

## 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, August 9, 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 – 7/12/17

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 RECOMMENDATION TO CITY COUNCIL TO ADOPT AN ORDINANCE AMENDING TRACY MUNICIPAL CODE SECTION 10.08.2560, LOT AREA (GHC), REGARDING THE MINIMUM LOT FRONTAGE REQUIREMENT IN THE GENERAL HIGHWAY COMMERCIAL ZONE – APPLICANT IS SCHACK AND COMPANY FOR TRACY ORCHARD PLAZA, L.P.
- B. PUBLIC HEARING TO CONSIDER A RECOMMENDATION TO CITY COUNCIL REGARDING ADOPTION OF AN ORDINANCE AMENDING TRACY MUNICIPAL CODE (TMC) SECTION 10.08.3196 AND ADDING TMC CHAPTER 6.36 TO PROHIBIT OUTDOOR CULTIVATION, COMMERCIAL CULTIVATION AND MANUFACTURING, AND SALES AND DELIVERY OF MARIJUANA (CANNABIS) FOR ADULT USE TO ALLOW TIME FOR THE PLANNING COMMISSION AND CITY COUNCIL TO CONSIDER REASONABLE REGULATIONS FOR SUCH USES

#### 2. ITEMS FROM THE AUDIENCE

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

Posted: August 3, 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, JULY 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, Commissioners Hudson, Krogh, and Tanner present. Also present were: Bill Dean, Assistant Director of Development Services; Leticia Ramirez, Deputy City Attorney; Scott Claar, Senior Planner; and Gina Peace, Recording Secretary.

**MINUTES**

It was moved by Commissioner Tanner, and seconded by Vice Chair Sangha, that the Planning Commission meeting Minutes of June 28, 2017, be approved. Voice vote found Chair Orcutt, and Commissioner Hudson in favor; Commissioner Krogh abstained, as he was not in attendance at the June 28<sup>th</sup> meeting. 4-0-1; passed and so ordered.

**DIRECTOR'S REPORT REGARDING THIS AGENDA**

Bill Dean advised that the Planning Commission meeting minutes are fully caught up, and thanked Gina Peace and Peggy Abundiz for their hard work in getting these done. Mr. Dean commented that Gina and Peggy would be alternating as Recording Secretary for Planning Commission meetings.

At 7:02 p.m., Vice Chair Sangha left the dais, as she said she has a business in the shopping center in question in Item 1.A, so she recused herself.

**ITEMS FROM THE AUDIENCE**

None.

**1. NEW BUSINESS**

- A. PUBLIC HEARING TO CONSIDER APPROVING AN ORDINANCE AMENDING THE I-205 CORRIDOR SPECIFIC PLAN TO CREATE A NEW LAND USE DESIGNATION OF GENERAL COMMERCIAL 2 AND CHANGE THE LAND USE DESIGNATION FROM GENERAL COMMERCIAL TO GENERAL COMMERCIAL 2 FOR THE PROPERTY LOCATED AT 1005 E. PESCADERO AVENUE, ASSESSOR'S PARCEL

NUMBER 213-060-40. THE APPLICANT AND PROPERTY OWNER IS 51 NEWCO, LLC. APPLICATION NUMBER SPA17-0004

Scott Claar presented the staff report.

Discussion and questions followed pertaining to the purpose of a new land use designation, and the cost of Conditional Use Permits (CUPs).

Chair Orcutt opened the public hearing at 7:38 p.m.

Glenn Bolich, Senior Architect with Studio G Architects, located at 250 Bassett Road, Suite 250, in San Jose, California, spoke on behalf NEWCO, LLC. Although he was not involved in the Center's leasing efforts, he advised that the goal for the Center and the smaller spaces was to attract small businesses. Mr. Bolich stated that the applicant is turning to the City for help. Mr. Bolich shared that the center is presently 50% vacant, and the Center wants to streamline the process of tenant leasing. Requiring a CUP is a large burden for the Center's leasing efforts. The main addition is places of assemble, and recreational uses, such as kids' entertainment, and seasonal entertainment.

Alice English addressed the Commission and asked about the whereabouts of the owner, and said there is very little promoting of the business. Even with a nice hotel coming into the area, there is nothing nearby promoting the center. Ms. English was opposed to this change, as she feels that businesses can sneak in the center without any review. Ms. English also opposes the outdoor cooking.

Mr. Bolich shared that the center's owner is traveling, and was unable to make tonight's meeting.

Commissioner Tanner expressed concerned that the hotel business might lose business because of the late night noise, as a private club, or a nightclub could potentially create more noise than a retail space.

Linda Wilcox, a local real estate broker and tenant at the Northgate Village Center addressed the Commission. Ms. Wilcox said she has spent a year putting tenant improvements in the space, and shared her disappointment on how difficult it is for tenants to come into Northgate Village, due to the CUP process. Parking is definitely sufficient at the center, even for places of assembly and outdoor cooking areas. She would like to see the CUP permitting process more streamlined.

Commissioner Hudson reminded all that outdoor cooking was not permitted in this Ordinance. He said that he agreed the cost of a CUP could absolutely break a new business just starting out.

