

NOTICE OF A REGULAR MEETING

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

Date/Time: Wednesday, April 26, 2017
7:00 P.M. (or as soon thereafter as possible)

Location: City of Tracy Council Chambers
333 Civic Center Plaza

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.

REGULAR MEETING AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES - 4/12/17

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 2015-052 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 Commission Member to sponsor the item for discussion at a future meeting.*

1. NEW BUSINESS

- A. PUBLIC HEARING TO CONSIDER A PLANNED UNIT DEVELOPMENT PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR AN APPROXIMATELY 7,615 SQUARE FOOT WALMART ACADEMY TRAINING CENTER ADDITION TO THE EXISTING WALMART RETAIL STORE LOCATED AT 3010 W. GRANT LINE ROAD (ASSESSOR'S PARCEL NUMBER 238-600-08). THE APPLICANT IS BRR ARCHITECTURE, INC. AND THE PROPERTY OWNER IS WAL-MART STORES, INC. – APPLICATION NUMBER D16-0023
- B. PUBLIC HEARING TO CONSIDER REVOCATION OF A CONDITIONAL USE PERMIT (CUP 15-0008) FOR THE VENU NIGHTCLUB TO OPERATE AN EATING AND/OR DRINKING ESTABLISHMENT THAT SERVES ALCOHOL AND PROVIDES ENTERTAINMENT AFTER 11:00 P.M. AT 1005 E. PESCADERO AVENUE, UNIT #109

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

Posted: April 21, 2017

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 Services Department located at 333 Civic Center Plaza during normal business hours.

MINUTES
TRACY CITY PLANNING COMMISSION
Wednesday, April 12, 2017
7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

Chair Orcutt led the pledge of allegiance.

ROLL CALL

Roll Call found Chair Orcutt, Vice Chair Sangha, and Commissioners Hudson, Krogh, and Tanner present. Also present were: Leticia Ramirez, Deputy City Attorney; Victoria Lombardo, Senior Planner; Kimberly Matlock, Associate Planner; Cris Mina, Senior Civil Engineer; Al Gali, Associate Civil Engineer; Nanda Gottiparthi, Consulting Engineer - SNG & Associates; and Peggy Abundiz, Recording Secretary.

MINUTES

It was moved by Commissioner Tanner, and seconded by Vice Chair Sangha, that the Meeting Minutes of March 9, 2016, be approved. Commissioners Hudson and Krogh abstained from voting, as they were not present at the March 9, 2016, meeting. Voice vote found all other members in favor; passed and so ordered.

It was moved by Commissioner Tanner, and seconded by Vice Chair Sangha, that the Meeting Minutes of February 8, 2017, be approved. Voice vote found all in favor; passed and so ordered.

It was moved by Commissioner Tanner, and seconded by Vice Chair Sangha, that the Meeting Minutes of March 8, 2017, be approved. Voice vote found all in favor; passed and so ordered.

It was moved by Commissioner Tanner, and seconded by Commissioner Hudson, that the Meeting Minutes of March 22, 2017, be approved. Vice Chair Sangha abstained from voting, as she was not present at the March 22 meeting. Voice vote found all other members in favor; passed and so ordered.

DIRECTOR'S REPORT REGARDING THIS AGENDA

Victoria Lombardo announced that she would be representing Bill Dean, Assistant Director of Development Services, at this meeting.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

- A. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT AND A PLANNED UNIT DEVELOPMENT PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR AN APPROXIMATELY 3,350 SQUARE FOOT AUTOMOTIVE SERVICE FACILITY (JIFFY LUBE) WITH ASSOCIATED PARKING AND LANDSCAPING ON AN APPROXIMATELY 0.71-ACRE SITE (ASSESSOR'S PARCEL NUMBER 238-600-33 AND A PORTION OF ASSESSOR'S PARCEL NUMBER 238-600-34), LOCATED ON THE SOUTH SIDE OF WEST GRANT LINE ROAD WITHIN THE TRACY MARKETPLACE COMMERCIAL CENTER. THE APPLICANT IS BOOS DEVELOPMENT WEST, LLC AND THE PROPERTY OWNER IS LAMORINDA DEVELOPMENT & INVESTMENT – APPLICATION NUMBERS CUP16-0009 AND D16-0025

Kimberly Matlock presented the staff report. Cris Mina discussed traffic access points.

Chair Orcutt opened the public hearing. As no one came forward, the public hearing was closed.

ACTION

It was moved by Commissioner Tanner, and seconded by Commissioner Hudson, that the Planning Commission recommend the City Council approve: (1) a Conditional Use Permit (Application No. CUP16-0009) for a vehicle service facility, subject to the conditions, and based on the findings, contained in the Planning Commission Resolution dated April 12, 2017; and (2) the Preliminary and Final Development Plan (Application No. D16-0025) for said vehicle service facility, subject to the conditions, and based on the findings, contained in the Planning Commission Resolution dated April 12, 2017. A roll call vote found all in favor; passed and so ordered.

- B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE BARCELONA INFILL PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR A 51-LOT RESIDENTIAL SUBDIVISION ON APPROXIMATELY 10.15 ACRES LOCATED AT THE NORTHWEST CORNER OF BARCELONA DRIVE AND TENNIS LANE, ASSESSOR'S PARCEL NUMBERS 252-520-44 AND 240-390-33; THE APPLICANT AND PROPERTY OWNER IS TAYLOR MORRISON OF CA, LLC; APPLICATION NUMBER PUD17-0001

Victoria Lombardo presented the staff report. Cris Mina discussed ongoing traffic monitoring, possible future mitigation measures, and trigger points for a traffic study. Fred Choa of Fehr and Peers reviewed standard warrants for traffic improvements.

Chair Orcutt opened the public hearing. Jennifer Besmer of Taylor Morrison of California, LLC (representing the applicant), was the sole person to speak. The public hearing was closed.

ACTION

It was moved by Commissioner Hudson, and seconded by Commissioner Tanner, that the Planning Commission recommend the City Council approve a minor amendment to the Barcelona Infill Final Development Plan for revised architecture for a 51-lot residential subdivision on approximately 10.15 acres

located at the northwest corner of Barcelona Drive and Tennis Lane, Application Number PUD17-0001, subject to the conditions, and based on the findings, contained in the Planning Commission Resolution dated April 12, 2017.

It was moved by Commissioner Tanner, and seconded by Vice Chair Sangha, that the Planning Commission recommend to the City Council that a traffic study be completed on the Barcelona Infill project before construction begins. A voice vote found all in favor; passed and so ordered.

- C. PUBLIC HEARING TO CONSIDER A NEW 304-UNIT RESIDENTIAL MULTI-FAMILY HOUSING DEVELOPMENT ON AN 18.79-ACRE PROJECT SITE. IN ORDER FOR THE PROJECT TO BE CONSTRUCTED, THE FOLLOWING ACTIONS WOULD REQUIRE APPROVAL:
- ADOPT A MITIGATED NEGATIVE DECLARATION;
 - AMEND THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION OF THE SITE FROM COMMERCIAL TO RESIDENTIAL HIGH (GPA17-0001);
 - REZONE A SMALL PORTION OF THE PROJECT SITE FROM GENERAL HIGHWAY COMMERCIAL TO PLANNED UNIT DEVELOPMENT (R17-0001);
 - AMEND THE I-205 CORRIDOR SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATION OF THE SITE FROM GENERAL COMMERCIAL TO HIGH DENSITY RESIDENTIAL AND ADD A SMALL PORTION OF THE PROJECT SITE TO THE SPECIFIC PLAN (SPA17-0002);
 - APPROVE A PRELIMINARY AND FINAL DEVELOPMENT PLAN (PDP/FDP) APPLICATION FOR THE SITE PLAN, ARCHITECTURE, LANDSCAPING AND ALL ON-SITE IMPROVEMENTS (D15-0007); AND
 - APPROVE A TENTATIVE SUBDIVISION MAP TO ALLOW FOR THE FUTURE SUBDIVISION OF THE UNITS INTO CONDOMINIUMS (TSM17-0002)

Victoria Lombardo introduced Brian Millar of Land Logistics, who presented the staff report. Spencer Bogner, of Lewis Management Corporation, and Rick Polhamus, of Sitiescapes, Inc., gave a PowerPoint presentation. Land owner Rod Toste spoke.

Chair Orcutt opened the public hearing.

Alice English spoke. Cris Mina, Spencer Bogner of Lewis Management Corporation, and Fred Choa of Fehr and Peers addressed traffic mitigation measures.

Chair Orcutt closed the public hearing.

ACTION

It was moved by Commissioner Hudson, and seconded by Commissioner Tanner, that the Planning Commission recommend the City Council take the following actions, as documented in the Planning Commission resolution dated April 17, 2017:

- 1) Adopt a Mitigated Negative Declaration;

- 2) Amend the General Plan to change the land use designation of the site from Commercial to Residential High (GPA17-0001);
- 3) Amend the I-205 Corridor Specific Plan to change the land use designation of the site from General Commercial to High Density Residential and add a small portion of the project site to the Specific Plan (SPA17-0002);
- 4) Rezone a small portion of the project site from General Highway Commercial to Planned Unit Development (R17-0001);
- 5) Approve a Preliminary and Final Development Plan (PDP/FDP) application for the site plan, architecture, landscaping and all on-site improvements (D15-0007); and
- 6) Approve a Tentative Subdivision Map to allow for the future subdivision of the units into condominiums (TSM17-0002).

A voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE

None.

3. DIRECTOR'S REPORT

In reference to the Barcelona Infill project, Victoria Lombardo discussed traffic reports relative to other projects. Frederick Venter of Kimley-Horn and Associates discussed warrants for traffic improvements.

4. ITEMS FROM THE COMMISSION

An inquiry by Vice Chair Sangha relative to Harvest in Tracy was addressed by Spencer Bogner.

Chair Orcutt informed the Commission of a possible upcoming training opportunity on design elements at the City of Pleasanton.

5. ADJOURNMENT

It was moved by Commissioner Tanner, and seconded by Vice Chair Sangha, to adjourn.

Time: 8:25 p.m.

CHAIR

STAFF LIAISON

AGENDA ITEM 1-A

REQUEST

PUBLIC HEARING TO CONSIDER A PLANNED UNIT DEVELOPMENT PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR AN APPROXIMATELY 7,615 SQUARE FOOT WALMART ACADEMY TRAINING CENTER ADDITION TO THE EXISTING WALMART RETAIL STORE LOCATED AT 3010 W. GRANT LINE ROAD (ASSESSOR'S PARCEL NUMBER 238-600-08). THE APPLICANT IS BRR ARCHITECTURE, INC. AND THE PROPERTY OWNER IS WAL-MART STORES, INC. – APPLICATION NUMBER D16-0023

DISCUSSION

Project Description and Location

The proposal is an approximately 7,615 square foot addition to the existing Walmart Supercenter located in the Tracy Marketplace (Attachment A) in an area to the west of the building that was approved in 2008 for parking and truck loading (Application Number 29-03-D). The addition is proposed to be used for training of the retail store's employees and will function like a school accessory to the retail store.

The project location is zoned Planned Unit Development (PUD), is within the I-205 Corridor Specific Plan area, is designated Commercial by the General Plan, and is designated General Commercial by the I-205 Corridor Plan, within which both retail and schools are permitted. In accordance with the Tracy Municipal Code, the Planning Commission and the City Council shall review all Planned Unit Development Preliminary and Final Development Plans (PDP/FDP).

Site Design and Architecture Analysis

The area in which the addition is proposed was approved in 2008 for truck loading and parking and is currently unpermittedly being used to store trailers. The row of parking and the truck loading area is proposed to remain, and the unpermitted storage containers are to be removed.

The proposed building addition meets the City's Design Goals and Standards for high quality commercial development with its design, windows, colors, and materials. As shown in Attachment B, the addition is designed to look like an extension of the existing building. A portion of the existing screen wall and landscape planters will remain. As demonstrated in Attachment B, the applicant indicates that trucks will be able to maneuver around the proposed addition, though it appears constrained. The applicant proposes bollards to protect the building from potential collisions. When the Superstore expansion was considered, it was important to the City that there would not be unsightly concrete pipe bollards installed in front of the building and detracting from the architecture of the building. As a result, decorative planter boxes with pipe bollards painted to match were approved and constructed in front of the building. Additional pipe bollards painted yellow have also been installed on site that were not part of the building permit approval. Staff recommends Condition of Approval B.3 that requires these

bollards and the new bollards proposed with the building addition to be painted to match the building.

Parking Analysis

The City does not have off-street parking requirements for training centers. The project is designed with three classrooms, a lecture hall, an office area, and break areas. According to the applicant, the training sessions will take place during daytime business hours in the classrooms, and those same classes will use the lecture hall as needed. According to the applicant, the lecture hall will not be used as a fourth classroom in addition to the others, but will be used by the occupants of the three proposed classrooms as training warrants a lecture hall style atmosphere. Based on this information, the training center will operate similarly to a small scale high school or college, for which the Tracy Municipal Code (TMC) does have off-street parking requirements. According to the applicant, the office portion of the addition will function like an office and will be generally used by employees throughout the business day. Based on this information, staff determined that the most appropriate off-street parking ratios that would apply to the proposed building addition are as follows:

1 space per 40 sf of classroom area = $2,226 \text{ sq ft} / 40 = 55.65$ parking spaces

1 space per 250 sf of office area (includes office, lecture hall, hallways, breakroom, and restroom areas) = $5,389 \text{ sq ft} / 250 = 21.56$ parking spaces

Total parking requirement for proposed addition = 77.21 parking spaces, which rounds to 77 parking spaces per TMC Section 10.08.3460(c)

According to the plans, the site has 951 parking spaces. The existing retail store requires 805 spaces; therefore, there is enough parking to serve both the retail store and the proposed training center addition.

