice Chair Ransom stated she would like to continue the discussion and give the opportunity for a representative from the CHP to come and justify tower, and to see photos, and know exactly how many dishes would be on the tower.

Commissioner Mitracos asked staff who did peer reviews. Mr. Dean answered consultants, and telecommunication firms.

Chair Manne stated he felt the CHP's explanation of the information in layman's terms would suffice. Commissioner Mitracos stated the problem with that was the Commission could hear from the CHP, and still want the peer review. Vice Chair Ransom stated she felt if the Commission requested the peer review, it did not give the CHP the opportunity to negotiate for a smaller tower.

Commissioner Johnson stated he would support Vice Chair Ransom's proposal.

Commissioner Alexander stated he would support Vice Chair Ransom's proposal however he did not feel the CHP would come before the Commission and say they did not really need the tower.

Vice Chair Ransom moved that the discussion be tabled until the Commission could have specifics by the CHP either in person or by letter as to why they need the tower to be so large, and to request that the tower be reduced to whatever the minimum requirement is, and to see pictures of anything close to the proposed tower. Commissioner Johnson seconded the motion. Voice vote found Commissioner Johnson, Commissioner Mitracos, Vice Chair Ransom, and Chair Manne in favor, with Commissioner Alexander apposed; passed 4-1-0-0.



10/25/2011 04:37 PM

RESOLUTION 2011 - _____

RECOMMENDING CITY COUNCIL APPROVAL OF A PRELIMINARY AND FINAL DEVELOPMENT PLAN APPLICATION FOR A CALIFORNIA HIGHWAY PATROL FACILITY AND A TELECOMMUNICATION FACILITY ON A SITE TOTALING APPROXIMATELY 4.7 ACRES ON PESCADERO AVENUE, APPROXIMATELY 2,100 FEET EAST OF MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 213-070-75. APPLICANT IS KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS AND PROPERTY OWNER IS PONY UP TRACY, LLC. APPLICATION NUMBER D11-0007

WHEREAS, The subject property was annexed to the City of Tracy in 1996, received a zoning designation of Planned Unit Development, is designated Light Industrial in the Northeast Industrial Concept Development Plan, and is consistent with the General Plan designation of Industrial, and

WHEREAS, On August 9, 2011, Kier & Wright Civil Engineers & Surveyors submitted an application for a Planned Unit Development Preliminary and Final Development Plan for a California Highway Patrol facility, which includes an office, automobile service areas, a four-legged, lattice, freestanding telecommunication tower, and associated equipment and storage areas, on an approximately 4.7 acre site on Pescadero Avenue, and

WHEREAS, The Light Industrial land use designation permits office uses and accessory uses and structures, and

WHEREAS, Freestanding telecommunication facilities shall be monopoles or guyed towers, unless evidence is presented that a freestanding facility is necessary for the telecommunication use, and

WHEREAS, The design of the freestanding, four-legged lattice tower provides the medium necessary for the antenna and microwave dish equipment required for the operational needs of the California Highway Patrol office that a monopole or guyed tower do not, and

WHEREAS, The buildings and parking lot improvements are exempt from the California Environmental Quality Act requirements under Guidelines Section 15183 pertaining to projects consistent with an approved General Plan or certified Environmental Impact Report, and

WHEREAS, The telecommunication facility is categorically exempt from the California Environmental Quality Act requirements under Guidelines Section 15332 pertaining to in-fill development projects, and

WHEREAS, The Planning Commission and the City Council shall review all Planned Unit Development Preliminary and Final Development Plans, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the application on December 7, 2011 and continued the application with the request for more information from the applicant regarding the telecommunication facility, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the application on January 11, 2012;

NOW, THEREFORE BE IT RESOLVED, That the Planning Commission does hereby recommend that the City Council approve the Preliminary and Final Development Plan for a

California Highway Patrol Facility, Application No. D11-0007, subject to the conditions contained in Exhibit "1" to this Resolution and based on the following findings:

1. The establishment, maintenance, and operation of the proposed use and associated improvements are compatible with the land use, design, and operational characteristics of the neighboring properties, because the California Highway Patrol offices and accessory buildings are compatible with the light industrial uses and development in the vicinity. The business operation of the California Highway Patrol, which includes the coming and going of patrol vehicles and the occasional receipt of freight trucks that are required to be inspected while on route, is similar to the vehicular traffic and volume of warehousing facilities in the vicinity. The telecommunication facility is compatible with the land use, design, and operational characteristics of the neighboring properties because the subject site is located in an industrial area primarily occupied by industrial uses, within which a utility tower is aesthetically appropriate.
2. 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 and its associated structure, or to the general welfare of the City because the project is consistent with the land use, design, and other elements of the Northeast Industrial Concept Development Plan, the City of Tracy General Plan, and applicable requirements of Chapter 10.08 and Chapter 10.25 of the Tracy Municipal Code.
3. The project will not adversely affect or impair the benefits of occupancy, most appropriate development, property value stability, or the desirability of property in the vicinity and will not adversely visually impair the benefits of the properties in the vicinity, because the main and accessory buildings have been designed with high quality material and colors and the parking lot has been landscaped with a variety of trees, shrubs, and groundcover that will complement the existing development in the vicinity of the project site. The ponding basin and dirt stock pile area, which is visible from the public right of way, will be screened from view with security fencing and landscaping. The telecommunication facility will be constructed of a non-reflective material, the cables will run down the center of the tower within an enclosed screen, and other associated equipment will be ground-mounted and screened with a building designed to match the main building on site.

* * * * *

The foregoing Resolution 2011 - _____ was adopted by the Planning Commission on the 11th day of January, 2012, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:

Chair

ATTEST:

Staff Liaison

City of Tracy
Conditions of Approval
California Highway Patrol Facility
Application Number D11-0007
January 11, 2012

A. General Provisions and Definitions.

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

The Project: A California Highway Patrol facility consisting of six buildings totaling approximately 23,000 square feet and a 140-foot telecommunication facility (Application Number D11-0007)

The Property: South side of Pescadero Avenue, approximately 2,100 feet east of MacArthur Drive, Assessor's Parcel Number 213-070-75

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, defined as a "Developer."
- 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 and Engineering 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 and Engineering Services Director" means the Development and Engineering Services Director of the City of Tracy, or any other person designated by the City Manager or the Development and Engineering Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the California Highway Patrol facility on Pescadero Avenue, Application Number D11-0007. The Conditions of Approval shall specifically include all Development and Engineering Services Department conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

A.3. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the plans received by the Development and Engineering Services Department on November 28, 2011.