Shontell Motura, also a tenant at Northgate Village, is at the Center every day. She has experience with several potential tenants who do not want to rent at Northgate Village, because of the cost of the CUP required. She said a lot of potential tenants call in, but it is too difficult for them to deal with the City, such as a gym/personal training center, and a bookstore.

At 8:09 p.m., Chair Orcutt closed the public hearing.

Questions and discussion continued, and Commissioner Krogh commented about the "private club" example under the places of assembly, and believed it is too vague of a description, and wanted to exclude from GC2 designation; Commissioner Hudson agreed. Commissioner Tanner wanted to exclude all places of assembly in the Ordinance, and believed they should still require a Conditional Use Permit, which Scott Claar mentioned, was consistent with City-wide standards.

**ACTION** It was moved by Commissioner Krogh, and seconded by Commissioner Hudson, that the Planning Commission recommends the City Council introduce and adopt an ordinance to amend the I-205 Corridor Specific Plan to create a new land use designation of General Commercial 2, excluding outdoor cooking, and also excluding places of assembly to continue to require a Conditional Use Permit, and change the land use designation from General Commercial to General Commercial 2 for the property located at 1005 E. Pescadero Avenue, Assessor's Parcel Number 213-060-40, Application Number SPA17-0004, as stated in the Planning Commission Resolution dated July 12, 2017. Roll call vote found Chair Orcutt and Commissioner Tanner in favor, Vice Chair Sangha abstained; 4-0-1; passed and so ordered.

At 8:24 p.m., Vice Chair Sangha rejoined the dais.

## **2. ITEMS FROM THE AUDIENCE**

None.

## **3. DIRECTOR'S REPORT**

Bill Dean reminded the Commissioners about the APA Conference in Sacramento in September, and directed interested commissioners to contact Gina Peace to register.

## **4. ITEMS FROM THE COMMISSION**

Chair Orcutt was curious if anyone has attended the Building Industry Association of the Greater Valley annual event, on behalf of the City of Tracy. Vice Chair Sangha shared that she has attended in the past, and it was more of a social event, with lots of attendees from the San Joaquin Valley. Chair Orcutt is considering attending this year.

## **5. ADJOURNMENT**

It was moved by Chair Orcutt, and seconded by Commissioner Hudson, to adjourn.

Time: 8:25 p.m.

---

CHAIR

---

STAFF LIAISON

AGENDA ITEM 1-A

REQUEST

**PUBLIC HEARING TO CONSIDER A RECOMMENDATION TO CITY COUNCIL TO ADOPT AN ORDINANCE AMENDING TRACY MUNICIPAL CODE SECTION 10.08.2560, LOT AREA (GHC), REGARDING THE MINIMUM LOT FRONTAGE REQUIREMENT IN THE GENERAL HIGHWAY COMMERCIAL ZONE – APPLICANT IS SCHACK AND COMPANY FOR TRACY ORCHARD PLAZA, L.P.**

DISCUSSION

Request Summary

The City's General Highway Commercial (GHC) Zone requires lots to have a minimum of 125 feet of frontage along an arterial street and a minimum of 70 feet of frontage where two or more adjoining uses have combined parking areas with common ingress and egress [Tracy Municipal Code (TMC) Section 10.08.2560]. The proposal is to amend the GHC Zone regulations by removing the requirement for public right-of-way frontage where lots have combined parking areas with common ingress and egress. Attachment A contains the subject TMC Section with changes shown in strike-thru/underline format. For reference, Attachment B contains the entire GHC Zone.

Background

The General Highway Commercial (GHC) Zone provides for automobile-oriented businesses adjacent to major arterial streets. In accordance with the City's Zoning Ordinance (TMC Chapter 10.08, Article 19), the GHC Zone contains provisions intended to control the site layout and design so as to: (1) promote a free traffic flow on major arterial streets, (2) assure land use compatibility along major arterial streets, (3) provide for commercial activities which can prosper in independent locations or shopping centers, and (4) encourage development of an open, uncrowded nature which will enhance the major arterials of the City and discourage developments which will extend unplanned commercial strips.

In order to help achieve these objectives, the GHC Zone identifies permitted land uses, limits outdoor uses, requires screening from adjoining residential zones, limits the width and proximity of driveways, establishes a minimum frontage requirement on the arterial street, and requires certain minimum yard setbacks from property lines.

As indicated above, one of the GHC Zone requirements is for each lot to have at least 125 feet of frontage along the arterial street (TMC Section 10.08.2560). The minimum frontage requirement is reduced to 70 feet where two or more adjoining uses have combined parking areas with common ingress and egress.

The GHC Zone requirement for a minimum of 125 feet of frontage (and 70 feet with adjoining uses) along an arterial street has been in place since at least 1972. Since that time, Tracy has seen multiple, successful, commercial shopping centers containing lots with less than 70 feet of frontage developed along arterial streets outside of the GHC

Zone. Each one of these shopping centers contains two or more adjoining uses with common ingress and egress. Most commercial zone districts in Tracy do not contain a minimum lot frontage requirement. Examples of commercial centers with lots containing less than 70 feet include: Tracy Marketplace (Walmart), West Valley Mall, Tracy Pavilion (Home Depot), and Save Mart Center at Tracy Boulevard and Schulte Road. Some of these commercial centers have land-locked lots with no public right-of-way frontage.