Environmental Document

The proposed project 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 recommend that the City Council approve the PDP/FDP for the training center addition, Application Number D16-0023, subject to the conditions and based on the findings contained in the Planning Commission Resolution dated April 26, 2017.

Agenda Item 1-A

April 26, 2017

Page 3

MOTION

Move that the Planning Commission recommend that the City Council approve the PDP/FDP for the training center addition, Application Number D16-0023, subject to the conditions and based on the findings contained in the Planning Commission Resolution dated April 26, 2017.

Prepared by: Kimberly Matlock, Associate Planner

Reviewed by: Bill Dean, Assistant Development Services Director

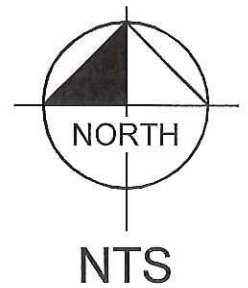
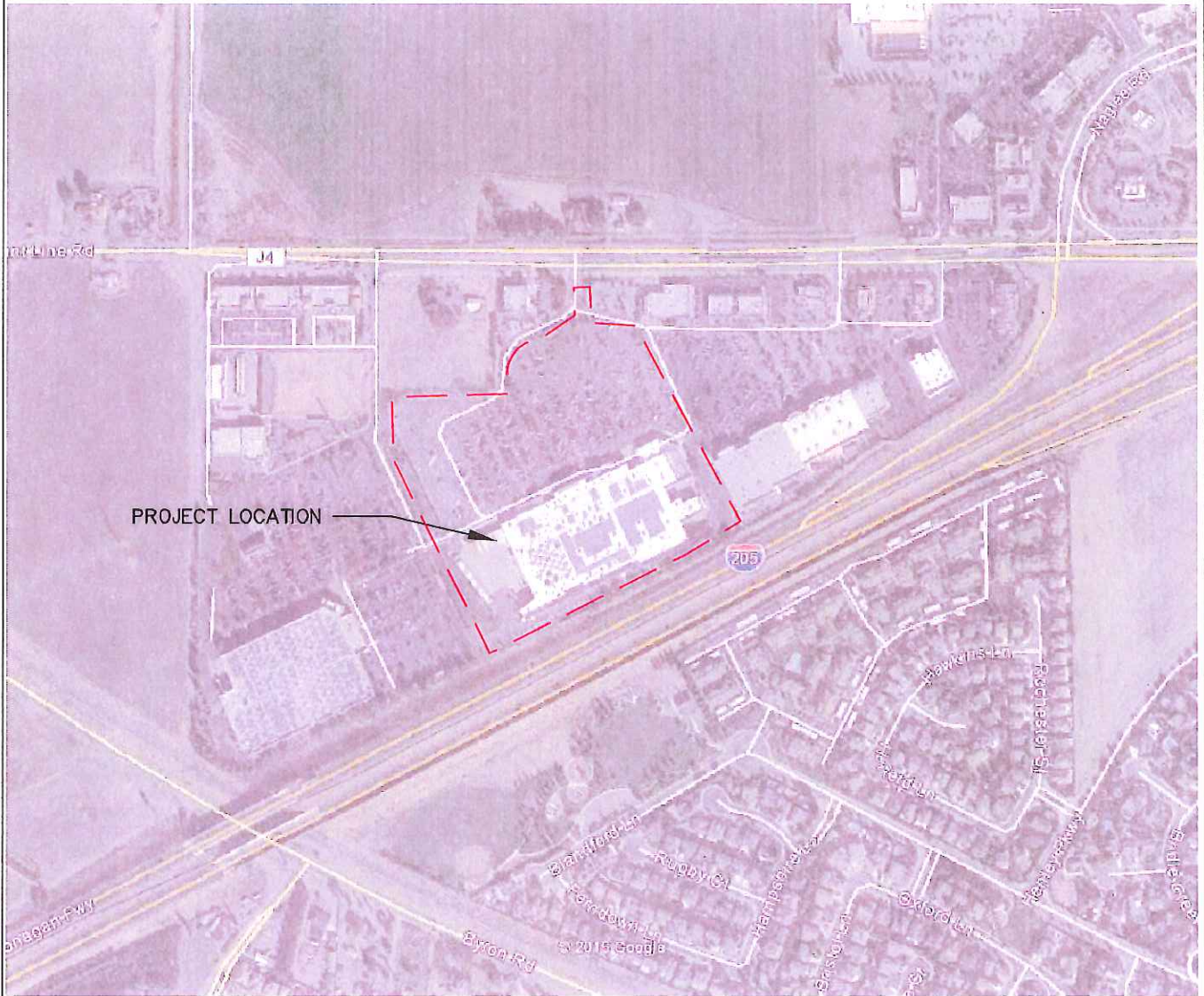
Approved by: Andrew Malik, Development Services Director

ATTACHMENTS

Attachment A – Aerial Photo Exhibit

Attachment B – Vicinity Map, Site, Floor, Landscape, Civil, Elevation Plans and Color Rendering

Attachment C – Planning Commission Resolution



RECEIVED

SEP 6 2016

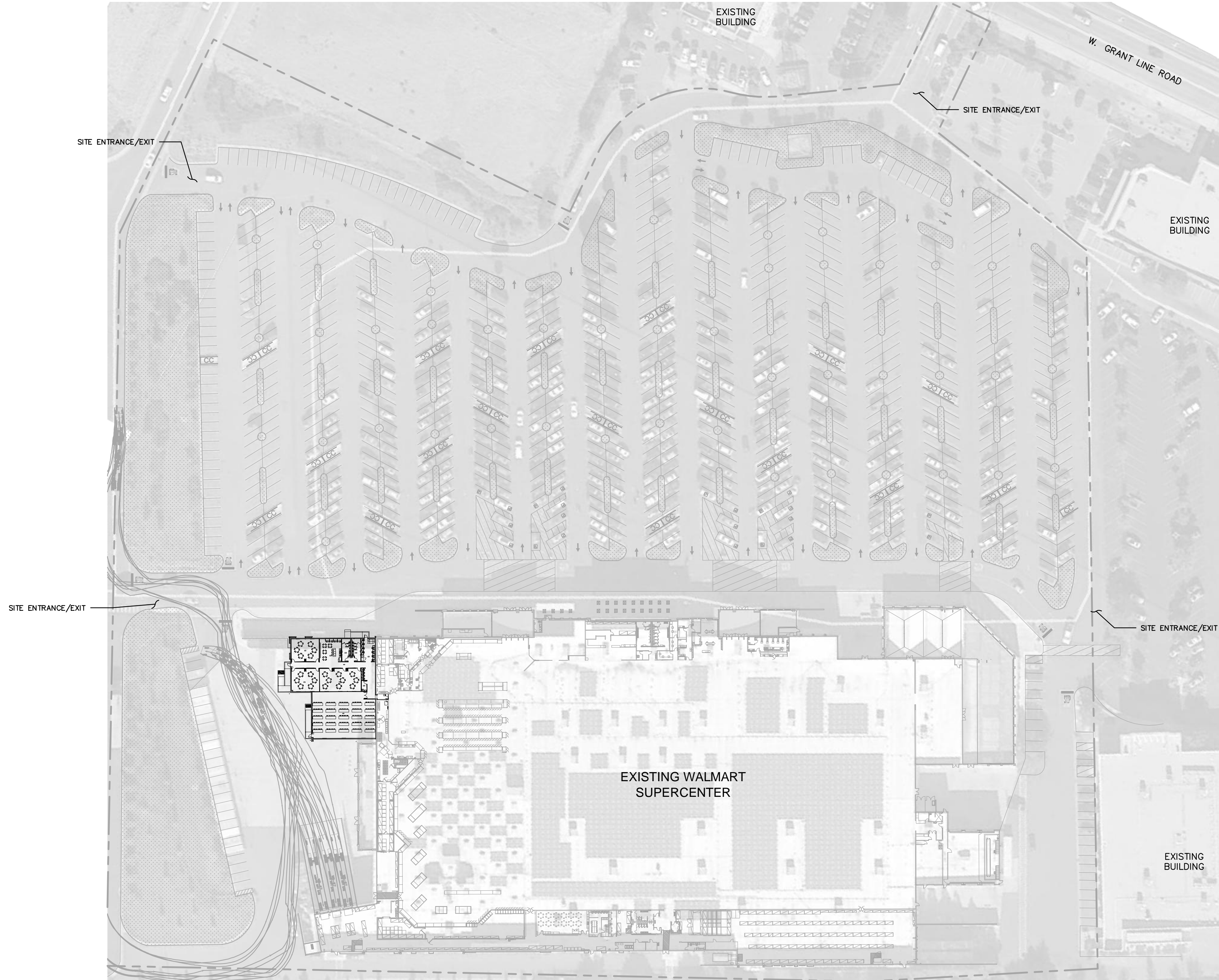
CITY OF TRACY
DEVELOPMENT SERVICES

| |
|-------------------|
| SCALE (H): NONE |
| SCALE (V): NONE |
| DESIGNED BY: JG |
| DRAWN BY: TK |
| CHECKED BY: JG |
| DATE: 5/30/16 |
| NO. REVISION DATE |

Walmart Academy #2025
AERIAL PHOTO EXHIBIT

PROJECT NO.
094507200
DRAWING NAME
Aerial Photo

1 OF 1



WALMART ACADEMY PROJECT #2025
3010 W. GRANT LINE ROAD, TRACY, CA 95304
OVERALL CONCEPTUAL SITE PLAN 1

LEGEND

| | |
|-----|------------------------|
| --- | EXISTING PROPERTY LINE |
| ▨ | LANDSCAPE AREA |

| PROJECT DESCRIPTION | |
|---------------------------------|------------------------------------|
| SITE AREA | 19.46 ACRES |
| ZONING | COMMERCIAL |
| EXISTING BUILDING AREA | 195,337 SF |
| PROPOSED BUILDING AREA | 195,337 SF + 7,615 SF = 202,952 SF |
| EXISTING REGULAR STALL COUNT | 929 |
| EXISTING HANDICAP STALL COUNT | 22 |
| EXISTING TOTAL STALL COUNT | 951 |
| PROPOSED REGULAR STALL COUNT | 929 |
| PROPOSED HANDICAP STALL COUNT | 22 |
| PROPOSED TOTAL STALL COUNT | 951 |
| REQUIRED TOTAL STALL COUNT | 882 |
| REQUIRED STANDARD STALL COUNT* | 864 |
| REQUIRED HANDICAP STALL COUNT** | 18 |

*PER CITY OF TRACY MUNICIPAL CODE SECTION 10.08.3480.
 **PER 2010 ADA CODE SECTION 208.2.

| SITE DATA |
|---|
| PROPOSED STRUCTURE USE: OFFICE SPACE |
| ZONING CLASSIFICATION: PLANNED UNIT DEVELOPMENT (PUD) |
| FEMA ZONE DESIGNATION: ZONE X (AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) |
| LOCAL JURISDICTION: TRACY |
| APN: 238-600-10, 238-600-08 |
| LANDSCAPE AREA: 1.99 ACRES (10.2% OF TOTAL AREA) |
| BUILDING AREA: 4.66 ACRES (23.9% OF TOTAL AREA) |
| SURFACED AREA: 12.81 ACRES (65.8% OF TOTAL AREA) |

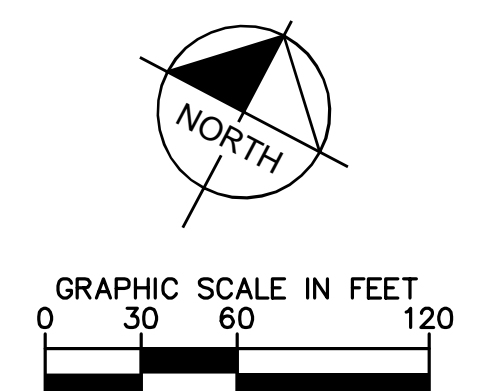
| PROPOSED BUILDING DESCRIPTION |
|-------------------------------|
| SIZE: 7,615 SF |
| USE: OFFICE SPACE |