- 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 laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the 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").
- A.6. Compliance with City regulations. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City regulations, including, but not limited to, the Tracy Municipal Code (TMC), Standard Plans, and Design Goals and Standards.
- A.7. Protest of fees, dedications, reservations, or other exactions. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

B. Development and Engineering Services Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@ci.tracy.ca.us

- B.1. Habitat conservation. Prior to issuance of any permits for ground disturbance, the applicant shall comply with the San Joaquin County Habitat Conservation Division and a signed copy of the Incidental Take Minimization Measures shall be submitted to the City as verification of compliance.
- B.2. Parking lot.
- B.2.1. Before the approval of a building permit, the applicant shall provide site plans and construction details that demonstrate the number, design, and location of bicycle parking spaces will be provided in accordance with TMC Section 10.08.3510. The bicycle parking requirement for this project is 3 spaces.
- B.2.2. Before the approval of a building permit, the applicant shall provide site plans and construction details that demonstrate 12-inch wide concrete curbs along the perimeter of landscape planters where such planters are parallel and adjacent to vehicular parking spaces to provide access to vehicles without stepping into the landscape planters.

- B.2.3. Before the approval of a building permit, the applicant shall provide detailed plans that demonstrate a minimum of one foot candle throughout the parking area as defined in TMC Section 10.08.3450.
 - B.2.4. Before final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way and onto any adjacent private property to the satisfaction of the Development and Engineering Services Director.
- B.3. Landscaping & irrigation. Before the approval of a building permit, the applicant shall provide detailed landscape and irrigation plans consistent with the Department of Water Resources' Water Efficient Landscape Ordinance to the satisfaction of the Development and Engineering Services Director.
- B.3.1. Said plans shall demonstrate no less than 20% of the total parking area, excluding paved areas not defined as part of the parking area for customers and employees, proposed to be developed in landscaping comprised of trees, shrubs, and groundcover and no less than 40% canopy tree coverage of said parking area at tree maturity.
 - B.3.2. Trees shall be a minimum of 24" box size, shrubs shall be a minimum size of 5 gallon, and groundcover shall be a minimum size of 1 gallon.
 - B.3.3. Before the issuance of a building permit, the applicant shall execute an Agreement for Maintenance of Landscape and Irrigation Improvements and submit financial security to the Development and Engineering 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.3.4. A landscape screen equal to or taller than the earth stock pile shall be provided to screen views of the ponding basin and stock pile from Pescadero Avenue to the satisfaction of the Development and Engineering Services Director. The landscape screen may use a combination of vines, hedges, shrubs, trees, and groundcover. Redwood slats may be used in combination with the landscape screen but shall not serve as the sole method of screening.
 - B.3.5. Large, decorative boulders or a 12-inch tall curb shall be provided in landscape planters that are adjacent to truck turning areas to prevent the trucks from rolling into the landscape planters. Boulders shall be spaced intermittently along the edge of the planter as appropriate.
- B.4. Landscape & Irrigation Maintenance. Prior to the issuance of a building permit, the Developer shall execute a two-year landscape and irrigation maintenance agreement and submit financial security, such as a performance bond, to ensure the success of all on-site landscaping for the term of the agreement. The security amount shall be equal to \$2.50 per square foot of the landscaped area or equal to the actual labor and material installation cost of all on-site landscaping and irrigation.
- B.5. Fencing.
- B.2.1. Any fence over 6 feet in height shall obtain a building permit from the Development and Engineering Services Building and Fire Safety Division.

- B.2.2. No chain-link fencing shall be located so that it is readily visible from any public right-of-way, unless it is screened by buildings or landscaping. No slats shall be permitted in chain-link fencing unless it is used in combination with a landscape screen.

- B.6. Screening utilities and equipment.
 - B.6.1. Before final inspection or certificate of occupancy, no roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from any public right-of-way to the satisfaction of the Development and Engineering Services Director. Plans to demonstrate such compliance shall be submitted to the City prior to the issuance of a building permit.
 - B.6.2. Before final inspection or certificate of occupancy, all PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Development and Engineering Services Director.
 - B.6.3. Before final inspection or certificate of occupancy, all vents, gutters, downspouts, flashing, and electrical conduits shall be internal to the structures and bollards and other wall-mounted or building-attached utilities shall be painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Development and Engineering Services Director.
 - B.6.4. Before approval of a building permit, plans shall be submitted to the City that demonstrates the Healy enhanced vapor recovery equipment will be fully screened from public view. Any vent pipes that are visible shall be painted to match the adjacent building to the satisfaction of the Development and Engineering Services Director.
 - B.6.5. Before final inspection or certificate of occupancy, the fueling island tank shall be painted to match the canopy structure to the satisfaction of the Development and Engineering Services Director.
 - B.6.6. The telecommunication tower shall be constructed of a non-reflective gray material, including all antennas, microwave dishes, and visible cables or wires.
 - B.6.7. All telecommunication cables, wires, and associated equipment shall be interior to the telecommunication tower and substantially screened from view by a solid enclosure colored to match the tower to the extent feasible without interrupting the telecommunication function. All ground-mounted equipment shall be enclosed within the radio vault room.

- B.7. Canopies. Before final inspection or certificate of occupancy, the carports and fueling station canopy shall be textured and painted to match the main buildings to the satisfaction of the Development and Engineering Services Director.

- B.8. Fueling station kiosk. Before the approval of a building permit, the applicant shall submit plans for the design of the fueling station kiosk that includes a cantilever. The fueling station kiosk shall be finished and colored to match the main buildings to the satisfaction of the Development and Engineering Services Director.

- B.9. Signs. Before issuance of a sign permit, the applicant shall submit an application and plans for all business identification signs. All signs shall be on private property and shall not encroach into the public right-of-way.