Commercial development, in years past, did not normally subdivide shopping centers into multiple lots. Older shopping centers in Tracy [LaPlaza Market (former Food-4-Less) and World Gym (former grocery store), for example] have only two lots with typical sizes of 3.5 to over eight acres. By contrast, commercial shopping centers developed more recently contain a separate lot for each tenant or building within each development, resulting in smaller lot sizes and narrow frontage, if any, on the public right-of-way. For example, Tracy Marketplace contains 24 lots, the West Valley Mall consists of 23 lots, and the Save Mart Center along Tracy Boulevard is comprised of six lots. Property lines passing through shopping centers are indistinguishable by customers visiting the centers. The separate lots associated with modern shopping centers are largely a function of ownership interests and financing needs. It is less common to have a single owner of a shopping center with independent financing today than it was in the past.

The circulation and utilities function well within multiple-lot shopping centers because cross easements are recorded on the lots, allowing pedestrian and vehicle circulation, customer and delivery access, and site maintenance or signs to occur across property lines. The City ensures adequate driveway spacing and other right-of-way improvements, in general, through roadway design standards and not through zoning, as may have been more prevalent in decades past.

#### Proposed Lot Line Adjustment

The zone text amendment is initiated by owners of property within the GHC Zone who wish to perform a lot line adjustment, resulting in one lot with no frontage along the arterial street. The subject property is located on the north side of Grant Line Road at Joe Pombo Parkway. Attachment C depicts the proposed lot line adjustment and Attachment D is an aerial photograph of the subject property highlighting the approximate location of the proposed resulting lot with no frontage on Grant Line Road. (The driveway labeled "Henley Pkwy" and "Joe Pombo Pkwy" on Attachment D is a private driveway, not a public street.)

As described above, the GHC Zone requires each lot to have 125 feet of frontage on the arterial street (in this case, Grant Line Road), or 70 feet where there are adjoining uses with common access. The proposed resulting lot shown in Attachment D will have common access with its neighbors through the adjacent private driveway. If the proposed GHC Zone amendment is approved, the lot line adjustment would allow the property owner to sell or finance the proposed adjusted lot separately from the portion of the lot that currently touches directly onto Grant Line Road. If the City Council decides to approve the proposed GHC Zone amendment, the lot line adjustment would be reviewed and concluded by the City Engineer and Development Services Director and would not involve public hearings.

Based on the demonstrated successful design and operation of newer shopping centers outside of the GHC Zone where lots, in some cases, have little to no public right-of-way frontage; and on the ability of the City to otherwise regulate driveway locations and right-of-way improvements, City staff is recommending approval of the proposed GHC Zone amendment.

#### CEQA Documentation

California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) states that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Any subdivision or relocation of lot lines will be subject to CEQA review. The proposed ordinance does not have the possibility to have a significant effect on the environment. Therefore, this proposed ordinance is exempt from CEQA review.

#### RECOMMENDATION

Staff recommends the Planning Commission recommend that the City Council approve the GHC Zone amendment, as indicated in the attached Resolution.

#### MOTION

Move that the Planning Commission recommend that the City Council approve the Zoning Ordinance amendment affecting Tracy Municipal Code Section 10.08.2560, Lot Area (GHC), as indicated in the Planning Commission Resolution dated August 9, 2017.

Prepared by: Alan Bell, Senior Planner

Approved by: Andrew Malik, Development Services Director

#### ATTACHMENTS

Attachment A – Proposed TMC Amendment in strike-thru/underline format

Attachment B – Existing General Highway Commercial Zone (TMC Ch. 10.08, Article 19)

Attachment C – Related Proposed Lot Line Adjustment Diagram

Attachment D – Aerial Photograph of Related Proposed New Lot Location

Attachment E – Proposed Planning Commission Resolution



## Proposed Changes to TMC Section 10.08.2560 (Redlined)

### Chapter 10.08 ZONING REGULATIONS

#### Article 19. – General Highway Commercial Zone (GHC)

##### 10.08.2560 – Lot area (GHC)

##### 10.08.2560 Lot Area (GHC)

~~(a)~~ All lots in the GHC Zone located along major arterials shall have a minimum frontage along the major arterial of 125 feet, except lots that  
~~— (b) Where two (2) or more adjoining uses~~ have combined parking areas with common ingress and egress ~~the minimum frontage along the major arterial may be seventy (70) feet for each use.~~

(Prior code Section 10-2.1907)

Article 19. - General Highway Commercial Zone (GHC)

10.08.2490 - Purpose (GHC).

The General Highway Commercial (GHC) Zone is to provide areas for commercial activities which are automobile-oriented or for those uses which seek independent locations outside shopping centers or other business clusters. The GHC Zone is not to be confused with the Highway Service (HS) Zone which is applicable to freeway interchanges only.

(Prior code § 10-2.1900)

10.08.2500 - Descriptive regulations (GHC).

The GHC Zone is intended to permit a pattern of varied automobile-oriented uses of property adjacent to major arterial streets. The provisions of this article are intended to control the site layout and design so as to:

- (a) Promote a free traffic flow on major arterial streets;
- (b) Assure compatibility among the uses along major arterial streets and with existing and future uses in adjacent areas;
- (c) Provide an area for commercial activities which are of an automobile-oriented nature or for those which seek an independent location outside of shopping centers and can prosper as well in such areas as in a shopping center; and
- (d) Encourage development of an open, uncrowded nature which will enhance the major arterials of the City and discourage developments which will extend unplanned commercial strips.