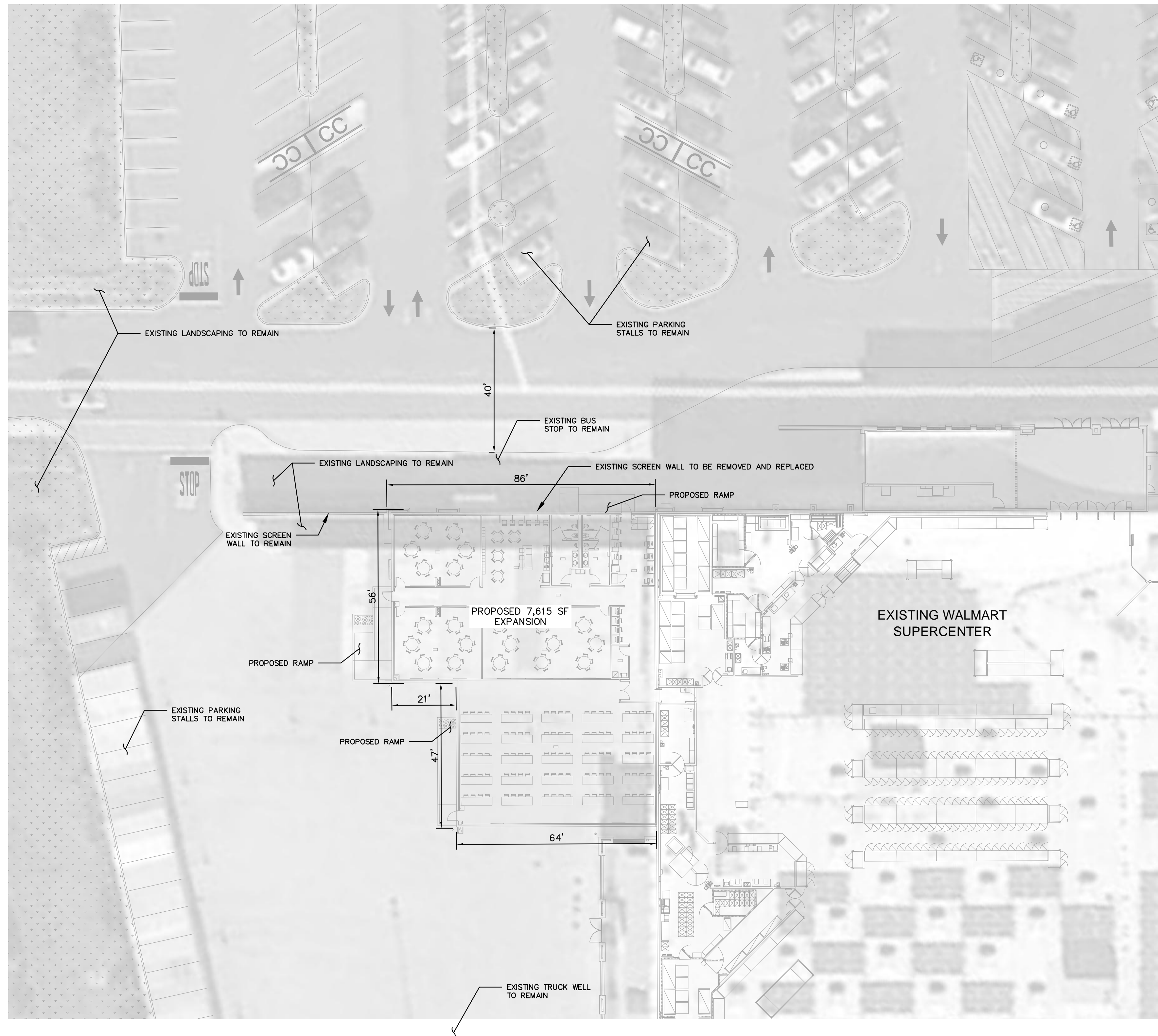
PROJECT TEAM

OWNER/DEVELOPER
 WAL-MART STORES, INC.
 2001 SOUTHEAST 10TH STREET
 BENTONVILLE, AR 72716-5510
 PH: (479) 273-4000

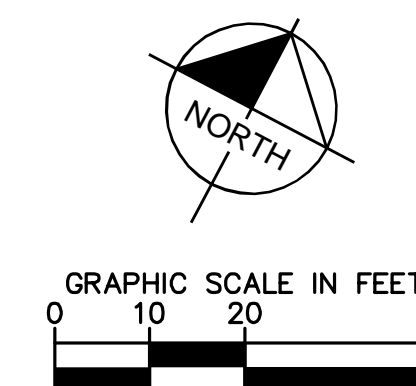
PROJECT DESCRIPTION

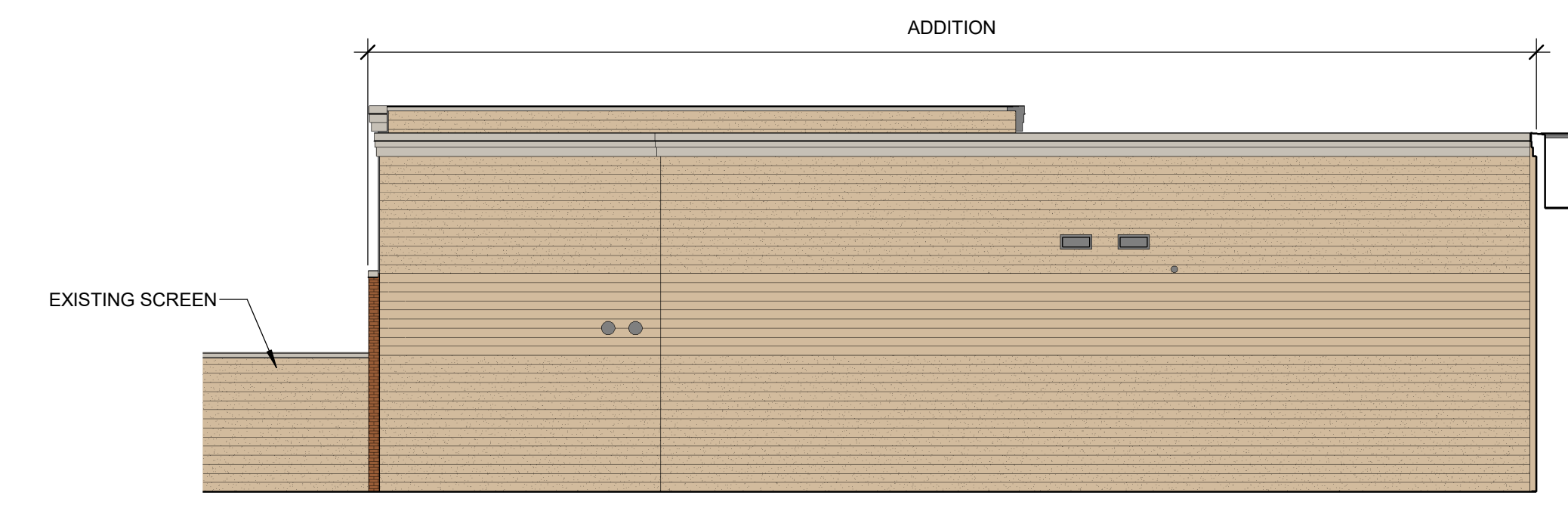
NEW 7,615 SQUARE FOOT ADDITION TO THE EXISTING 195,337 SF WALMART SUPERCENTER. THE PROPOSED ADDITION WILL BE ON THE WEST SIDE OF THE STRUCTURE AND WILL BE PLACED WHERE EXISTING STORAGE CONTAINERS ARE CURRENTLY SITTING. THE ADDITIONAL OFFICE SPACE WILL BE USED AS A TRAINING CENTER FOR WALMART STAFF ONLY. THE EXISTING LOT SIZE IS 19.46 ACRES AND WILL NOT BE AFFECTED BY THE PROPOSED DEVELOPMENT.



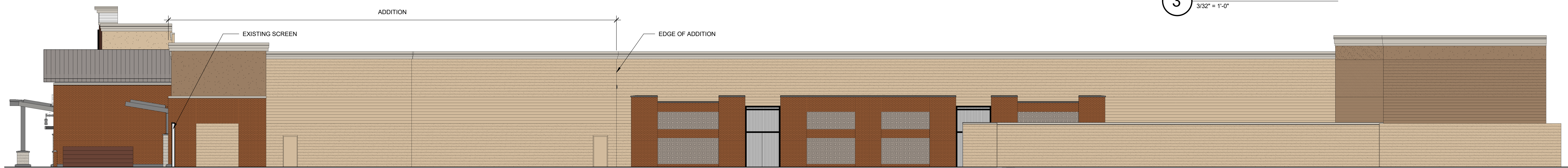


WALMART ACADEMY PROJECT #2025
3010 W. GRANT LINE ROAD, TRACY, CA 95304
CONCEPTUAL SITE PLAN 1





3 REAR ELEVATION
3/32" = 1'-0"



2 SIDE ELEVATION
3/32" = 1'-0"



1 FRONT ELEVATION
3/32" = 1'-0"

- | | | | | | |
|---|--|--|--|--|---|
|  DARK BROWN (TRESPA PANEL) |  SILVER SMITH (METAL WALL PANEL) |  COBBLE BROWN (TRESPA PANEL) |  P81 - TRICON BLACK SW #6258 |  P85 - ROOKWOOD CLAY SW #2823 |  P89 - RUGGED BROWN SW #6062 |
|  MEDIUM IRON SPOT (BRICK VENEER) |  DRYLAC POWDER COAT COLOR 3/80001 BLACK (SMOOTH MATTE SATIN) (METAL WALL PANEL) |  ANTRACITA (PORCELAIN TILE CLADDING) |  P17 - ROW HOUSE TAN SW #7689 |  P200 - COLONNADE GRAY SW #7641 | |



04/18/17

2025 TRACY, CA

EXTERIOR ELEVATIONS

1



① PERSPECTIVE VIEW (OVERALL)



B | R | R
architecture

04/18/17

2025 TRACY, CA

PERSPECTIVE VIEW (OVERALL)

2



① PERSPECTIVE VIEW (ADDITION)



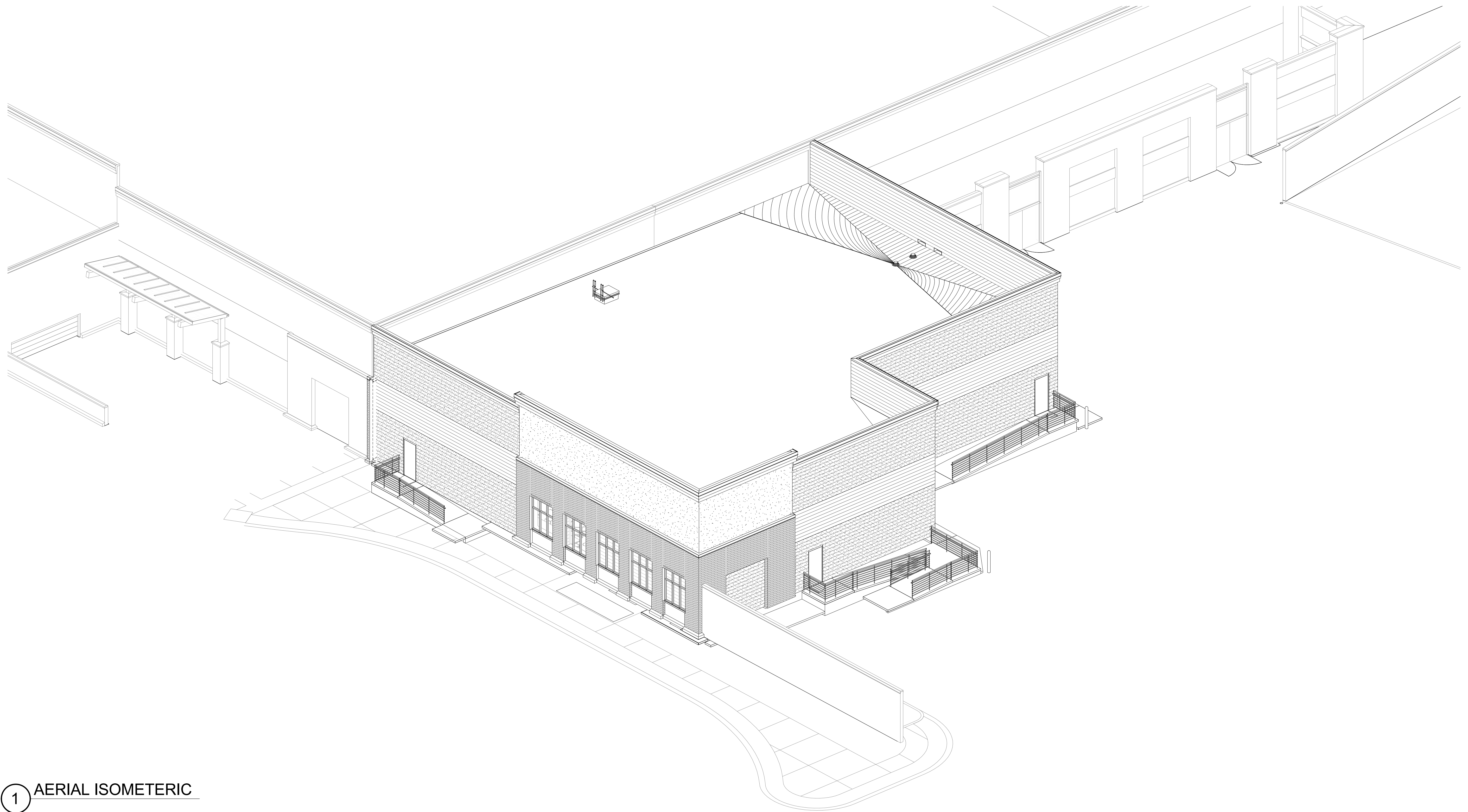
B | R | R
architecture

01/24/17

2025 TRACY, CA

PERSPECTIVE VIEW (ADDITION)