C. Development and Engineering Services Engineering Division Conditions

Contact: Criseldo Mina (209) 831-6425 criseldo.mina@ci.tracy.ca.us

- C.1. Before Approval of Grading and Encroachment Permit Applications. No application for grading permit and encroachment permit within the Project boundaries will be accepted by the City as complete until the Developer provides all documents required by City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including but not limited to, the following:
- C.1.1. The Developer has completed all requirements set forth in this section.
 - C.1.2. The Developer has obtained the approval of all other public agencies with jurisdiction over the required public facilities.
 - C.1.3. The Developer has executed improvement agreement, posted improvement security, and provided documentation of insurance, as required by these Conditions of Approval.
 - C.1.4. The Grading and Drainage Plans shall be prepared in accordance with the Subdivision Ordinance, Tracy Municipal Code, the City Design Documents and these Conditions of Approval. The Improvement Plans for all improvements that is required to serve the Project shall be in accordance with the Subdivision Ordinance, the City Design Documents, and these Conditions of Approval. The Improvement Plans shall be prepared to specifically include, but not be limited to, the following:
 - All existing and proposed utilities.
 - All supporting engineering calculations, specifications, cost and technical reports related to the design of the improvements.
 - Design and Improvement Plans for the permanent storm drainage connections to City's storm drainage system for ultimate disposal of storm water. Provide invert elevation at the connection point with the City's storm drainage pipeline.
 - Improvement Plans for a temporary storm drainage retention facility as approved by the City Engineer. Storm drainage calculations, signed and stamped by a registered Civil Engineer, for the sizing of the retention facility. Soils Report that identifies the type of soil and specifies percolation rate at the basin site and includes recommendations related to backfilling, compacting and grading of the basin site.
 - Improvement Plans prepared on a 24" x 36" size mylar. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.
 - C.1.5. A construction cost estimate for all required public facilities, prepared in accordance with City Regulations. Total construction cost shall include fifteen percent (15%) construction contingencies.
 - C.1.6. Payment of all applicable processing fees, including improvement plan check fees, engineering fees for processing Conditions of Approval, encroachment

- and grading permits and inspection fees, required by these Conditions of Approval and City Regulations.
- C.1.7. Three (3) sets of the Project's Storm Water Pollution Prevention Plan (SWPPP) and a copy of the Notice of Intent (NOI) submitted to the State Water Quality Control Board (SWQCB) and any documentation or written approvals from the SWQCB, as required on Condition C.4.4., below.
 - C.1.8. Tracy's Fire Marshall's signature on the Improvement Plans indicating their approval on the Project's fire service connection, fire and emergency vehicle access and compliance of the City's Fire Department fire protection requirements, as required in Conditions C.9.4, C.9.5, and C.9.6, below. Written approval from the Fire Department required in this section shall be obtained by the Developer, prior to City Engineer's signature on the Improvement Plans.
 - C.1.9. Signed and notarized Deferred Improvement Agreement and improvement security in the amounts and forms as approved by the City Engineer and City Attorney and payment of the agreement-processing fee, as required in Conditions C.7.2, C.7.5, and C.7.14, below.
 - C.1.10. Letter indemnifying the City and all the necessary attachments to the letter, as required in Conditions C.7.1 and C7.14, below.
 - C.1.11. Letter from the Developer informing the City the results of site investigation for presence of irrigation and drainage tile drains as required in Condition C.7.7, C.7.8, C.7.9, C.7.10, and C.7.11, below. If tile drains are found within the Property during construction, the Developer shall notify the City immediately in writing, and shall obtain approval from the City, prior to resuming construction work.
 - C.1.12. Letter from the Developer addressed to City's Public Works Department, requesting inclusion of the Property, if applicable, to an existing Landscape Maintenance District, to mitigate the Property's obligation towards the maintenance of public landscaping, as required in Condition C.10.1, below.
 - C.1.13. The Developer shall comply with the requirements of Regulation VIII, Fugitive PM 10 Prohibitions of the San Joaquin Valley Air Pollution Control, as required in Condition C.4.7, below.
 - C.1.14. Signed and notarized Grant of Easement with the necessary legal description and plat(s), for the dedication of the temporary storm drainage access easement to the City as required in Condition C.7.3, below. The signed and wet-stamped legal description and plat(s) must be submitted as part of a complete grading permit application.
 - C.1.15. Signed and notarized Grant Deed with the necessary legal description for the change of ownership of the right-of-way on Pescadero Avenue from roadway easement to fee title ownership, if offer of dedication is not made on the Final Parcel Map, as required in Conditions C.5.1 and C.7.17, below.
- C.2. Before Approval of Building Permit. No building permit within the Project boundaries will be approved by the City until the Developer demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:
- C.2.1. The Developer has completed all requirements set forth in Condition C.1, above.