(Prior code § 10-2.1901)

10.08.2510 - Permitted uses (GHC).

- (a) In the GHC Zone, only automobile-oriented uses which are included in the following use groups shall be permitted without conditional approval:

Group 1	Minor public service uses;
Group 4	Temporary buildings and uses;
Group 29	Accessory uses;
Group 30	Educational, cultural, institutional and recreational uses (neighborhoods);

Group 31	Educational, cultural, institutional and recreational uses serving the greater community;
Group 40	Traveler's living accommodations, except trailer parks and uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;
Group 41	Business offices/professional offices and laboratories, excluding dwelling units;
Group 42	Retail trade establishment, convenience or goods; food stores, except supermarkets;
Group 43	Consumer services and retail trade establishments, except (a), (c-2), (e), and (f);
Group 44	Consumer services and retail trade;
Group 45	General consumer and business services;
Group 46	Special retail trade and consumer establishments;
Group 47	Special business, consumer, and miscellaneous repair services;
Group 50	Farm equipment sales and services; and
Group 51	Wholesale trade establishments.

(b) In the GHC Zone, automobile uses which are included in the following use groups shall be permitted only with conditional approval:

Group 2	Local public service and utility installations;
Group 23	Multi-family uses;
Group 25	Institutional uses with residential accommodations;
Group 40	Traveler's living accommodations, except trailer parks and uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;
Group 41	Business offices and professional offices and laboratories including one owner-occupied dwelling unit per business;
Group 42	Food stores and supermarkets;
Group 43	Consumer services and retail trade including (a), (c-2), (e) and (f);
Group 48	Commercial amusement and entertainment establishments (requiring large sites and generating large traffic volumes);
Group 52	Contract construction; and
Group 53	Warehousing and storage.

(Prior code § 10-2.1902, as amended by § 1, Ord. 947 C.S., eff. Oct. 31, 1996)

(Ord. No. 1177, § 11, 1-15-2013)

10.08.2520 - Uses to be conducted within buildings (GHC).

All uses established within the GHC Zone shall be conducted wholly within a building, except such uses as drive-in restaurants, gasoline service stations, plant material nurseries, plumbing shops, and similar enterprises deemed by the Commission to be customarily conducted in the open, with the exception that live plant materials and nursery supplies may be displayed outside provided no more than an area equal to twenty (20%) percent of the lineal footage of the building front is occupied by such displays.

(Prior code § 10-2.1903)

10.08.2530 - Screening (GHC).

A screening fence six (6') feet in height, measured from the finished grade of the GHC property line, separating the GHC Zone property from adjoining residential or agricultural zones, shall be required. On corner lots adjoining such zoning districts across a minor connecting side street, a screening fence six (6') feet in height shall be constructed to enclose storage areas, trash bins, and delivery areas. The design and location of such screening shall be approved during the site plan review (see Article 30 of this chapter).

(Prior code § 10-2.1904)

10.08.2540 - Driveways (GHC).

- (a) All existing lots of record within the GHC Zone as of August 8, 1972, and all lots created within another zoning district prior to reclassification to the GHC Zone, shall be permitted access to the major street in accordance with the following:
  - (1) Lots with less than 120 feet in width along the frontage of the major arterial street shall be allowed one curb cut with a maximum width of thirty-five (35') feet. The location of such curb cut shall be approved by the Community Development Director concurrently with the approval of the development plans.
  - (2) Those lots with 120 feet or more in width along the major arterial street shall be provided access in accordance with the standards set forth in sub.section (b) of this section.
- (b) All lots created within the GHC Zone subsequent to August 8, 1972, shall be permitted access in accordance with the following standards:
  - (1) One curb cut only shall be permitted for each sixty (60') foot increment of lot width along the major arterial street up to a width of 125 feet.
  - (2) Curb cuts shall be a maximum of thirty-five (35') feet from the top of the curb to the top of the curb.

(Prior code § 10-2.1905)

10.08.2550 - Building site area (GHC).

There shall be no site area requirements in the GHC Zone.

(Prior code § 10-2.1906)

10.08.2560 - Lot area (GHC).

- (a) All lots in the GHC Zone located along major arterials shall have a minimum frontage along the major arterial of 125 feet.
- (b) Where two (2) or more adjoining uses have combined parking areas with common ingress and egress, the minimum frontage along the major arterial may be seventy (70') feet for each use.

(Prior code § 10-2.1907)

10.08.2570 - Yard areas (GHC).

Minimum yards: in the GHC Zone shall be as follows:

- (a) Front yards. Every lot within the GHC Zone shall have a front yard of not less than fifteen (15') feet; and
- (b) Side and rear yards. Each lot within the GHC Zone shall have side and rear yards of not less than fifteen (15') feet, except where adjacent to commercial or industrial zones, in which case there shall be no requirements.

(Prior code § 10-2.1908)

10.08.2580 - Height (GHC).

There shall be no height requirements in the GHC Zone.

(Prior code § 10-2.1909)

10.08.2590 - Permissible lot coverage (GHC).