3



1 AERIAL ISOMETRIC

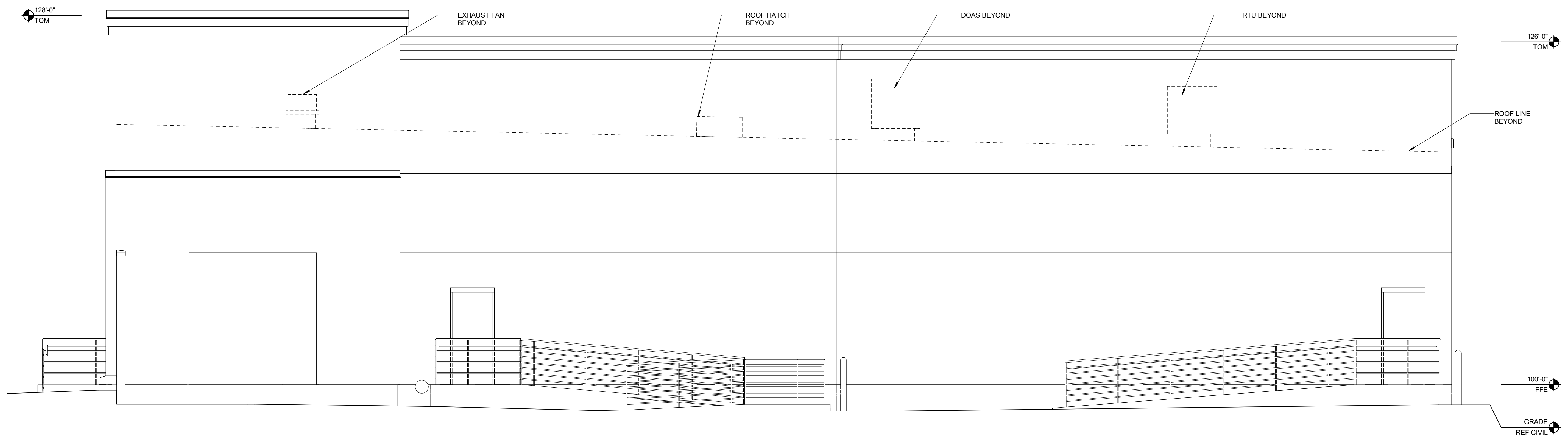


04/18/17

2025 TRACY, CA

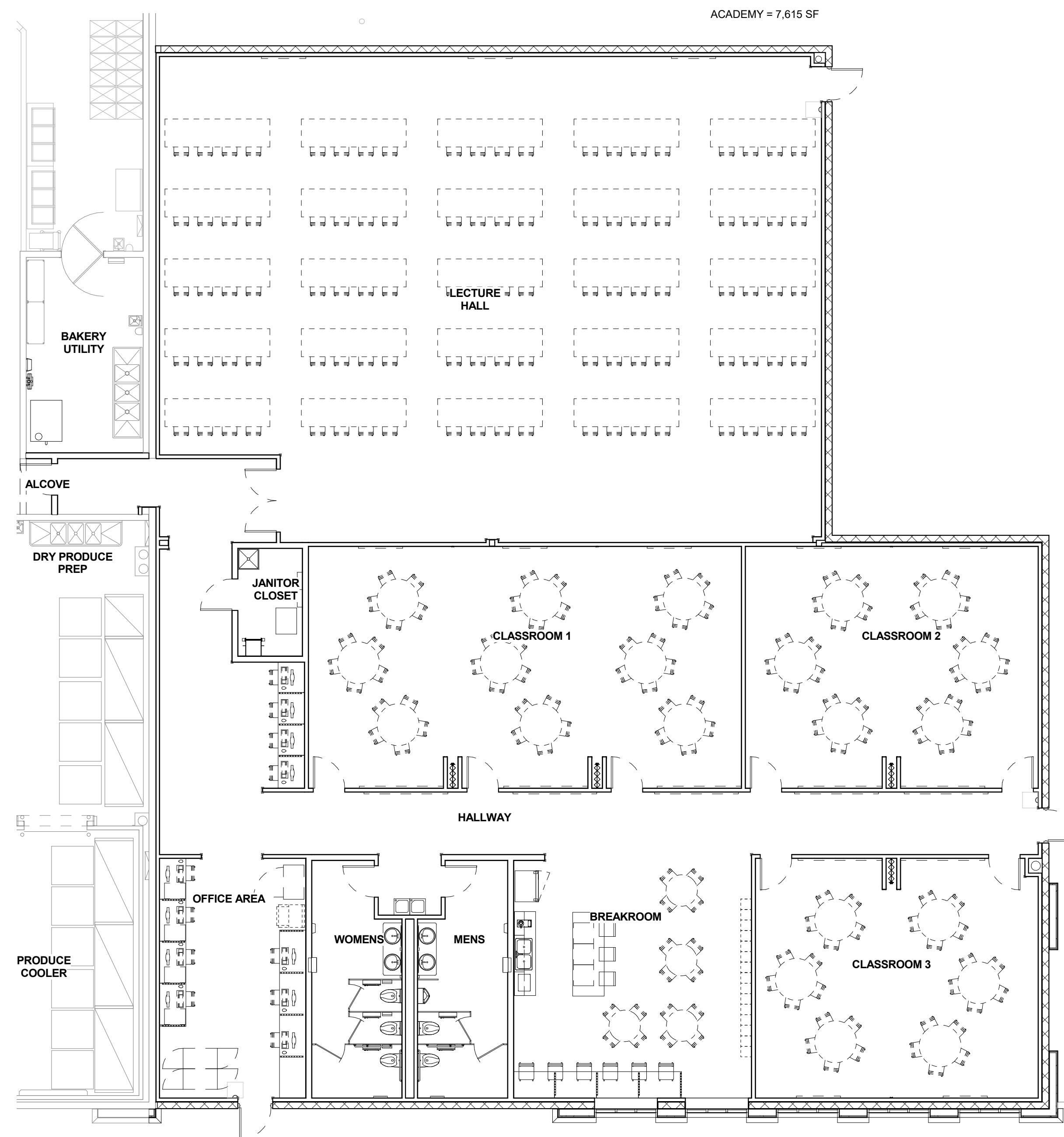
AERIAL ISOMETRIC

4



1 ROOF EQUIPMENT ELEVATION
1/4" = 1'-0"





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

WALMART ACADEMY PROJECT #2025
3010 W. GRANT LINE ROAD, TRACY, CA 95304



RESOLUTION 2017-_____

RECOMMENDING APPROVAL OF A PLANNED UNIT DEVELOPMENT PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR AN APPROXIMATELY 7,615 SQUARE FOOT WALMART ACADEMY TRAINING CENTER ADDITION TO THE EXISTING WALMART RETAIL STORE LOCATED AT 3010 W. GRANT LINE ROAD (ASSESSOR'S PARCEL NUMBER 238-600-08). THE APPLICANT IS BRR ARCHITECTURE, INC. AND THE PROPERTY OWNER IS WALMART STORES, INC. – APPLICATION NUMBER D16-0023

WHEREAS, On May 28, 2008, the City Council approved a Planned Unit Development (PUD) Preliminary and Final Development Plan for the Walmart Supercenter Expansion in the Tracy Marketplace, Application Numbers 29-09-D and 11-03-CUP, and

WHEREAS, The Conditional Use Permit (CUP) from 2008 was required for the “supermarket” land use of the 2008 Walmart Supercenter Expansion project, and

WHEREAS, In 2009, the City Council amended to I-205 Corridor Specific Plan to remove the requirement that a supermarket receive a CUP within the General Commercial designation, and

WHEREAS, On September 6, 2016, a PUD Preliminary and Final Development Plan application was submitted for an approximately 7,615 square foot addition to the existing Walmart Supercenter to be used as a training center for employees, and

WHEREAS, The site is designated General Commercial in the I-205 Corridor Specific Plan, a designation which includes the training center as a permitted use, and

WHEREAS, In accordance with Tracy Municipal Code (TMC) Section 10.08.1830, the Planning Commission shall review and make recommendation to the City Council regarding a PUD Preliminary and Final Development Plan, and

WHEREAS, The project is consistent with the City of Tracy General Plan, in that the site is designated Commercial by the General Plan, and a training center is among the allowed uses in the Commercial land use designation; the project will pay any applicable development impact fees to mitigate its proportionate impact on public facilities; and the project is consistent with goals and policies of the General Plan, including economic development, circulation, noise, and air quality, and

WHEREAS, The project is consistent with the I-205 Corridor Specific Plan and the City Design Goals and Standards, including public utilities, site design, architecture, off-street parking and circulation, land use, and landscaping, and

WHEREAS, The project is categorically exempt from CEQA based on Guidelines Section 15332 which applies to in-fill projects which are consistent with the General Plan and zoning regulations, and other specified characteristics, all of which apply to this project, and

WHEREAS, The Planning Commission conducted a public hearing to consider the project on April 26, 2017;

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission recommends the City Council approve the PUD Preliminary and Final Development Plan (D16-0023) for an approximately 7,615 square foot building addition for a training center attached to the Walmart Supercenter retail store, 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 building addition is compatible with the land use, design, and operational characteristics of the neighboring properties, because it will be designed as an extension of the existing retail building, will be used for employee training purposes, will operate in harmony within the commercial center, and there is adequate parking onsite.
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, as conditioned, is consistent with the land use, design, and other elements of the I-205 Corridor Specific Plan, the Tracy Municipal Code the City of Tracy General Plan, the Design Goals and Standards, City Standards, California Building Codes, and California Fire Codes.
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. The building incorporates design, windows, materials, and color used on the existing building such that the addition looks like an architectural extension of the existing building. Rooftop equipment will be screened from public view by a parapet. As conditioned, existing yellow pipe bollards and new bollards and handrails will be painted to match the building, and landscape areas currently in poor condition will be restored.

* * * * *

The foregoing Resolution 2017-_____ was adopted by the Planning Commission on the 26th day of April, 2017, 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
Walmart Academy
Application Number D16-0023
April 26, 2017

A. General Provisions and Definitions.

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

The Project: An approximately 7,615 training center addition to the existing Walmart Supercenter retail store (Walmart Academy)

The Property: 3010 W. Grant Line Road., Assessor's Parcel Number 238-600-08

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, the I-205 Corridor Specific Plan, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project located at the Property. The Conditions of Approval shall specifically include all Development 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 Services Department on April 21, 2017. These plans include the site plans, floor plan, and exterior elevations and colors. Additional bollards may be constructed on the west and south elevations for protection of the building from loading trucks, but no new bollards are permitted on the north elevation where they will be readily visible.

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), I-205 Corridor Specific Plan, Standard Plans, and Design Goals and Standards.

B. Development Services Department Conditions

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

- B.1. Tinted Windows. Before final inspection or certificate of occupancy, the windows that back up to the back of a wall shall be tinted such that the back of walls on the interior will not be visible, to the satisfaction of the Development Services Director.
- B.2. Utilities and Screening.
- B.2.1. Before final inspection or certificate of occupancy, all roof-mounted and/or through-roof 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 fully screened from view from any public right-of-way, which includes I-205, by the building parapet to the satisfaction of the Development Services Director.
- B.2.2. Before final inspection or certificate of occupancy, all vents, gutters, downspouts, flashing, and electrical conduits shall be internal to the structures and other ground-mounted, wall-mounted, or building-attached utilities shall be painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.
- B.3. Bollards and handrail. Before final inspection or certificate of occupancy, bollards and handrails built as part of this project shall be painted to match the building to the satisfaction of the Development Services Director. Reflective tape may be applied to the bollards.
- B.4. Removal of storage containers. Before final inspection or certificate of occupancy, the applicant shall permanently remove all unpermitted items, including the storage containers, from the site to the satisfaction of the Development Services Director.
- B.5. Expired Permits. Before the final inspection or certificate of occupancy, the applicant shall complete correction items and obtain final inspections approval and Certificate of Occupancy for the outstanding permits on file for Walmart, which include Permit # 10-1690, Permit # 12-0646, and Permit Number 15-2218. This includes restoration of all on-site landscaping in accordance with the approved landscape plans.

AGENDA ITEM 1-B

REQUEST

PUBLIC HEARING TO CONSIDER REVOCATION OF A CONDITIONAL USE PERMIT (CUP 15-0008) FOR THE VENU NIGHTCLUB TO OPERATE AN EATING AND/OR DRINKING ESTABLISHMENT THAT SERVES ALCOHOL AND PROVIDES ENTERTAINMENT AFTER 11:00 P.M. AT 1005 E. PESCADERO AVENUE, UNIT #109

DISCUSSION

Background

Certain specified conditional uses are allowed throughout the City upon the granting of a use permit. Tracy Municipal Code (TMC) Section 10.08.4250 provides that because of the “potentially incompatible characteristics, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties.” The TMC further provides that the Planning Commission “is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon the granting of use permits, subject to appeal review by the Council.”

On December 18, 2012, the City amended the Tracy Municipal Code, the I-205 Corridor Specific Plan, and other specific plans throughout the City to address eating and/or drinking establishments with entertainment. With these amendments, a Conditional Use Permit (CUP) is required for eating and/or drinking establishments that serve alcohol and provide entertainment after 11:00 p.m. Entertainment uses are defined as live music, dancing, karaoke, comedy shows, modeling, or live performances.

On February 24, 2016, the Planning Commission approved a Conditional Use Permit (CUP15-0008) to allow an eating and/or drinking establishment, known as the Venu, to serve alcohol and provide entertainment after 11:00 p.m. at 1005 E. Pescadero Avenue, Unit #109 in the Northgate Village shopping center (site of former Tracy Outlets) based on the findings and subject to the conditions set forth in Resolution 2016-004 (Attachment A).