- C.2.2. Payment of all applicable Northeast Industrial Area (NEI) – Phase 2 development impact fees (a.k.a. capital in-lieu fees), and participation in Community Facilities Districts, if formed, for construction of infrastructure including but not limited to roads, sewer, water, storm, public buildings, public works/safety, parks, reimbursements to other development area(s) for use of reserve capacities, as required by the Northeast Industrial Area – Phase II Finance and Implementation Plan, and all fees required by these Conditions of Approval and City Regulations. Development impact fees are adjusted annually based on the Construction Cost Index (CCI) published in the Engineering News Record (ENR). The final development impact fees to be paid by the Developer are the NEI Phase 2 development impact fees that are in effect at the time of issuance of the building permit.
 - C.2.3. The Developer has completed or satisfied the obligations of the Project by executing required agreements and posting appropriate security as required by the City Engineer and per the Conditions of Approval, the Deferred Improvement Agreement, Indemnification Agreement, these Conditions of Approval and City Regulations.
 - C.2.4. A signed and stamped letter from the Project's Geo-Technical Engineer certifying that grading work performed by the Developer within the Project meets the requirements of the Project's Soils Report and the recommendations by the Project's Geo-Technical Engineer and that the grading work was performed under the direct supervision of the Project's Geo-technical Engineer, as required in Condition C.4.1, below.
 - C.2.5. A signed letter from the Developer acknowledging participation in a benefit district as required by these Conditions of Approval, if necessary as determined by the City. The letter shall state that the Developer agrees to pay the Project's proportional share of cost of public improvements as determined by the Benefit District and shall deliver the payment at the time specified by the City or in a written notice from the City requesting payment to be made.
 - C.2.6. All phases of the development shall annex into the Tracy Consolidated Landscape Maintenance District (TCLMD) prior to the issuance of the building permit, as required in Condition C.10.1, below.
 - C.2.7. Payment of the cost share responsibility of the Developer for the future traffic signal and intersection improvements on Pescadero Avenue and access road to the Home Depot Deployment Center in the amount of \$24,706.50, as required in Condition C.10.3, below.
- C.3. Before the Issuance of Building Certificate of Occupancy. No building certificate of occupancy within the Project boundaries will be approved or issued by the City until the Developer provides documentation which demonstrates, to the satisfaction of the City Engineer, that:
- C.3.1. The Developer has completed all requirements set forth in Condition C.1, C.2, above and this section.
 - C.3.2. The Developer has completed construction of other public facilities (non-program) required to serve the Project that are not part of the Northeast Industrial Area program for which a building certificate of occupancy is requested. Unless specifically provided in these Conditions of Approval or other City Regulations, the Developer shall take all actions necessary to construct all public facilities (non-program) required to serve the Project, and

the Developer shall bear all costs related to the construction of the public facilities (including all costs of design, construction, construction management, improvement plans check, inspection, land acquisition, program implementation, and contingency).

C.4. Grading and Erosion Control.

- C.4.1. A Grading Plan prepared by a Registered Civil Engineer and accompanied by Soils Engineering and Engineering Geology reports shall be submitted to the City with the Improvement Plans. The reports shall provide recommendations regarding adequacy of sites to be developed by the proposed grading and also information relative to the stability of soils. Slope easements, if necessary, shall be recorded per City Regulations. Prior to the issuance of the first building permit within the Property, the Developer shall submit a letter, signed and stamped by a Registered Geo-technical Engineer, certifying that grading work, including excavation, backfilling, compacting and backfilling work performed by the Developer, meets the requirements of the Project's Soils Report and was completed under the supervision of the Project's Geo-technical Engineer (licensed to practice in the State of California).
- C.4.2. All grading shall require a Grading Permit. Erosion control measures shall be implemented in accordance with plans approved by the City Engineer for all grading work not completed before the 15th of October of that year. Improvement Plans shall designate all erosion control methods and materials to be employed.
- C.4.3. As required by City Standards, the site grading and on-site storm drainage system shall be designed in such a way that the Project has an overland storm drainage release point to an improved public street with existing and functional storm drainage system. An overland storm drainage release point is a location on the Project's boundary where storm runoff leaves the Property and overland drain to an improved public street with functional storm drainage system in the event the Project's on-site storm drainage system fails to function properly or is clogged. The building finish floor is recommended to be at least 0.70 feet higher than the Project's overland storm drainage release point. The City will not allow overland storm drainage release through private properties without written permission from affected property(s). The Developer shall execute an indemnification agreement if after the Developer has demonstrated a design constraint exists that would cause the Project's overland storm drainage release point to be designed and constructed with storm water draining through private property(s). The indemnification agreement requires approval from the City Council prior to the issuance of the grading permit. The Grading and Drainage Plans shall indicate the location and elevation of the Project's overland storm drainage release point and shall show all improvements that may be necessary to create a functional overland storm drainage release point.
- C.4.4. Prior to the issuance of the Grading Permit, the Developer shall submit three (3) sets of the Storm Water Pollution Prevention Plans (SWPPP) and a copy of the Notice of Intent (NOI) submitted to the State Water Quality Control Board (SWQCB) and any documentation or written approvals from the SWQCB, including the Wastewater Discharge Identification Number. After the completion of the Project, the Developer is responsible for filing the Notice of

Termination (NOT) required by SWQCB. The Developer shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the filing fee of the NOI and NOT shall be paid by the Developer. The Developer shall provide the City with the Waste Water Discharge Identification number, prior to the issuance of the grading permit. The Developer shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the City's Storm Water Management Program.

- C.4.5. Slope easements shall be dedicated to the City where cuts or fills do not match existing ground or final grade adjacent to public right-of-way (up to a maximum grade differential of two feet only) prior to issuance of the first building permit. Retaining walls shall be installed where grade differential exceeds 12 inches. Reinforced concrete or masonry retaining wall with provisions for lateral drainage and connection to the City's storm drainage system shall be used for retaining walls where grade differential is more than 12 inches. Using sloped backfill materials to eliminate grade differential will not be allowed.
- C.4.6. The building finish floor must be set to be one (1) foot higher than the highest 100-year flood plain elevation or contour. The lowest point in the parking area or the Property shall not be more than four (4) feet below the highest 100-year flood plain elevation or contour.
- C.4.7. Prior to start of grading work, Developer shall comply with the requirements of Regulation VIII, Fugitive PM10 Prohibitions of the San Joaquin Valley Air Pollution Control District, pertaining to Fugitive Dust Control at Construction Sites. Compliance to regulations related to Visible Dust Emissions, Soil Stabilization, Carryout and Track-out, Access and Haul Roads, Storage Piles and Materials, Dust Control Plans, Nuisances, Notification and Record Keeping are required.

C.5. Street Improvements.

- C.5.1. The Developer shall submit for review a detailed design of remaining frontage improvements on Pescadero Avenue for the entire frontage of the Project. The frontage improvements on Pescadero Avenue shall include, but are not limited to, parkway landscaping with automatic irrigation system (Motorola Irrigation Controller), removal and replacement of asphalt concrete pavement, concrete curb, gutter, sidewalk, and handicap ramp as a result of the installation of a commercial driveway, pavement signing, striping, and other improvements within the City's right-of-way on Pescadero Avenue as determined by the City Engineer (hereinafter "Pescadero Avenue Improvements"). The Developer shall design and construct Pescadero Avenue Improvements in accordance with City Regulations to the satisfaction of the City and pay for all the cost of these frontage improvements. The Improvement Plans shall be prepared in a 24" x 36" sized mylar, as specified in Condition C.1.4, above. Pescadero Avenue Improvements must be completed by the Developer and accepted by the City Council as complete prior to the issuance of the temporary building certificate of occupancy.