There shall be no lot coverage requirements in the GHC Zone.

(Prior code § 10-2.1910)

10.08.2600 - Floor area (GHC).

There shall be no floor area requirements in the GHC Zone.

(Prior code § 10-2.1911)

10.08.2610 - Off-street parking (GHC).

See Article 26 of this chapter. In addition, when two (2) or more uses combine their parking into a single adjoining parking lot with common ingress and egress, they may receive a twenty-five (25%) percent reduction in the required number of spaces. The proposed common parking lot shall be subject to site plan and architectural review at the time of the development plan review.

(Prior code § 10-2.1912)

10.08.2620 - Development review (GHC).

All uses requiring a building permit shall obtain development review compliance, except as provided in Article 30 of this chapter and the CEQA Guidelines adopted by the City, prior to being established in the GHC Zone.

(Prior code § 10-2.1913)

FOR  
TRACY ORCHARD PLAZA, L.P.  
TRACY, CA

**LOT LINE ADJUSTMENT**

Schack & Company, Inc.  
Civil Engineering • Building Design • Surveying  
(925) 855-8115 • Fax: (925) 855-1100 • Email: info@schack.com

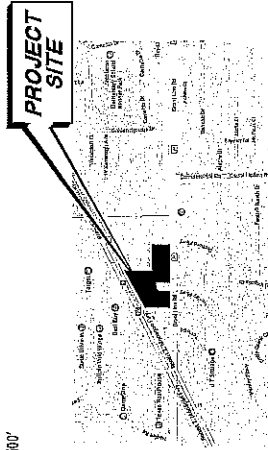
Date: 07/13/17  
Job: 17-016  
By: DW  
Sheet  
of 1

CITY OF TRACY  
SAN JOAQUIN COUNTY, CALIFORNIA  
APN 214-020-32 & 33  
ZONING: GHC

(R) RECORD INFORMATION  
(C) CALCULATED  
POB POINT OF BEGINNING  
POC POINT OF COMMENCEMENT



SCALE: 1" = 100'



**VICINITY MAP**  
NOT TO SCALE

RECEIVED

JUL 18 2017

CITY OF TRACY  
DEVELOPMENT SERVICES

REFERENCES:  
(R) CERTIFICATE OF COMPLIANCE FOR  
LOT LINE ADJUSTMENT  
DOC # 2005-068855, S.J.C.R.  
(R2) 60' INGRESS/EGRESS EASEMENT  
PER L.N. 97028672, S.J.C.R.

INTERSTATE 205

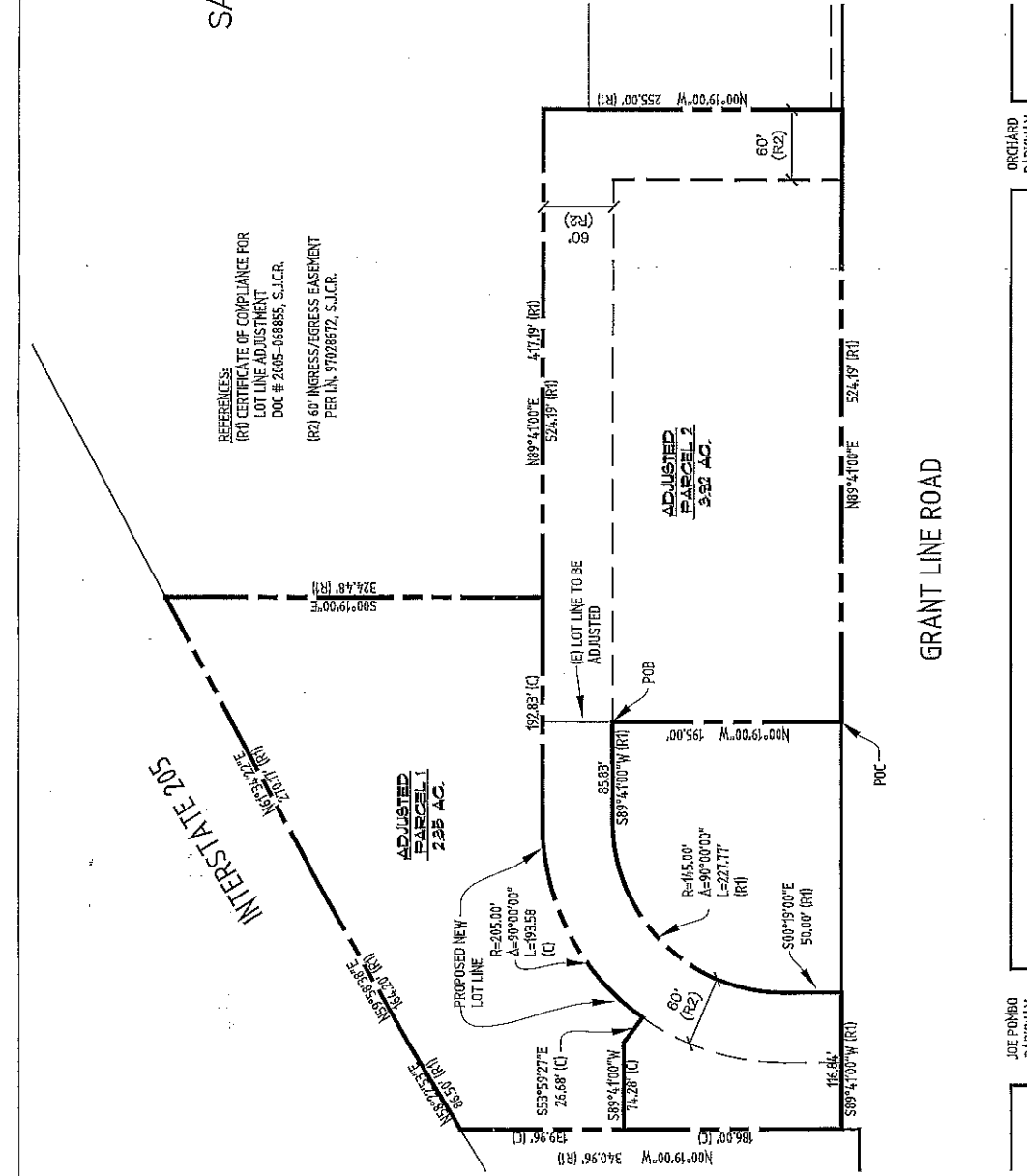
ADJUSTED  
PARCEL 1  
2.35 AC.