The project description received by the Development Services Department on November 12, 2015 states the following:

“We plan on opening a full size Sports Bar/Restaurant, operating with a type 47 liquor license. It will be equipped with 5-10 large HD T.V.’s, projector screens, lounge chairs, and booths... Our hours of operation and nature of business shall not disturb or become a nuisance to anyone. We will have a dress code fully enforced, zero tolerance for any violence, which will be fully enforced by our certified security guards.”

Suspension of CUP15-0008

TMC Section 10.08.4380 authorizes the automatic suspension of a CUP upon a violation of any applicable provision of TMC Chapter 10.08 or upon failure to comply with any condition upon which a CUP was granted. This provision further provides that the

Planning Commission must consider the suspension within 30 days of the Notice of Suspension.

If the Planning Commission is “not satisfied that the regulation, general provision, condition, or conditions are being complied with, the Commission may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provisions, condition, or conditions” pursuant to TMC Section 10.08.4380.

A Notice of Suspension of Conditional Use Permit (CUP15-0008) was issued to the operator of the Venu Nightclub on April 13, 2017. As an accommodation to the business owner, the City deferred the suspension until and upon action by the Planning Commission following consideration of this matter. The grounds for suspension are detailed in Attachment B.

The primary concerns are the following:

- Staff has confirmed that the centralized bathroom facilities are more than 500 feet from the Venu nightclub’s entry, therefore requiring that the applicant construct additional toilet facilities and fixtures within the nightclub. The nightclub currently only has one single-occupancy restroom for men and one single-occupancy restroom for women, which does not comply with State Building Code requirements.
- Staff has confirmed that the applicant is no longer providing food service and is now operating under a Department of Alcoholic Beverage Control (ABC) Type 48 (Bar, Nightclub) license instead of a Type 47 (Eating Place) license and is therefore not operating in substantial conformance with the project description provided to the Development Services Department, which described the establishment as a sports bar/restaurant, operating with a Type 47 liquor license.¹ A Type 47 ABC license “authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.” A Type 48 ABC License “authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food services is not required.”
- From March 2016 to February 2017, the Tracy Police Department has received 13 calls for service from this establishment. In addition, the Tracy Police Department investigated and confirmed that an unreported shooting took place at the location on

¹ Page 2 of the Notice of Suspension incorrectly states that the Venu Nightclub is operating under a Type 51(Club) ABC license. Staff incorrectly labeled the license type.

or about February 3, 2017. The Department was informed of the shooting after the fact when the firearm used in the shooting was turned over to a neighboring law enforcement agency. The owners were uncooperative when the Department approached them to investigate the shooting. After interviewing witnesses and obtaining a search warrant, the Department's investigation revealed that nightclub personnel were instructed to not report the shooting to law enforcement. Fortunately, no one was injured during the shooting. The establishment's current operations and failure to report the shooting incident to law enforcement indicate that they are not operating in substantial conformance with the project description, which stated a zero tolerance for any violence.

- A correction notice identifying various building safety and fire prevention deficiencies was issued on July 29, 2016. As of the date of the last inspection on November 15, 2016, these corrections have not been completed.
- CUP Condition of Approval C.1., Licensing requirements, stated that the project shall abide by all licensing requirements of the State of California Department of Alcoholic Beverage Control (ABC). ABC issued an official notice on February 8, 2017 regarding reports of "objectionable conditions" at the Venu nightclub and that the business is "operating in a disorderly fashion." The notice required that the premises be brought into full compliance with the applicable ABC regulations within 20 days of the notice.

The City also received complaints from the public regarding the Venu Nightclub. Copies of those complaints are included in Attachment C. An updated summary of calls for service to this location is contained in Attachment D.

Development Services staff met with the owners of Venu Nightclub on April 18, 2017. During that meeting the owners indicated that they are willing to correct some of the building code deficiencies identified in the Notice of Suspension. Members of the Police Department and Development Services staff also met with the owners of Venu Nightclub on April 21, 2017 to discuss concerns described above.

ENVIRONMENTAL REVIEW

The revocation of a CUP is exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15321, Enforcement Actions by Regulatory Agencies.

RECOMMENDATION

Staff recommends that the Planning Commission revoke the Conditional Use Permit (CUP15-0008) for the Venu Nightclub to operate an eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m. at 1005 E. Pescadero Avenue, Unit #109, based on their failure to comply with the conditions of approval and the findings set forth in the Planning Commission Resolution dated April 26, 2017 (Attachment E).

Agenda Item 1-B

April 26, 2017

Page 4

Prepared by: Scott Claar, Senior Planner

Daniel Pasquale, Police Corporal, Tracy Police Department

Kevin Jorgensen, Chief Building Official & Fire Code Official

Reviewed by: Bill Dean, Assistant Development Services Director

Approved by: Andrew Malik, Development Services Director

ATTACHMENTS

A – Planning Commission Resolution 2016-004

B – Notice of Suspension of Conditional Use Permit with attachments

C – Complaints Received by the City regarding Venu Nightclub

D – Venu Nightclub Calls for Service, updated April 18, 2017

E – Proposed Planning Commission Resolution prepared by staff



FILE COPY

DEVELOPMENT SERVICES
DEPARTMENT

CITY OF TRACY
REPORT OF ACTION
AND
CERTIFICATE OF MAILING

MAIN 209.831.6400
FAX 209.831.6439
www.ci.tracy.ca.us

On February 24, 2016, the Tracy City Planning Commission made a decision regarding application number CUP15-0008. The Planning Commission approved the application as outlined in Planning Commission Resolution 2016-004, subject to the conditions as stated in Exhibit 1.

PLEASE BE ADVISED that pursuant to Code of Civil Procedures Section 1094.6(f), notice is hereby given that the time within which judicial review must be sought on this decision is governed by Code of Civil Procedure section 1094.6.

I declare that:

I am employed in the County of San Joaquin, California.

I am over the age of eighteen years and not a party to the within application; my business address is 333 Civic Center Plaza, Tracy, CA, 95376.

On February 29, 2016, I mailed the attached REPORT OF ACTION, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Tracy, CA addressed as follows:

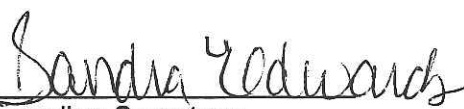
Property Applicant/Owner:

Harpreet Gill
1717 Bella Terra Dr.
Manteca, CA 95337

51 NEWCO LLC
PO Box 14176
Fremont, CA 94539

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on:

February 29, 2016, at Tracy, California


Recording Secretary

RESOLUTION 2016-004

APPROVING A CONDITIONAL USE PERMIT APPLICATION FOR AN EATING AND/OR DRINKING ESTABLISHMENT WITH ENTERTAINMENT AT 1005 E. PESCADERO AVENUE, UNIT #109 – APPLICANT IS HARPREET GILL AND PROPERTY OWNER IS 51 NEWCO LLC
- APPLICATION NUMBER CUP15-0008

WHEREAS, On November 12, 2015, Harpreet Gill submitted an application for a Conditional Use Permit to allow an eating and/or drinking establishment with entertainment at 1005 E. Pescadero Avenue, Unit #109, and

WHEREAS, The subject property is designated General Commercial (GC) by the I-205 Corridor Specific Plan, and

WHEREAS, A Conditional Use Permit is required for eating and/or drinking establishments that serve alcohol and provide entertainment after 11:00 p.m., and

WHEREAS, In accordance with Section 10.08.4250 of the Tracy Municipal Code, the Planning Commission is empowered to grant or to deny applications for Conditional Use Permits and to impose reasonable conditions upon the granting of use permits, and

WHEREAS, The proposed eating and/or drinking establishment with entertainment is compatible with the surrounding land uses, and

WHEREAS, The project is categorically exempt from the California Environmental Quality Act (CEQA) requirements under CEQA Guidelines Section 15301, pertaining to existing facilities, and

WHEREAS, The Planning Commission held a public meeting to review and consider Conditional Use Permit Application Number CUP15-0008 on February 24, 2016;

NOW, THEREFORE BE IT RESOLVED, That the Planning Commission does hereby approve a Conditional Use Permit to allow an eating and/or drinking establishment with entertainment at 1005 E. Pescadero Avenue, Unit #109, Application Number CUP15-0008, based on the following findings and subject to the conditions as stated in Exhibit "1" attached and made part hereof:

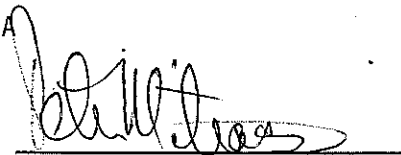
1. There are circumstances or conditions applicable to the land, structure, or use that make the granting of a conditional use permit necessary for the preservation and enjoyment of a substantial property right because the proposed use is not permitted unless the Planning Commission grants approval of a Conditional Use Permit.
2. The proposed location of the conditional use is in accordance with the objectives of the purposes of the zone in which the site is located because an eating and/or drinking establishment with entertainment, as conditioned, will be compatible with adjacent uses and is allowed in the General Commercial land use designation in the I-205 Corridor Specific Plan Area if the Planning Commission approves a Conditional Use Permit.
3. The proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially

injurious to, or inharmonious with, properties or improvements in the vicinity because the proposed eating and/or drinking establishment with entertainment will comply with the City of Tracy General Plan, I-205 Corridor Specific Plan, and requirements of the Tracy Municipal Code. The establishment will comply with all applicable Alcoholic Beverage Control requirements, and on-site security will be provided during all hours of operation. All entertainment uses will be wholly indoors, and visual and audio projection will not be permitted to the exterior of the building to minimize the undesirable noise and light impacts to neighboring businesses.

- 4. The proposed use will comply with each of the applicable provisions of Chapter 10.08 of the Tracy Municipal Code, because subject to approval by the Planning Commission for a Conditional Use Permit, the project will be required to comply with all applicable provisions including, but not limited to, the Tracy Municipal Code, the I-205 Corridor Specific Plan, the City of Tracy Standard Plans, the California Building Code, and the California Fire Code.

The foregoing Resolution 2016-004 was adopted by the Planning Commission on the 24th day of February 2016, by the following vote:

AYES: COMMISSION MEMBERS: ORCUTT, MITRACOS, RANSOM, TANNER
NOES: COMMISSION MEMBERS: NONE
ABSENT: COMMISSION MEMBERS: NONE
ABSTAIN: COMMISSION MEMBERS: SANGHA


CHAIR

ATTEST:


STAFF LIAISON

City of Tracy
Conditions of Approval
Eating and/or Drinking Establishment with Entertainment
(The Venu – Sports Bar / Restaurant / Nightclub)
Application Number CUP15-0008
February 24, 2016

A. General Provisions and Definitions.

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

The Project: An eating and/or drinking establishment with entertainment (Application Number CUP15-0008)

The Property: 1005 E. Pescadero Avenue, Unit # 109, Assessor's Parcel Number 213-060-40

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 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 I-205 Corridor Specific Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Department Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean these Conditions of Approval applicable to Application Number CUP15-0008. The Conditions of Approval shall specifically include all conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

A.3. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, building permit fees, plan check fees, or any other City or other agency fees or deposits that may be applicable to the project.

- A.4. Compliance with laws. The Developer shall comply with all 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.5. Compliance with 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), the I-205 Corridor Specific Plan, Standard Plans, Design Goals and Standards, and State regulations, including, but not limited to, the California Building Code and the California Fire Code.
- A.6. 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 Services Department Planning Division Conditions

Contact: Scott Claar (209) 831-6429 scott.claar@ci.tracy.ca.us

- B.1. The project shall be operated in substantial conformance with the project description and the site plan / floor plan received by the Development Services Department on November 12, 2015, to the satisfaction of the Development Services Director.
- B.2. Entertainment indoors. The entertainment activities shall be conducted wholly within the building.
- B.3. Amplification of sound. There shall be no exterior amplification of sound, noise, or music. All audio projections shall comply with Noise Control requirements contained in Article 9 Section 4.12 of the Tracy Municipal Code.
- B.4. Visual projections. There shall be no exterior visual projections, including, but not limited to, televisions and screens.
- B.5. Prior to occupancy, the applicant shall comply with all requirements of the California State Building Code and Fire Code, including requirements such as exiting system upgrades, restroom upgrades, disabled access upgrades, grease interceptor requirements, emergency radio coverage requirements, and potential sprinkler system modifications, to the satisfaction of the Chief Building / Fire Code Official.

C. Police Department Conditions

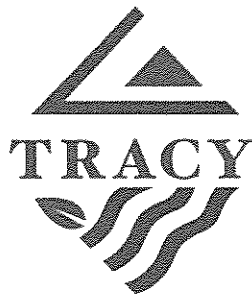
Contact: Officer Brian Wilmshurst (209) 831-6682 brian.wilmshurst@tracypd.com

- C.1. Licensing requirements. The project shall abide by all licensing requirements of the State of California Department of Alcoholic Beverage Control (ABC).
- C.2. Security guards.
 - C.2.1. Security guards shall be provided at a rate of two guards plus one additional guard for every 50 patrons, whenever the establishment is providing entertainment such as live music, live DJ, dancing, karaoke, comedy shows, modeling, or live performances.
 - C.2.2. Security guards shall carry proof of valid registration through the California Department of Consumer Affairs, Bureau of Security and Investigative Services (BSIS) in the form of a Security Guard Card.
 - C.2.3. Security guards shall not consume any alcohol while on the premises.
 - C.2.4. Security shall not be provided by persons performing dual roles, such as bartending, bussing, waiting, hosting, or other roles other than security.
- C.3. Hours of operation. The establishment shall close by 2:00 a.m. each morning.