Pescadero Avenue is classified and planned to function as a major industrial street. The ultimate right-of-way width of Pescadero Avenue is 110 feet per

the City's Roadway Circulation Master Plan and the NEI Concept Development Plan. The street section for a major industrial street includes two (2) 12-foot wide travel lanes and an 8-foot wide bike lane on each direction, a 16-foot wide raised median or striped median and 15-foot landscaping strip on both side of the street.

Pursuant to Chapter 12.32.040 of the Tracy Municipal Code, all dedications of property to the City for public purposes shall be made in fee title and shall be free of liens and encumbrances, except for which the City, in its discretion, determines that such liens and encumbrances does not affect or it is not in conflict with the intended ownership and use of the land or property being acquired or dedicated. Considering the 29 foot wide roadway easement dedicated by both the owners of the Vorhees Parcels and the Developer of the Home Depot Deployment Center, there is an approximately 59 feet roadway easement along the frontages of the two properties described above on Pescadero Avenue.

The Developer shall submit signed and stamped legal description and map, including the executed Grant Deed, prior to the issuance of the Grading Permit if right-of-way dedication is not included on the Final Parcel Map. The Grand Deed shall be recorded with San Joaquin County Recorder's Office before the issuance of the building permit. The Developer shall be responsible for the cost of dedication of the land as required in this condition and shall also pay for the cost of preparing the legal description, map and Grant Deed.

C.5.2. Pescadero Avenue is not a STAA truck route and the Project site is not an approved STAA truck terminal access. The Developer is responsible to pay for the street improvements on Pescadero Avenue and MacArthur Drive that are necessary to establish Pescadero Avenue as a STAA truck route and the Project site as a STAA terminal access. Upon receipt of the Developer's share of cost of street improvements, City will construct the street improvements on Pescadero Avenue and MacArthur Drive as part of a roadway capital improvement project. STAA truck drivers that will be using Pescadero Avenue to access the Project site shall assume the risk of being cited for traffic violation(s) associated with using a street that is not an approved STAA truck route. Developer is responsible for any cost(s) and liability(s) that may arise for allowing the use of the Project site as STAA truck turn-around area which is not a designated STAA truck terminal access.

C.6. Undergrounding of Overhead Utilities. The Developer shall, to the satisfaction of the affected utility companies and the City Engineer, underground and/ or relocate all utilities within the Property and along the street frontage of the Property on Pescadero Avenue, if it is necessary to clear the construction of frontage improvements, all at the Developer's cost and expense. The Developer shall underground the Project's electrical service connections from the underground electrical distribution line on the street to the proposed building. The cost of undergrounding the overhead utilities including the individual service connection(s) to the Project will be the sole responsibility of the Developer.

C.7. Storm Drainage.

C.7.1. In the absence of the downstream facilities, such as the permanent detention basin for NEI and its connection to the City's existing storm drainage channel, the City will allow the use of an on-site temporary storm drainage retention basin as an interim solution for the disposal of storm runoff generated from the Property, provided the property owner and/ or Developer complies with City standards regarding the design and construction of the on-site temporary storm drainage retention basin and agrees to remove the basin and grade the basin site when the basin is no longer needed as determined by the City or when it is taken out of service and that all the costs involved in the design, construction, maintenance and removal of the basin are paid and guaranteed by the property owner and/ or Developer. The on-site temporary storm drainage basin must be located at the downstream portion of the Project's on-site storm drainage system and the Property and must be designed and constructed in accordance with City standards. The basin must be designed with capacity to store storm runoff equivalent to the volume of two (2) ten (10)-year 48-hour storm event generated from the Property. Basin must empty in ten (10) days. Submit the calculations for determining the size of the basin with the soils report that contains information on the site's percolation rate and groundwater elevation. Indicate on the site plan the approximate location and size of the on-site temporary storm drainage retention basin.

Excavated materials shall be kept within the basin site. If the excavated materials are removed from the basin site, the Developer shall post cash security equivalent to the cost of the backfill materials, hauling to the basin site, spreading, compacting and re-grading the basin site. Stockpile of excavated materials shall not be higher than 8 feet and slope should not be steeper than 1:1. A chain link fence with screening as approved by the Development and Engineering Services Director and access gate shall be installed by the Developer to enclose the basin site. The bottom of the temporary on-site storm drainage retention basin shall be 5 feet above the observed highest groundwater elevation at the basin site. The City Engineer may allow a separation of not less than 2 feet, if the Developer signs an indemnification letter. The percolation report shall also indicate the observed highest groundwater elevation at the basin site. The Developer will be responsible for maintenance of the temporary retention facility until downstream storm drainage facilities are available and connection to the permanent system is installed and made operational.

C.7.2. To guarantee to the City that the basin will be removed and the basin site will be filled and graded accordingly and the project's storm drainage connection to the City's permanent storm drainage facility will be completed and made operational, the Developer shall execute a deferred improvement agreement and post necessary improvement security. The agreement will require approval from the City Council. Developer shall obtain approval from the City Council prior to the issuance of the grading permit. Developer shall submit the signed agreement and improvement security as part of a complete grading permit application. City will allow the removal of the basin when the City's storm drainage facility planned to serve this property are constructed and accepted by the City Council as complete and a written notice from the City

Engineer stating that the basin can be removed is issued. Backfilling of the basin and grading work on the basin site shall be in accordance with the recommendations of the Project's Geo-Technical Engineer or Project's Geo-Technical Report/Soils Report.