ADJUSTED  
PARCEL 2  
3.32 AC.

GRANT LINE ROAD

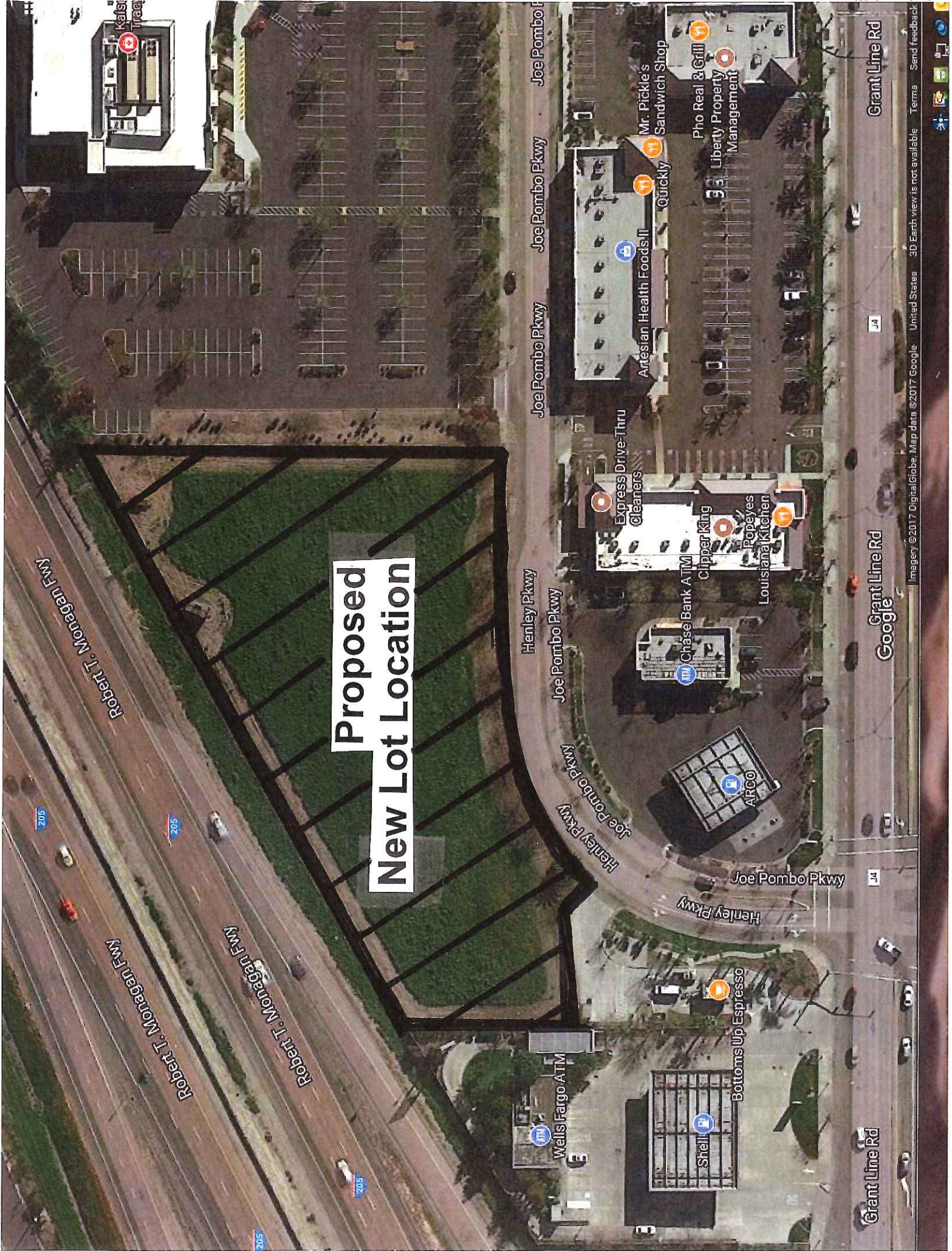
ORCHARD  
PARKWAY

JOE PONBO  
PARKWAY





# Proposed New Lot Location



RESOLUTION 2017-\_\_\_\_\_

PLANNING COMMISSION RECOMMENDATION THAT THE CITY COUNCIL INTRODUCE AND ADOPT AN ORDINANCE AMENDING THE CITY ZONING REGULATIONS, TRACY MUNICIPAL CODE SECTION 10.08.2560, LOT AREA (GHC)