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

DEVELOPMENT SERVICES

MAIN 209.831.6400
FAX 209.831.6439
www.ci.tracy.ca.us



April 13, 2017

Harpreet Gil
1005 E. Pescadero Avenue #109
Tracy, California 95304

**RE: Notice of Suspension of Conditional Use Permit – 1005 E. Pescadero Avenue,
Unit #109**

Dear Mr. Gil:

This letter serves as a Notice of Suspension of Conditional Use Permit (CUP 15-0008) to operate an eating and/or drinking establishment with entertainment after 11:00 p.m. at 1005 E. Pescadero Avenue, Unit #109, Tracy, California (hereinafter, “Venu Nightclub”).

The City of Tracy Building Official, in conjunction with the Planning Division, issues this Notice pursuant to Tracy Municipal Code (TMC) section 10.08.4380 which authorizes the automatic suspension of a CUP upon a violation of any applicable provision of TMC Chapter 10.08 or upon failure to comply with any condition upon which a CUP was granted. This provision further provides that the Planning Commission must consider the suspension within 30 days. As an accommodation to you, the City is deferring the suspension until and upon action by the Planning Commission following their consideration of this matter on April 26, 2017.

Grounds for Suspension of CUP 15-0008

The Planning Commission approved CUP 15-0008 subject to the conditions contained in Exhibit “1” of Resolution 2016-004, enclosed herein as Attachment A.

The Building Official and Planning Division have received information and reports regarding noncompliance with the following conditions:

- **Condition A.5 – Compliance with 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), the I-205 Corridor Specific Plan, Standard Plans, Design Goals and Standards, and State regulations, including, but not limited to, the California Building Code and the California Fire Code.**

Staff has confirmed that the centralized bathroom facilities are more than 500 feet from Venu Nightclub’s entry therefore requiring that applicant construct additional toilet



facilities and fixtures within the night club. (*See* Conditions of Approval for the Venue Night Club Concerning Provision of Men's and Women's Bathroom Fixtures, dated 3/22/2016; *see* Attachment A).

- **Condition B.1. - The project shall be operated in substantial conformance with the project description and the site plan/floor plan received by the Development Services Department on November 12, 2015, to the satisfaction of the Development Services Director.**

The project description received by the Development Services Department on November 12, 2015 states the following:

“We plan on opening a full size Sports Bar/Restaurant, operating with a type 47 liquor license. It will be equipped with 5-10 large HD T.V.'s, projector screens, Lounge chairs, and booths ...Our hours of operation and nature of business shall not disturb or become a nuisance to anyone. We will have a dress code fully enforced, zero tolerance for any violence, which will be fully enforced by our certified security guards.” (*See* Attachment A).

Staff has confirmed that the applicant is no longer providing food service and is now operating under a Department of Alcoholic Beverage Control (ABC) Type 51 (Club) license instead of a Type 47 (Eating Place) license and is therefore not operating in substantial conformance with the project description provided to the Department.

From March 2016 to February 2017, the Tracy Police Department has received 13 calls for service from your establishment. (*See* Attachment B). In addition, the Tracy Police Department investigated and confirmed that an unreported shooting took place at the location on or about February 3, 2017. The Department was informed of the shooting after the fact when the firearm used in the shooting was turned over to a neighboring law enforcement agency. The Department's investigation revealed that night club personnel were instructed to not report the shooting to law enforcement. Fortunately, no one was injured during the shooting.

The Applicant's current operations and failure to report the shooting incident to law enforcement indicate that they are not operating in substantial conformance with the project description.

- **Condition B.5. - Prior to occupancy, the applicant shall comply with all requirements of the California State Building Code and Fire Code, including requirements such as exiting system upgrades, restroom upgrades, disabled access upgrades, grease interceptor requirements, emergency radio coverage requirements, and potential sprinkler system modifications, to the satisfaction of the Chief Building Official/Fire Code Official.**

A correction notice identifying various building safety and fire prevention deficiencies was issued on July 29, 2016. As of the date of the last inspection on November 15, 2016, these corrections have not been completed. (See Condition A.5 and Attachment C).

- **Condition C.1. Licensing requirements. The project shall abide by all licensing requirements of the State of California Department of Alcoholic Beverage Control (ABC).**

ABC issued an official notice on February 8, 2017 regarding reports of “objectionable conditions” at the Venu Nightclub and that the business is “operating in a disorderly fashion.” (See Attachment D). The notice required that the premises be brought into full compliance with the applicable ABC regulations within 20 days of the notice.

The applicant’s noncompliance with the aforementioned conditions is the basis for this Notice of Suspension.

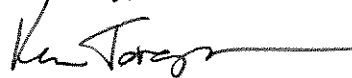
Planning Commission Hearing

This matter is scheduled to be heard by the Planning Commission on April 26, 2017 at 7:00 p.m. The hearing will be your opportunity to present any evidence demonstrating your compliance with conditions identified above. Staff will present evidence supporting their finding of non-compliance with the conditions.

If the Planning Commission is “not satisfied that the regulation, general provision, condition, or conditions are being complied with, the Commission may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provisions, condition, or conditions” pursuant to TMC § 10.08.4380. If you are dissatisfied with the Planning Commission’s decision regarding this matter, you may appeal their decision to the City Council. You must submit your request for an appeal within fifteen (15) days of the Planning Commission’s decision in accordance with TMC § 10.08.4330.

Please contact me if you have any concerns or questions.

Sincerely,



Kevin Jorgensen
Building Official

cc: Troy Brown, City Manager
Chief Larry Esquivel, Tracy Police Department
Corpl. Dan Pasquale, Tracy Police Department
Andrew Malik, Development Services Director
Bill Dean, Assistant Development Services Director

Harpreet Gil
April 13, 2017
Page 4 of 4

Danny Hoady
51 Newco LLC
P.O. Box 14176
Fremont, California 94539

Enclosures

RESOLUTION 2016-004

APPROVING A CONDITIONAL USE PERMIT APPLICATION FOR AN EATING AND/OR DRINKING ESTABLISHMENT WITH ENTERTAINMENT AT 1005 E. PESCADERO AVENUE, UNIT #109 – APPLICANT IS HARPREET GILL AND PROPERTY OWNER IS 51 NEWCO LLC - APPLICATION NUMBER CUP15-0008

WHEREAS, On November 12, 2015, Harpreet Gill submitted an application for a Conditional Use Permit to allow an eating and/or drinking establishment with entertainment at 1005 E. Pescadero Avenue, Unit #109, and

WHEREAS, The subject property is designated General Commercial (GC) by the I-205 Corridor Specific Plan, and

WHEREAS, A Conditional Use Permit is required for eating and/or drinking establishments that serve alcohol and provide entertainment after 11:00 p.m., and

WHEREAS, In accordance with Section 10.08.4250 of the Tracy Municipal Code, the Planning Commission is empowered to grant or to deny applications for Conditional Use Permits and to impose reasonable conditions upon the granting of use permits, and

WHEREAS, The proposed eating and/or drinking establishment with entertainment is compatible with the surrounding land uses, and

WHEREAS, The project is categorically exempt from the California Environmental Quality Act (CEQA) requirements under CEQA Guidelines Section 15301, pertaining to existing facilities, and

WHEREAS, The Planning Commission held a public meeting to review and consider Conditional Use Permit Application Number CUP15-0008 on February 24, 2016;

NOW, THEREFORE BE IT RESOLVED, That the Planning Commission does hereby approve a Conditional Use Permit to allow an eating and/or drinking establishment with entertainment at 1005 E. Pescadero Avenue, Unit #109, Application Number CUP15-0008, based on the following findings and subject to the conditions as stated in Exhibit "1" attached and made part hereof:

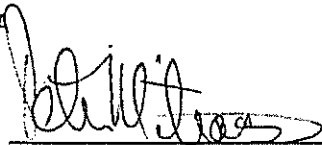
1. There are circumstances or conditions applicable to the land, structure, or use that make the granting of a conditional use permit necessary for the preservation and enjoyment of a substantial property right because the proposed use is not permitted unless the Planning Commission grants approval of a Conditional Use Permit.
2. The proposed location of the conditional use is in accordance with the objectives of the purposes of the zone in which the site is located because an eating and/or drinking establishment with entertainment, as conditioned, will be compatible with adjacent uses and is allowed in the General Commercial land use designation in the I-205 Corridor Specific Plan Area if the Planning Commission approves a Conditional Use Permit.
3. The proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially

injurious to, or inharmonious with, properties or improvements in the vicinity because the proposed eating and/or drinking establishment with entertainment will comply with the City of Tracy General Plan, I-205 Corridor Specific Plan, and requirements of the Tracy Municipal Code. The establishment will comply with all applicable Alcoholic Beverage Control requirements, and on-site security will be provided during all hours of operation. All entertainment uses will be wholly indoors, and visual and audio projection will not be permitted to the exterior of the building to minimize the undesirable noise and light impacts to neighboring businesses.

4. The proposed use will comply with each of the applicable provisions of Chapter 10.08 of the Tracy Municipal Code, because subject to approval by the Planning Commission for a Conditional Use Permit, the project will be required to comply with all applicable provisions including, but not limited to, the Tracy Municipal Code, the I-205 Corridor Specific Plan, the City of Tracy Standard Plans, the California Building Code, and the California Fire Code.

The foregoing Resolution 2016-004 was adopted by the Planning Commission on the 24th day of February 2016, by the following vote:

| | | |
|----------|---------------------|----------------------------------|
| AYES: | COMMISSION MEMBERS: | ORCUTT, MITRACOS, RANSOM, TANNER |
| NOES: | COMMISSION MEMBERS: | NONE |
| ABSENT: | COMMISSION MEMBERS: | NONE |
| ABSTAIN: | COMMISSION MEMBERS: | SANGHA |



CHAIR

ATTEST:



STAFF LIAISON

City of Tracy
Conditions of Approval
Eating and/or Drinking Establishment with Entertainment
(The Venu – Sports Bar / Restaurant / Nightclub)
Application Number CUP15-0008
February 24, 2016

A. General Provisions and Definitions.

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

The Project: An eating and/or drinking establishment with entertainment (Application Number CUP15-0008)

The Property: 1005 E. Pescadero Avenue, Unit # 109, Assessor's Parcel Number 213-060-40

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 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 I-205 Corridor Specific Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Department Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean these Conditions of Approval applicable to Application Number CUP15-0008. The Conditions of Approval shall specifically include all conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

A.3. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, building permit fees, plan check fees, or any other City or other agency fees or deposits that may be applicable to the project.

- A.4. Compliance with laws. The Developer shall comply with all 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.5. Compliance with 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), the I-205 Corridor Specific Plan, Standard Plans, Design Goals and Standards, and State regulations, including, but not limited to, the California Building Code and the California Fire Code.
- A.6. 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 Services Department Planning Division Conditions

Contact: Scott Claar (209) 831-6429 scott.claar@ci.tracy.ca.us

- B.1. The project shall be operated in substantial conformance with the project description and the site plan / floor plan received by the Development Services Department on November 12, 2015, to the satisfaction of the Development Services Director.
- B.2. Entertainment indoors. The entertainment activities shall be conducted wholly within the building.
- B.3. Amplification of sound. There shall be no exterior amplification of sound, noise, or music. All audio projections shall comply with Noise Control requirements contained in Article 9 Section 4.12 of the Tracy Municipal Code.
- B.4. Visual projections. There shall be no exterior visual projections, including, but not limited to, televisions and screens.
- B.5. Prior to occupancy, the applicant shall comply with all requirements of the California State Building Code and Fire Code, including requirements such as exiting system upgrades, restroom upgrades, disabled access upgrades, grease interceptor requirements, emergency radio coverage requirements, and potential sprinkler system modifications, to the satisfaction of the Chief Building / Fire Code Official.

C. Police Department Conditions

Contact: Officer Brian Wilmshurst (209) 831-6682 brian.wilmshurst@tracypd.com

- C.1. Licensing requirements. The project shall abide by all licensing requirements of the State of California Department of Alcoholic Beverage Control (ABC).
- C.2. Security guards.
 - C.2.1. Security guards shall be provided at a rate of two guards plus one additional guard for every 50 patrons, whenever the establishment is providing entertainment such as live music, live DJ, dancing, karaoke, comedy shows, modeling, or live performances.
 - C.2.2. Security guards shall carry proof of valid registration through the California Department of Consumer Affairs, Bureau of Security and Investigative Services (BSIS) in the form of a Security Guard Card.
 - C.2.3. Security guards shall not consume any alcohol while on the premises.
 - C.2.4. Security shall not be provided by persons performing dual roles, such as bartending, bussing, waiting, hosting, or other roles other than security.
- C.3. Hours of operation. The establishment shall close by 2:00 a.m. each morning.