- C.7.3. Developer will be required to dedicate a temporary storm drainage easement for the benefit of the City to provide access rights to the basin site for any emergency maintenance work the City may perform on the temporary on-site storm drainage retention basin. The easement shall be granted and recorded prior to the issuance of the grading permit. The easement document shall contain a sunset clause for the termination of the easement upon filing of a notice of completion of the removal of the temporary on-site storm drainage retention basin.
- C.7.4. The Project's on-site storm drainage system must be designed and constructed such that the Project's storm drainage connection functions or drains as gravity system. City will not allow the use of pump-station or lift-station to drain storm runoff to the City's storm drainage facility. The storm drainage connection shall be connected to the storm drainage facility identified in technical Analysis titled "Northeast Industrial Area Phase 2 – Final Storm Drainage Analysis" prepared by Stantec Consulting Inc. on November 1, 2004, which was revised on April 25, 2005.
- C.7.5. The Developer shall remove the temporary on-site storm drainage retention basin and design and construct the permanent connection to the City's storm drainage facility, all at the Developer's sole cost and expense, within sixty calendar (60) days from date of receipt of written notification from the City Engineer that the City's NEI Detention Basin and its connection to the City's downstream storm drain system and the Project's storm drainage connection to the City's storm drainage facility are completed and is ready for final acceptance by the City Council. The Developer shall post improvement security in a form acceptable to the City to cover the Developer's cost responsibilities to maintain the temporary basin, remove the temporary basin, backfill, and grade the basin site, and design and construct the permanent storm drainage connection for the Project. Prior to the issuance of the Grading Permit, the Developer shall execute a Deferred Improvement Agreement with the City and post improvement security in the amounts and form acceptable to the City to guarantee completion of the removal of the temporary storm drainage retention basin, design and construction of the Project's storm drainage connection to the City's storm drainage facility and the backfilling and re-grading of the basin site to its final grades. The Developer shall deliver to the City cash deposit in the amount of \$15,000 to cover City's expenses in performing emergency services related to the maintenance of the temporary on-site storm drainage retention basin and appurtenances that the Developer failed to perform. City shall return any unused portion of the cash deposit within thirty (30) calendar days after the removal of the on-site storm drainage retention basin.
- C.7.6. The Project's storm drainage connection to the City's storm drainage facility shall be designed to function and drain as gravity storm drainage system. No pumping of storm drain water or use of storm drain lift station will be permitted within City's right of way.

- C.7.7. The Developer shall arrange for a site sub-surface investigation for determining presence of irrigation and drainage tile drains within and around the Property and submit a report prepared and signed by a Geo-Technical Engineer. In the event that tile drains exist within and around the Property, the Developer has the option to either relocate or abandon the on-site tile drains as required to clear the proposed development. All existing tile drains and proposed improvements for the relocation or removal of the tile drains must be shown on the Grading and Drainage Plans. Any tile drains under the proposed buildings shall be abandoned or relocated as required to the satisfaction of the City. The Developer or the property owner(s) will be responsible for maintenance of the tile drains to remain or the relocated tile drains and associated improvements. Additionally, the Developer will be responsible for monitoring the groundwater levels, and for the mitigations, if any, that may be required.
- C.7.8. The Developer shall design and construct off-site improvements within the City's right-of-way and/or on-site private improvements such that any existing drainage ditches or pipelines or tile drain shall remain functional or undisturbed during and after construction, unless the Developer can demonstrate to the satisfaction of the City Engineer that the drainage ditches or tile drains are no longer needed to serve the Project and the neighboring parcels or property(s), if applicable. If tile drains are to remain in-place and will be under a proposed building or structure, it is the responsibility of the Developer to ensure that tile drains are not damaged during and after the construction of the buildings or structures.
- C.7.9. If tile drain system (irrigation system installed decades ago by farmers or irrigation districts) exists within the Project that also runs to the adjacent properties, the Developer shall coordinate with the owners of the neighboring properties for the relocation of affected tile drains, installation of interceptors and reconnecting to the outfall system. The Developer shall be responsible for monitoring groundwater level and for mitigating adverse impacts as a result of high groundwater level, all at Developer's sole cost and expense. The Developer will be responsible for any damages to any improvements within the Property and to adjacent properties for Developer's failure to perform any work related to the use, repair, operation and maintenance of tile drain system within the Property.
- C.7.10. The Developer is fully responsible for any damage, repair and maintenance from the Project's activities, including, but not limited to, all type of construction, the weight of the building and vehicular movements to existing tile drain system within the Project. The Developer shall indemnify, defend, and hold harmless the City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of merely the existence of the tile drain system and interceptors or from damaged or undamaged existing underground tile drain system issues by Developer or Developer's agents, representatives, contractors, subcontractors, or employees, adjacent property owner or adjacent property owner's agents, representatives, contractors, subcontractors, or employees. Developer's attention is drawn to the terms and conditions of the Indemnification Agreement.

- C.7.11. If existing tile drain systems require removal or relocation as recommended by the Engineer to be hired by the Developer, a copy of the field report must be submitted to the City. The Developer shall remove or relocate tile drain system in accordance with the field report. If the tile drain system require connection to the City's storm drainage facility as recommended by the Developer's Engineer, the Developer shall pay for new sub-drainage system analysis by the City's consultant, if necessary, to determine specific impacts and required improvements to the downstream storm drainage facilities and for determination of the Project's fair share of costs for required improvements, prior to the issuance of a Grading Permit. The Developer shall pay the Project's fair share costs for the required improvements, prior to the issuance of the Grading Permit.
- C.7.12. The Developer shall design and install storm drain connection(s) in accordance with City Regulations. The Developer and property owner are hereby notified that the City will maintain the storm drain lines installed within public right-of-way only of a storm drain manhole is installed at the connection point.
- C.7.13. The Developer will make provisions for ultimate connection to permanent City's storm drain after the retention basin is taken out of service or abandoned be the Developer. The Developer shall coordinate the location and invert of the City's Storm Drainage Facility with City's approved storm drain system for NEI Phases 1 and 2 and the City's Storm Drainage Master Plan. The design of storm drainage connections will require approval from the City Engineer.
- C.7.14. The Developer shall enter into an agreement with the City to incorporate the Developer's obligation towards the repair, use, operation, maintenance and removal of the temporary storm drainage retention basin located within the Property. This agreement shall also include the Developer's responsibility towards the repair; operation, use and maintenance of existing and relocated underground tile drain system within the Property, if such private underground improvements are found to exist. As part of a complete grading permit application, the Developer shall execute the agreement and submit the executed agreement for City Council's approval. The Developer shall pay the City the cost of processing the agreement and cost of recording the agreement with the Recorder's Office of San Joaquin County.
- C.7.15. Developer is required to obtain a grading permit for the removal of the on-site temporary storm drainage retention basin and pay grading permit and inspection fees. Prior to the issuance of the permit, the Developer shall submit a geotechnical report that contains recommendations from a Geo-Technical Engineer on the method and information regarding the backfilling or compaction of the basin site.
- C.7.16. After the temporary storm drainage retention basin is removed and if there is no expansion that is planned to be made on the California Highway Patrol (CHP) facility, the Developer is required to submit a lot line adjustment application to move the eastern property line to its original location as shown on the original tentative parcel map. The lot line adjustment must be completed within six (6) months after the basin is removed. The Developer shall pay for the cost of processing the lot line adjustment. After the storm drainage retention basin is removed and the Developer decides to expand the