WHEREAS, Tracy Municipal Code (TMC) Section 10.08.2560 requires lots in the General Highway Commercial (GHC) Zone to have a minimum of 125 feet of frontage along an arterial street and a minimum of 70 feet of frontage where two or more adjoining uses have combined parking areas with common ingress and egress, and

WHEREAS, On July 18, 2017, Schack and Company, on behalf of Tracy Orchard Plaza, L.P., filed an application with the City to remove the requirement for public right-of-way frontage on lots in the GHC Zone that have combined parking areas with common ingress and egress, and

WHEREAS, Existing commercial development patterns outside of the GHC Zone demonstrate that public right-of-way frontage for lots with combined parking areas with common ingress and egress is not necessary, and

WHEREAS, The City can effectively regulate the proximity of driveways and other public right-of-way improvements through roadway design standards without requiring street frontage where lots have combined parking areas with common ingress and egress, and

WHEREAS, The proposed ordinance is exempt from the California Environmental Quality Act pursuant to Guidelines Section 15061(b)(3) because there is no possibility it will have a significant effect on the environment, and

WHEREAS, On August 9, 2017, the Planning Commission conducted a public hearing to consider the ordinance;

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission recommends the City Council introduce and adopt an ordinance to amend Tracy Municipal Code Section 10.08.2560 as indicated in Exhibit 1, attached.

\* \* \* \* \*

The foregoing Resolution 2017-\_\_\_\_\_ was adopted by the Planning Commission on the 9<sup>th</sup> day of August, 2017, by the following vote:

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

ATTEST: \_\_\_\_\_ CHAIR

\_\_\_\_\_  
STAFF LIAISON

ORDINANCE \_\_\_\_\_

AMENDING SECTION 10.08.2560 [LOT AREA (GHC)] OF THE TRACY MUNICIPAL CODE REGARDING MINIMUM LOT FRONTAGE REQUIREMENT IN THE GENERAL HIGHWAY COMMERCIAL ZONE

The City Council of the City of Tracy ordains as follows:

SECTION 1. Tracy Municipal Code Section 10.08.2560 is amended to read as follows:

10.08.2560 Lot Area (GHC).  
All lots in the GHC Zone located along major arterials shall have a minimum frontage along the major arterial of 125 feet, except lots that have combined parking areas with common ingress and egress.

SECTION 2. The City Council finds that this Ordinance is not subject to CEQA under CEQA Guidelines Section 15061(b)(3), which applies to projects that do not have the possibility to have a significant effect on the environment.

SECTION 3. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 4: This Ordinance shall be published once in a newspaper of general circulation, within 15 days from and after its final passage and adoption.

\*\*\*\*\*

The foregoing Ordinance \_\_\_\_\_ was introduced at a regular meeting of the Tracy City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, and finally adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES: COUNCIL MEMBERS:  
NOES: COUNCIL MEMBERS:  
ABSENT: COUNCIL MEMBERS:  
ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

AGENDA ITEM 1-B

REQUEST

**PUBLIC HEARING TO CONSIDER A RECOMMENDATION TO CITY COUNCIL REGARDING ADOPTION OF AN ORDINANCE AMENDING TRACY MUNICIPAL CODE (TMC) SECTION 10.08.3196 AND ADDING TMC CHAPTER 6.36 TO PROHIBIT OUTDOOR CULTIVATION, COMMERCIAL CULTIVATION AND MANUFACTURING, AND SALES AND DELIVERY OF MARIJUANA (CANNABIS) FOR ADULT USE TO ALLOW TIME FOR THE PLANNING COMMISSION AND CITY COUNCIL TO CONSIDER REASONABLE REGULATIONS FOR SUCH USES**

EXECUTIVE SUMMARY

California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA), in November 2016, which legalizes the use of non-medicinal (recreational) marijuana by adults and the cultivation of up to six marijuana plants for personal use. The AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medicinal marijuana (or cannabis) for adult use.

Cities have the authority to ban, restrict, or otherwise regulate certain non-medicinal marijuana activities and uses in their jurisdictions under the AUMA. On June 13, 2017, after a lengthy discussion on the subject, Council stated that they wished to further explore how best to regulate and potentially implement various aspects of Proposition 64. Staff was directed to bring back additional information regarding the commercial activities and potential personal regulations regarding Proposition 64. Staff has recently hired the HDL Companies, a consulting firm with Proposition 64 expertise, to assist in presenting greater detail to Council in an effort to determine how best to regulate or ban certain aspects of this industry in the City. Workshops are tentatively being scheduled for October of this year.

Staff is recommending that the Planning Commission recommend the adoption of an Ordinance now to amend the Tracy Municipal Code to ensure that a more comprehensive and thorough discussion of how best to regulate the industry in the community takes place before the State begins issuing permits in January 2018. It should be noted that any new ordinances regulating this issue would need to be approved by the City Council and would not be effective until 30 days after adoption of the ordinance at the second Council meeting hearing.