We plan on opening a full size Sports Bar/Restaurant, operating with a type 47 liquor license. It will be equipped with 5-10 large HD T.V's, protector screens, Lounge chairs, and Booths to comfortably watch all the sports games. Sports games will include NHL, NFL, NBA, and NLB. This will be a high end, Top-notch sports bar/restaurant. We will be putting a sum total of well over \$200,000 into renovations to make this the top notch sports bar with in a 30 mile radius of Tracy Ca. We will also have a dance floor and a stage for the DJ. The entertainment (Live DJ) will take place from 10P.M. - 2A.M. Thursday-Sunday. The music/entertainment will be indoor only. We will have 2 security guards on a daily basis then 1 additional security guard per every 40 people in the premises. All security guards will be fully trained and certified with license and will not be dual tasking under any circumstances. All our staff is confident and will be fully trained. Our business is strategically located between a reception hall and a restaurant/bar that will most likely operate close to the same hours as us and is clear out of the way of any and all businesses and residents. Our hours of operation and nature of business shall not disturb or become a nuisance to anyone. We will have a dress code fully enforced, zero tolerance for any violence, which will be fully enforced by our certified security guards. There will be a cover charge after 10P.M. Thursday-Sunday. We plan to be open 7 days a week; Monday-Wednesday we will operate from 10A.M.-11P.M. and Thursday-Sunday we will operate from 10A.M-2A.M but are not limited to any of these hours. This will be the beginning of a very large franchise exclusively starting off in Tracy, California with partners in Boston Massachusetts.

RECEIVED
NOV 12 2015
CITY OF TRACY

To: Harpreet Gil, The Venu Night Club 03/22/2016

From: Robert Huff
City of Tracy Plans Examiner

Subject: Conditions of Approval for the Venue Night Club Concerning Provision of Men's and Women's Bathroom Fixtures.

The City of Tracy will allow the Venu Night Club to make use of the centralized bathroom facilities of the 1005 E Pescadero Building Complex if they are within 500 feet of the entry door of the Venu Night Club as allowed by Section 422.4 of the 2013 California Plumbing Code as provided for buildings other than shopping malls and centers.

The City of Tracy must insist on the following conditions:

- 1) The proposed toilet facilities will be installed as planned within the night club and must comply with current accessibility rules.
- 2) The centralized restroom facilities must themselves be accessible to the 2013 California Accessibility rules as well as the 2010 Americans with Disabilities Act (the ADA).
- 3) There must be a continuous, uninterrupted, handicapped accessible route from the Venu Night Club to, into and out of the central restrooms. This would include a minimum 48" wide walkway with a maximum slope of 5% in the direction of travel of 5%, a maximum cross-slope along the path of 2% maximum, no obstructions higher than 1/2" unless an accessible ramp is provided, 32" wide minimum clear width door openings where they occur, single action hardware, every exit door must be openable from the inside without the use of a key or special knowledge or effort and any other legally required exiting or accessibility characteristics based on the 2013 California Building Code and 2010 Americans with Disabilities Act.
- 4) The centralized toilet facilities must be open during every and all hours of operation of The Venu Night Club. Failure to assure this will result in the City revoking the permission to use the centralized toilet facilities and require that additional toilet facilities be installed within the night club itself.
- 5) The owners or management company controlling the centralized toilet facilities and owners or legal representatives of the night club shall agree in writing to these requirements for the permanent record.

These actions will meet the letter of the legal requirements.

The City would like to point out the following potential issues:

Requiring customers to travel 500 feet to a toilet facility at night could present security and safety issues for customers.

Customers in a drinking and eating establishment with entertainment provided could be seriously delayed in visiting a toilet room when least able to wait.

Unauthorized use of the centralized toilet facilities could cause additional problems which cannot be properly anticipated.

1 of 4

City of Tracy
Development & Engineering Services
Building Inspection
Plan approved by Robert Huff
Date: 3/23/16
KEEP ON JOB-SITE DURING CONSTRUCTION

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MAR 23 2016

CITY OF TRACY

If it should become necessary in the future to add toilet facilities or fixtures within the night club, the following would be required:

Separate facilities for men and women containing (at a minimum)

For Women

Two water closets

1 lavatory

For Men

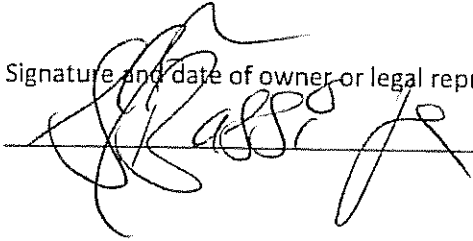
1 water closet

1 urinal

1 lavatory

Please note that a janitor's sink is required within the night club under any circumstances.

Signature and date of owner or legal representative of The Venu Night Club



Robert Huff

City of Tracy Plans Examiner

209-831-6412

Robert.huff@ci.tracy.ca.us

City of Tracy
Development & Engineering Services
Building Inspection

Plan approved by

Date:

KEEP ON JOB-SITE DURING CONSTRUCTION

2 of 4

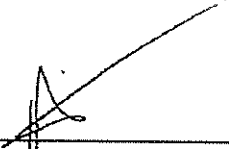
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MAR 23 2016

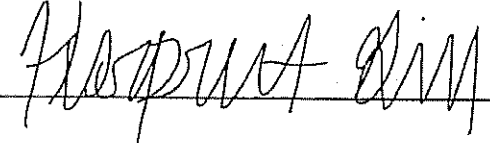
CITY OF TRACY

Usage of Centralized Bathrooms Agreement

The Tracy Partners LLC, Allows The Venu Night Club to use the centralized bathrooms facilities of 1005 E Pescadero Building Complex. The centralized toilet facilities will be open during every and all hours of operation of The Venu Night Club and The Venu will be 100% responsible during those hours to keep things safe and clean and make sure it's always locked at the end of every closing .



(Tracy Partners LLC) Date 3/22/2016



Harpreet Gill (The Venu Night Club) Date 3/22/16

Harpreet Gill (The Venu Night Club)
1005 E. Pescadero Ave STE. 109, Tracy, Ca 95305

City of Tracy
Development & Engineering Services
Building Inspection
Plan approved by Robert Hoff
Date: 3/23/16
KEEP ON JOB-SITE DURING CONSTRUCTION

3 of 4

RECEIVED
MAR 23 2016
CITY OF TRACY

Filename: Conditions
Directory: C:\Users\roberth\Desktop\The Venue 15-2679
Template: C:\Users\roberth\AppData\Roaming\Microsoft\Templates\Normal.dot
m
Title:
Subject:
Author: Windows User
Keywords:
Comments:
Creation Date: 3/22/2016 1:37:00 PM
Change Number: 2
Last Saved On: 3/22/2016 1:37:00 PM
Last Saved By: Windows User
Total Editing Time: 0 Minutes
Last Printed On: 3/22/2016 1:38:00 PM
As of Last Complete Printing
Number of Pages: 2
Number of Words: 516 (approx.)
Number of Characters: 2,942 (approx.)

City of Tracy
Development & Engineering Services
Building Inspection
Plan approved by Robert Hoff
Date: 3/23/16
KEEP ON JOB-SITE DURING CONSTRUCTION

494

RECEIVED

MAR 23 2016

CITY OF TRACY

Venu Nightclub Calls For Service

Created 2/23/17 by Lt. Ysit

This details calls for service at 1005 Pescadero Ave. #109 for the past 13 months (February 2016 through February 2017). 23 calls for service, 10 of which are self-initiated security checks.

10-57's Shots Fired

- 01/22/17, report of shots fired but no victim or suspect located, possibly car backfire. CR # 17-558
- 02/06/17, Late reported shooting that was believed to have occurred on 02/03/17, currently being investigated. CR # 17-1032

Assaults

- 8/14/16, no report taken, service rendered.
- 9/16/16, a female RP said she was walking home from the bar and was choked by an unknown subject, the night prior. Report taken. CR# 16-6172
- 11/6/16, domestic violence report taken, female battered by her boyfriend. CR# 16-7494
- 11/20/16, called in as a 242 PC, arrest for 647(f) PC made. CR# 16-7804
- 01/23/17, bouncer struck by a subject while breaking up a fight. No report taken, but related to CR# 17-558

415 PC Disturbance of the Peace

- 11/1/16, flag down, bar goer needed a taxi ride home. No report taken, service rendered.

10-33 Alarm Calls

- 10/16/16, false alarm. Cleared "FAL."

ABC Bar Checks

- 12/11/16, advised they were there, no request for assistance.
- 02/05/17, advised they were there, requested a walk through, no reports taken. Service rendered.

Self Initiated Security Checks

- | | |
|------------|------------|
| • 11/12/16 | • 01/14/17 |
| • 11/18/16 | • 01/26/17 |
| • 12/23/16 | • 01/27/17 |
| • 12/24/16 | • 02/18/17 |
| • 01/07/17 | • 02/19/17 |

INSPECTION ACTIVITY REPORT

PERMIT: 15-2679

SITE ADDRESS: 1005 E. PESCADERO AVE. #109

DESCRIPTION: T.I. FOR VENUE NIGHT CLUB

Corrections not completed from previous correction notice dated 7-29-16 for Building Safety and Fire Prevention Inspections

Indirect waste requires 1" air gap at bar sink.

Operating mechanism for paper towel dispenser is to be no more than 40" above finished floor.

Install restroom signage.

Provide accessible access to DJ booth.

All doors must operate with no more than 5 lbs. force.

Toilet flush handle to be on accessible side of toilet.

No phase tape on conductors smaller than #6.

Abandon unused track lighting.

Obtain an electrical permit for work being performed in sub panel located next to bar.

New stairs to stage require handrails on both sides of risers. See CBC 1009, 1012 for further instructions. Please wrap handrails around at the bottom of stairs and return at top of stairs.

Provide 1.5 inch space between the tank top and the rear grab bar. Ok to raise rear grab bar to 36 inches to center.

Obtain Electrical permit for new sub panel.

Sub panel not ready for inspection.

Add handle tie at multi wire circuits; land all wire strands in breaker termination points.

Get letter from Robert Huff regarding ramp to stage

Add Wing walls at urinals.

Secure operational permit for assembly use.

Last inspection conducted on November 15, 2016.

ATT: Corp. PASQUALE

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY

Edmund G. Brown, Jr. Governor

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
STOCKTON DISTRICT OFFICE
31 E CHANNEL ST, ROOM 168
STOCKTON, CA 95202
(209) 948-7739

**FILE
COPY**



February 8, 2017

venu LLC THE
1717 BELLA TERRA DR
MANTECA, CA 95337

File: 48-576190
DBA: VENU NIGHTCLUB THE
Location: 1005 E PESCADERO AVE
STE 109
TRACY, CA 95304

Dear Licensee(s):

Recently, the Department of Alcoholic Beverage Control has received information from the Tracy Police Department regarding a high number of calls for service from your premises. These complaints consist of reports that your licensed premises is allowing the following types of activity:

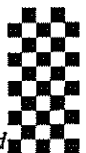
- Assault, battery, service of alcohol to minors and service of alcohol to obviously intoxicated patrons.

This type of activity indicates your premise is permitting "Objectionable Conditions" and is operating in a disorderly fashion. You are being notified about the following sections of ABC law:

**Objectionable Conditions
Business and Profession Code § 24200:**

(e) Failure to take reasonable steps to correct objectionable conditions on the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee, that constitute a nuisance, within a reasonable time after receipt of notice to make those corrections from a district attorney, city attorney, county counsel, or the department, under Section 373a of the Penal Code. For the purpose of this subdivision only, "property or premises" as used in Section 373a of the Penal Code includes the area immediately adjacent to the licensed premises that is owned, leased, or rented by the licensee. For purposes of this subdivision.

(f) Failure to take reasonable steps to correct objectionable conditions that occur during business hours on any public sidewalk abutting a licensed premises and constitute a nuisance,



within a reasonable time after receipt of notice to correct those conditions from the department. This subdivision shall apply to a licensee only upon written notice to the licensee from the department. The department shall issue this written notice upon its own determination, or upon a request from the local law enforcement agency in whose jurisdiction the premises are located, that is supported by substantial evidence that persistent objectionable conditions are occurring on the public sidewalk abutting the licensed premises. For purposes of this subdivision:

- (1) "Any public sidewalk abutting a licensed premises" means the publicly owned, pedestrian-traveled way, not more than 20 feet from the premises, that is located between a licensed premises, including any immediately adjacent area that is owned, leased, or rented by the licensee, and a public street.
- (2) "Objectionable conditions that constitute a nuisance" means disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, or excessive loud noise.
- (3) "Reasonable steps" means all of the following:
 - (A) Calling the local law enforcement agency. Timely calls to the local law enforcement agency that are placed by the licensee, or his or her agents or employees, shall not be construed by the department as evidence of objectionable conditions that constitute a nuisance.
 - (B) Requesting those persons engaging in activities causing objectionable conditions to cease those activities, unless the licensee, or his or her agents or employees, feel that their personal safety would be threatened in making that request.
 - (C) Making good faith efforts to remove items that facilitate loitering, such as furniture, except those structures approved or permitted by the local jurisdiction. The licensee shall not be liable for the removal of those items that facilitate loitering.
- (4) When determining what constitutes "reasonable steps," the department shall consider site configuration constraints related to the unique circumstances of the nature of the business.

Permitting a Disorderly House Business and Profession Code § 25601

Every licensee, or agent or employee of a licensee, who keeps, permits to be used, or suffers to be used, in conjunction with a licensed premises, any disorderly house or place in which people abide or to which people resort, to the disturbance of the neighborhood, or in which people abide or to which people resort for purposes which are injurious to the public morals, health, convenience, or safety, is guilty of a misdemeanor.