CHP facility using the previous basin site, the Developer or property owner shall submit a site development plan for the CHP facility expansion for City's review and approval.

- C.7.17. The required fee title dedication of right-of-way on Pescadero Avenue shall include the right-of-way in front of the temporary storm drainage basin site, which is about 193.98 feet wide, to comply with the requirements of section 12.32.040 of the Tracy Municipal Code.
- C.7.18. The Developer shall pay the NEI Phase 2 Development Impact Fees applicable to the basin site or fees that are in effect at the time of issuance of the building permit of the proposed improvements at the basin site.
- C.8. Sanitary Sewer System. The Developer shall design and install sewer connection for this Project in accordance with City Regulations. The Developer and property owner are hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way unless the sewer cleanout is located and constructed in conformance with Standard Plan No. 203.
- C.9. Water System.
- C.9.1. The property owner or Developer will be required to install domestic water service connection with a radio-read water meter within City's right-of-way. Domestic water service and fire service connections shall be installed in accordance with City Standards. City will allow sub-metering which will be installed outside City right-of-way, but the City will not read and inspect the sub-meters. The property owner or Developer shall ensure that size of the domestic water service and fire service line is adequate to meet City's water pressure and flow requirements and the project's water demand. Water looping or two points of connections for fire service will be required by City's Fire Department. Show the location of the water meter and backflow prevention device for the domestic water connection and the double check detector check valve for the fire service line. Show also the point(s) of connection with the existing water distribution main on Pescadero Avenue. Developer and/or property owner shall coordinate with City's Fire Department and obtain their approval for the location, layout and detail of fire protection facilities required of the Project, and for the emergency fire access to and through the Project prior to the issuance of the encroachment permit.
- C.9.2. The Developer shall demonstrate to the satisfaction of the City Engineer that water facilities (capacities at the plant and distribution or transmission lines) are adequate to meet project service demands and are consistent with the City's Water Master Plans. The Developer shall pay the costs of analysis by the City (including cost of consultants) required to demonstrate satisfaction of this condition.
- C.9.3. The Developer shall install and complete the water system connection, including Radio-Read water meter and R/P Type back-flow protection devices prior to issuance of the building certificate of occupancy. City's responsibility to maintain water lines shall be from the water main on the street to the water meter (inclusive) only. Maintenance of all on-site water lines, laterals, sub-meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer.

- C.9.4. The Developer shall design and install the fire service line for the Project in accordance with City's Regulations, Standards and to the satisfaction of the City's Fire Department. Size, type, location and construction details of the fire service line shall be approved by the Fire Department. Vehicular access through the Project for emergency purposes shall be reviewed and approved by the City's Fire Department. Prior to the issuance of the grading permit, a written approval for the fire service and emergency access will be required from Fire Department.
 - C.9.5. The Developer shall design and install fire hydrants at locations approved by the City's Fire Department.
 - C.9.6. Prior to the approval of Improvement Plans and the issuance of the Building Permit within the Project, a written determination or approval by the Fire Marshall of the adequacy of the fire service connection to serve the development will be required.
- C.10. Special Conditions.
- C.10.1. All phases of the Development shall annex into the Tracy Consolidated Landscape Maintenance District (TCLMD) prior to the issuance of a building permit. When the Property annexes into the TCLMD, the owners of the property will be assessed for assessment district costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public special amenities as described in the TCLMD. 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, parks or open space areas. Prior to issuance of a building permit, the Developer shall deposit a first year's assessment equivalent to the Maintenance District's first twelve months of estimated costs as determined by the City of Tracy Public Works Director. The Developer shall be responsible for all costs associated with annexation into the TCLMD.
 - C.10.2. All existing on-site wells shall be abandoned in accordance with the City and San Joaquin County requirements. All costs associated with the abandonment of existing wells including the cost of permits, if required, shall be the responsibility of the Developer. The Developer shall provide the City documentation or copy of permit issued by the San Joaquin County, approving the removal or destruction of existing well(s), if applicable, prior to the issuance of the Grading Permit.
 - C.10.3. Based on the traffic report prepared by TJKM Transportation Consultants, it was determined that the Vorhees property and Home Depot Deployment Center project's share is sixty-two percent (62%) towards the cost of the traffic signal and associated intersection improvements on Pescadero Avenue. TJKM Transportation Consultants issued a supplemental technical memorandum on July 16, 2008, clarifying Home Depot Deployment Center project's and Vorhees property's proportional share. Per the supplemental technical memorandum, the trip contribution of Home Depot Deployment Center (AMB Corporation) is thirty-two percent (32%) of the total 2025 projected traffic volumes on Pescadero Avenue (or 51.6129% of 62%) and

for Vorhees property is thirty percent (30%) of the total 2025 projected traffic volume on Pescadero Avenue (48.3871% of 62%). The following is the final calculation of the cost share responsibility of the Home Depot Deployment Center project and Vorhees property for the traffic signal and intersection improvements on Pescadero Avenue.

- a) Home Depot Deployment Center = 51.6129% /100% multiply by \$217,000
(AMB Corporation) = \$111,999.99 or \$112,000
- b) Vorhees property with the (CHP site) = 48.3871% /100% multiply by \$217,000
= \$105,000

The Project site is 3.35 acres of the Vorhees' property of 14.24 acres. Spreading the cost on Item b proportionately, the Project's cost share is determined to be \$24,706.50 or 23.53% of \$105,000 (3.35 acres /14.24 acres multiplied by \$105,000).

D. Public Works Department Conditions

- D.1. Before the approval of a building permit, the applicant shall demonstrate compliance with the Manual of Stormwater Quality Control Standards adopted July 1, 2008, obtain approval of the Project Stormwater Quality Control Plan by the Water Resources Division, and sign a maintenance agreement in accordance with the Manual of Stormwater Quality Control Standards to the satisfaction of the Public Works Director.

E. Building and Fire Safety Division Conditions

- E.1. Fusee. Before approval of a building permit, the applicant shall submit plans that demonstrate that the CMU enclosure walls of the fusee have a minimum two-hour rating and extend a minimum of 30 inches beyond the top and sides of the storage capacity of the flares.
- E.2. Truck turning radius. Before approval of a building permit, the applicant shall submit plans that demonstrate the double turn at the north end of the truck inspection and public parking area meet the City's standard for apparatus turning radius.

RESOLUTION 2011 - _____

APPROVAL OF A CONDITIONAL USE PERMIT APPLICATION FOR A TELECOMMUNICATION FACILITY TO SERVE A CALIFORNIA HIGHWAY PATROL FACILITY ON PESCADERO AVENUE, APPROXIMATELY 2,100 FEET EAST OF MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 213-070-75. APPLICANT IS KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS AND PROPERTY OWNER IS PONY UP TRACY, LLC. APPLICATION NUMBER CUP11-0005

WHEREAS, The subject property was annexed to the City of Tracy in 1996, received a zoning designation of Planned Unit Development, is designated Light Industrial in the Northeast Industrial Concept Development Plan, and is consistent with the General Plan designation of Industrial, and

WHEREAS, On August 9, 2011, Kier & Wright Civil Engineers & Surveyors submitted an application for the development of a new California Highway Patrol facility and a 140-foot freestanding lattice tower and associated antennas, microwave dishes, cables, and equipment to serve the California Highway Patrol facility on Pescadero Avenue, and

WHEREAS, A new freestanding telecommunication facility requires a Conditional Use Permit, and

WHEREAS, Freestanding telecommunication facilities shall be monopoles or guyed towers, unless evidence is presented that a freestanding facility is necessary for the telecommunication use, and

WHEREAS, The design of the freestanding, four-legged lattice tower provides the medium necessary for the antenna and microwave dish equipment required for the operational needs of the California Highway Patrol office that a monopole or guyed tower do not, and

WHEREAS, The property owner requested two years to complete construction of the project and to establish the use, and

WHEREAS, The project is categorically exempt from the California Environmental Quality Act requirements under Guidelines Section 15332 pertaining to in-fill development projects, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the application on December 7, 2011 and continued the application with the request for more information from the applicant regarding the telecommunication facility, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the application on January 11, 2012;

NOW, THEREFORE BE IT RESOLVED, That the Planning Commission does hereby: (1) approve the Conditional Use Permit application for the 140-foot freestanding lattice tower (telecommunication facility) and associated equipment to serve a California Highway Patrol facility (Application No. D11-0007), and (2) authorize a two year period for the establishment of the use, subject to the conditions contained in Exhibit "1" to this Resolution based on the findings below. Be it further resolved that the approval of the Conditional Use Permit is contingent upon and will not take effect until the Preliminary and Final Development Plan for the

California Highway Patrol Facility is approved by the City Council (Application Number D11-0007). The Planning Commission further finds that:

1. There are circumstances and conditions applicable to the land, structure, and use which make the granting of the use permit necessary for the preservation and enjoyment of substantial property right because the telecommunication facility, as designed, is required for the operation of the California Highway Patrol facility proposed at the subject site. State of California requirements for California Highway Patrol facilities requires onsite, four-legged lattice towers to support the antennas and microwave dishes used by the facility.
2. The proposed location of the conditional use is in accordance with the Tracy Municipal Code and the zone in which the site is located, because the telecommunication facility is not within the safety zone of the Tracy Municipal Airport or within a half-mile of another readily visible uncamouflaged or unscreened telecommunication facility. The zone in which the site is located permits accessory uses and structures to a permitted use. The California Highway Patrol office is a permitted use in the Northeast Industrial Plan's Light Industrial land use designated areas.
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 and its associated structure, or to the general welfare of the City because the project is consistent with the land use, design, and other elements of the Northeast Industrial Concept Development Plan, the City of Tracy General Plan, and applicable requirements of Chapters 10.08 and 10.24 of the Tracy Municipal Code. Furthermore, the tower will be constructed to the Essential Services Seismic Safety Act (ESA) standards regulated by the California Health and Safety Code.

The foregoing Resolution 2011 - _____ was adopted by the Planning Commission on the 11th day of January, 2012, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:

Chair

ATTEST:

Staff Liaison

City of Tracy
Conditions of Approval
California Highway Patrol Telecommunication Facility
Application Number CUP11-0005
January 11, 2012

A. General Provisions and Definitions.

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

The Project: A telecommunication facility serving a California Highway Patrol facility
(Application Number CUP11-0005)

The Property: South side of Pescadero Avenue, approximately 2,100 feet east of
MacArthur Drive, Assessor's Parcel Number 213-070-75

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, defined as a "Developer."
- 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 and Engineering 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 and Engineering Services Director" means the Development and Engineering Services Director of the City of Tracy, or any other person designated by the City Manager or the Development and Engineering Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the telecommunication facility serving a California Highway Patrol facility on Pescadero Avenue, Application Number CUP11-0005. The Conditions of Approval shall specifically include all Development and Engineering Services Department conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

- A.3. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the plans received by the Development and Engineering Services Department on November 28, 2011.
- 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 laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the 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").
- A.6. Compliance with City regulations. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City regulations, including, but not limited to, the Tracy Municipal Code (TMC) and City of Tracy Standard Plans.
- A.7. Protest of fees, dedications, reservations, or other exactions. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

B. DES Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@ci.tracy.ca.us

- B.1. Use. The telecommunication facility shall be primarily for public safety telecommunication use.