Sales to Obviously Intoxicated Patrons Business and Profession Code § 25602:

(a) Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any habitual or common drunkard or to any obviously intoxicated person is guilty of a misdemeanor.

Official Notice:

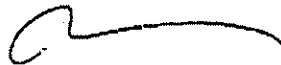
As you are undoubtedly aware, such conduct in connection with the licensed premise amounts to a violation of the laws and regulations of the Department of Alcoholic Beverage Control and an accusation could be filed against your license. You, as a licensee, are under a continuing duty to supervise your patrons and prevent the occurrence of such incidents.

Within twenty (20) days from the date of this letter, the licensee shall:

- Bring the licensed premise into full compliance with the above-referred to sections. All objectionable conditions described above shall be corrected.

This letter shall be considered your official notice. Accordingly, if the Department continues to receive information that the noted objectionable conditions have not been corrected and the nuisance behavior related to your premises and patrons continues, the Department may seek disciplinary action against your license.

Respectfully,



fw PAUL FUENTES
Supervising Agent In Charge

DECLARATION OF SERVICE BY MAIL

I, Jalynn Miner, declare as follows:

1. My business address is the Office of the City Attorney, 333 Civic Center Plaza, City of Tracy, County of San Joaquin, State of California.

2. I am employed in the County of San Joaquin, California.

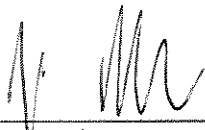
3. I am over the age of 18 years and am not a party to the cause herein.

4. On April 13, 2017, I placed in the United States mail, first class postage prepaid a true and correct copy of NOTICE OF SUSPENSION OF CONDITIONAL USE PERMIT addressed to the following person at the listed address set forth below:

Name
Harpreet Gil

Address
1005 E. Pescadero Avenue, Unit 109
Tracy, CA 95304

I declare, under penalty of perjury, that the foregoing is true and correct and that this Declaration of Service by Mail was executed on April 13, 2017, in Tracy, California.



Jalynn Miner

Rec'd 3/10/17

Attachment C

Tracy Police Department
1000 Civic Center Dr.
Tracy, CA 95376

Dear Chief Larry Esquivel,

As you know there have been several instances at Club Venu in the past few months, including several shootings, a stabbing, and drugs. As someone who works at the nearby restaurant, having this type of crowd in the parking lot is a huge safety issue and concern for myself and my co-workers.

Security is always lacking at their events. Two of their security guards I know and they both have burglary felonies and spent time in jail/prison. Which seems ironic they would be working at a club as security! Security guards can also be seen drinking or at the door with their drink glasses, which are clearly not water glasses.

I know they are supposed to be open Friday's and Saturdays, however they have been open on Thursdays and Sundays, such as Super Bowl weekend. Attached is proof of their upcoming event on a Thursday.

Hopefully you can stop by between those hours and enforce some safety on the city and community. These events get out of hand and put everyone at risk, especially with the drugs, fighting, and heavy drinking.

Time to do something to keep Tracy safe.

YAYO ONNA BEAT VENU NIGHTCLUB PRESENTS

MARCH

11



YURBLOCK 2017

21+ W/ ID | SECURITY INFORMED | 9:00-2:00AM

ST & UL



YAYO ONNA BEAT

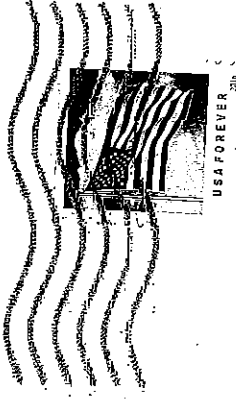
PEADI | AOB CHRIS & TAY DOLLAZ | FOOTZ DA BEAST
YOUNG HYPHY | BOSS TYPEX | STMAF

V VENU

| 1005 E PASCADERO AVE #109 | TRACY, CA

SACRAMENTO CA 958

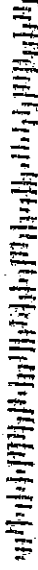
ONE FIFTY SEVEN PENCE



NRO'S

Tracy Police Dept
Corporal Wilmsmunt
333 Curie Center Plaza
Tracy, CA 95376

95376-403999



Tracy Police Department
Corporal Brian Wilmshurt
333 Civic Center Plaza
Tracy, CA 95376

February 20, 2017

Dear Corporal Wilmshurt,

I am contacting you regarding concerns I have regarding the Venu NightClub. The club has had several serious incidents over the prior few weekends, including a gun and a knife being pulled out inside the club and another shooting in the parking lot, not to mention the numerous fights inside the club.

I have several concerns with the nightclub. The main issues is with their security. It appears they do not have the proper or adequate security, as specified in their Entertainment Permit. According to the Conditions of Approval from the February 24, 2016 Planning commission meeting they needed to have security guards that carry their guard card, which none of their current security guards have state registration and Security Guard Cards, which is a violation of C.2.2. (Their current security guards are not employees, but are paid under the table.) Their security guards are also permitted to consume alcohol at no cost, which also is a violation of their C.2.3.

I encourage you or someone from your team to visit the club during their regular business hours, or near closing, when their security guards have had several drinks, and observe these violations yourself. Having a club operation in this manner puts everyone at risk, both the paid, contract employees, and the guests.

Thank you for your urgency in addressing this situation,

A handwritten signature in black ink, consisting of several overlapping loops and lines, positioned below the text of the letter.

Concern Citizen, and friend of a few of the contract employees at the Venu

City of Tracy
Michael Maciel
333 Civic Center Dr.
Tracy, CA 95376



Dear Mr. Maciel,

As you know may or may not know, there have been several instances at Club Venu in the past few months, including several shootings, a stabbing, and drugs. As someone who works at the nearby restaurant, having this type of crowd in the parking lot is a huge safety issue and concern for myself and my co-workers and anyone on the nearby city streets.

They have an entertainment permit which allows them to only operate Friday and Saturdays and they are supposed to have registered Security guards and not drinking on the job. However, security is always lacking at their events. Two of their security guards I know and they both have burglary felonies and spent time in jail/prison. Which seems ironic they would be working at a club as security! Security guards can also be seen drinking or at the door with their drink glasses, which are clearly not water glasses.

I know they are supposed to be open Friday's and Saturdays, however they have been open on Thursdays and Sundays, such as Super Bowl weekend. Attached is proof of their upcoming event on a Thursday.

Hopefully you can stop by between those hours and enforce some safety on the city and community. These events get out of hand and put everyone at risk, especially with the drugs, fighting, and heavy drinking. They need to play by the rules or leave our city!

Time to do something to keep Tracy safe.

CC: Mayor & Council Members
Brown
Santor
Garrabrant-Sierra
Esquivel

YAYO ONNA BEAT VENUE NIGHTCLUB PRESENTS

MARCH

STREET



OUR BLOCK

TRUCKEE 2017

21+ W/ ID | SECURITY INFORMED | 9:00-2:00AM

YAYO ONNA BEAT & VENUE NIGHTCLUB



YAYO ONNA BEAT

PEADI | AOB CHRIS & TAY DOLLAZ | FOOTZ DA BEAST
YOUNG HYPHY | BOSS TYPE X STMAF

VENUE NIGHTCLUB

1005 E PASCADERO AVE #109 | TRACY, CA

Venu Nightclub Calls For Service

Created 2/23/17 by Lt. Ysit; Updated 4/18/17

This details calls for service at 1005 Pescadero Ave. #109 for the past 15 months (February 2016 through April 18, 2017). 34 calls for service, 18 of which are self-initiated security checks.

10-57's Shots Fired

- 01/22/17, report of shots fired but no victim or suspect located, possibly car backfire. CR # 17-558
- 02/06/17, Late reported shooting that was believed to have occurred on 02/03/17, currently being investigated. CR # 17-1032

Assaults

- 8/14/16, no report taken, service rendered.
- 9/16/16, a female RP said she was walking home from the bar and was choked by an unknown subject, the night prior. Report taken. CR# 16-6172
- 11/6/16, domestic violence report taken, female battered by her boyfriend. CR# 16-7494
- 11/20/16, called in as a 242 PC, arrest for 647(f) PC made. CR# 16-7804
- 01/23/17, bouncer struck by a subject while breaking up a fight. No report taken, but related to CR# 17-558
- 03/4/17, 2 females fighting and refusing to leave the parking lot, GOA, service rendered.
- 04/16/17, disturbance of the peace, no report taken, service rendered.

Reports—Other

- 03/17/17 Compliance check, report taken at the request of W13 (Lt. Ysit). CR# 17-2097
- 03/18/17, 2 people were arrested for warrants, as a result of a traffic stop on a vehicle leaving the bar. CR#'s 17-2099 and 17--0388

415 PC Disturbance of the Peace/Suspicious Circumstances

- 11/1/16, flag down, bar goer needed a taxi ride home. No report taken, service rendered.
- 04/08/17, A female initially called from a hospital in Stockton claiming she thought she'd been drugged at the club the night before. Report taken, CR# 17-2701.

10-33 Alarm Calls

- 10/16/16, false alarm. Cleared "FAL."

ABC Bar Checks

- 12/11/16, advised they were there, no request for assistance.
- 02/05/17, advised they were there, requested a walk through, no reports taken. Service rendered.

Self-Initiated Security Checks

- | | | |
|------------|------------|------------|
| • 11/12/16 | • 01/27/17 | • 03/11/17 |
| • 11/18/16 | • 02/18/17 | • 03/18/17 |
| • 12/23/16 | • 02/19/17 | • 04/08/17 |
| • 12/24/16 | • 02/25/17 | • 04/16/17 |
| • 01/07/17 | • 03/03/17 | |
| • 01/14/17 | • 03/09/17 | |
| • 01/26/17 | • 03/10/17 | |

RESOLUTION 2017-_____

PLANNING COMMISSION RESOLUTION REVOKING A CONDITIONAL USE PERMIT
(CUP15-0008) TO OPERATE AN EATING AND/OR DRINKING ESTABLISHMENT THAT
SERVES ALCOHOL AND PROVIDES ENTERTAINMENT AFTER 11:00 P.M.
AT 1005 E. PESCADERO AVENUE, UNIT #109

WHEREAS, In all zoning districts throughout the City, specified conditional uses are allowed only upon the granting of a Conditional Use Permit. Tracy Municipal Code (TMC) Section 10.08.4250 provides that because of the “potentially incompatible characteristics, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties.” The TMC further provides that the Planning Commission “is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon the granting of use permits, subject to appeal review by the Council”; and

WHEREAS, On December 18, 2012, the City Council amended the Tracy Municipal Code, the I-205 Corridor Specific Plan, and other specific plans throughout the City to address eating and/or drinking establishments with entertainment. With these amendments, a Conditional Use Permit is required for eating and/or drinking establishments that serve alcohol and provide entertainment after 11:00 p.m. Entertainment uses are defined as live music, dancing, karaoke, comedy shows, modeling, or live performances; and

WHEREAS, On February 24, 2016, the Planning Commission approved a Conditional Use Permit (CUP15-0008) to allow an eating and/or drinking establishment to serve alcohol and provide entertainment after 11:00 p.m. at 1005 E. Pescadero Avenue, Unit #109 in the Northgate Village shopping center; and

WHEREAS, TMC Section 10.08.4380 authorizes the automatic suspension of a Conditional Use Permit (CUP) upon a violation of any applicable provision of TMC Chapter 10.08 or upon failure to comply with any condition upon which a CUP was granted. This provision further provides that the Planning Commission must consider the suspension within 30 days of the Notice of Suspension; and

WHEREAS, If the Planning Commission is “not satisfied that the regulation, general provision, condition, or conditions are being complied with, the Commission may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provisions, condition, or conditions” pursuant to TMC section 10.08.4380; and

WHEREAS, A Notice of Suspension of Conditional Use Permit (CUP15-0008) was issued to the operator of the Venu Nightclub on April 13, 2017; and

WHEREAS, On April 26, 2017, the Planning Commission held a public hearing to review and consider the revocation of Conditional Use Permit (CUP15-0008);

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission does hereby revoke the Conditional Use Permit (CUP15-0008) to operate an eating and/or drinking

establishment that serves alcohol and provides entertainment after 11:00 p.m. at 1005 E. Pescadero Avenue, Unit #109, based on the following findings:

1. The owners have failed to comply with CUP 15-0008 Conditions A.5, B.1, B.5, and C.1.
2. The failure to comply with Conditions A.5 and B.5. constitutes a violation of the California Building Code and endangers the public health, safety and welfare of customers and surrounding businesses.
3. The failure to comply with Conditions B.1 and C.1. has rendered this use detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity because of multiple incidents requiring law enforcement involvement, including an unreported shooting that was investigated and confirmed by the Tracy Police Department to have occurred on or about February 3, 2017, in which case the business owner failed to contact law enforcement to report the incident and was uncooperative throughout the investigation.

The foregoing Resolution 2017-_____ was adopted by the Planning Commission on the 26th day of April 2017, by the following vote:

| | |
|----------|---------------------|
| AYES: | COMMISSION MEMBERS: |
| NOES: | COMMISSION MEMBERS: |
| ABSENT: | COMMISSION MEMBERS: |
| ABSTAIN: | COMMISSION MEMBERS: |

CHAIR

ATTEST:

STAFF LIAISON