DISCUSSION

Background

In November 2016, the California voters passed Proposition 64, which legalizes the use of non-medicinal marijuana (cannabis) by individuals over the age of 21 and the cultivation of up to six plants for personal use. Proposition 64 preserved the ability of cities and counties to exercise control over marijuana in several key areas, which presents several policy issues for the City Council to consider.

### Current City Regulations related to Marijuana

Section 1.08.140 of the Tracy Municipal Code (TMC) states that “no provision of this code is intended to nor shall be interpreted or applied to allow or authorize a use, structure, activity, or conduct that violates federal, state, or local law.”

On June 5, 2012, the City Council adopted Ordinance 1170, which amended both Title 1 and Title 10 of the TMC to expressly prohibit the cultivation of medical marijuana (either as a primary use or as an accessory residential use in a backyard) and ban medical marijuana dispensaries. Recreational marijuana (or cannabis) for adult use was not addressed in that ordinance because the policy discussion predated the passage of Proposition 64.

### Discussion

With the passage of Proposition 64, which legalizes aspects of the cultivation, possession, use, and consumption of recreational marijuana in California, the City is faced with numerous inquiries related to whether or not non-medicinal marijuana uses will be allowed and what, if any, local regulations will apply to such uses.

On June 13, 2017, staff presented and Council discussed very general aspects of the potential regulations available to jurisdictions within Proposition 64. The item was intended to be a preliminary discussion with Council to gauge interest to move forward, or not, with any such regulations or restrictions. Council directed staff to bring back greater detail and best practices regarding all aspects of regulating and/or implementing recreational and medicinal marijuana in the City.

Since the June 13 Council meeting, staff has hired the HDL Companies, a consulting firm with Proposition 64 expertise, to develop and implement a Council and community outreach program related to the implementation of Proposition 64 within Tracy. HDL has prepared a draft of the proposed outreach program (Attachment A). It is proposed that there would be a kickoff workshop with Council on October 3, 2017, after which there would be two community workshops. A community survey is also proposed to be administered following the two community workshops. A summarizing Council agenda item is recommended to compile all of the outreach information and to then seek Council direction regarding potential regulations.

### Timing Issues Regarding Local Regulations

Starting on January 1, 2018, state agencies may begin to issue permits to operate adult use marijuana businesses pursuant to Proposition 64. The state will not issue permits if the operations will violate local ordinances or regulations. Thus, any regulations regarding non-medicinal marijuana, such as a ban on all commercial marijuana activity in Tracy, should be in effect before January 1, 2018. Any new or amended local ordinances related to this subject will require a recommendation from the Planning Commission and adoption by the City Council. In addition, the effective date of an ordinance is not until 30 days after the Council's second reading of the regulation or ordinance.

Based on the tentative timing for Council workshops and the state regulatory process for adopting local regulations and ordinances, staff is recommending that Council adopt an Ordinance, with a sunset date of December 31, 2018, to provide time for a more comprehensive and thorough discussion of how best to regulate the industry in the community before the state begins issuing permits in January 2018. The proposed ordinance amends Tracy Municipal Code (TMC) Section 10.08.3196 (Attachment B) and adds TMC Chapter 6.36 (Attachment C), to expand the City's current ban on medicinal marijuana cultivation and dispensaries to also prohibit adult use marijuana outdoor cultivation, dispensaries and other commercial activities.

#### RECOMMENDATION

Staff recommends that the Planning Commission recommend the City Council introduce and adopt an ordinance amending TMC Section 10.08.3196 and adding TMC Chapter 6.36 to prohibit outdoor cultivation, commercial cultivation and manufacturing, and sales and delivery of adult use marijuana (cannabis), to allow time for the Planning Commission and City Council to consider reasonable regulations for such uses.

#### MOTION

Move that the Planning Commission recommend the City Council introduce and adopt an ordinance amending TMC Section 10.08.3196 and adding TMC Chapter 6.36 to prohibit outdoor cultivation, commercial cultivation and manufacturing, and sales and delivery of marijuana (cannabis) for adult use, to allow time for the Planning Commission and City Council to consider reasonable regulations for such uses, as stated in the Planning Commission Resolution dated August 9, 2017.

Prepared by: Andrew Malik, Development Services Director  
Approved by: Troy Brown, City Manager

#### ATTACHMENTS

- A – Proposed Outreach Program Regarding Marijuana
- B – Proposed Changes to TMC Section 10.08.3196, Marijuana Dispensaries and Cultivation
- C – Proposed New TMC Chapter 6.36, Marijuana Businesses and Deliveries
- D – Planning Commission Resolution (including Exhibit 1, Proposed Ordinance)



Delivering Revenue,  
Insight and Efficiency  
To Local Government

1340 Valley Vista Drive  
Suite 200  
Diamond Bar, CA 91765

## Attachment A

909.861.4335  
Fax 909.861.7726  
888.861.0220  
www.hdlcompanies.com

### **Community Engagement Cannabis Workshops Outline**

The City of Tracy will be conducting One Council Workshop and two Community Outreach Workshops. The goals & objectives of the workshop will be to facilitate discussion to determine how the City can shape the values of the Community to either permit the Cannabis Industry in the City or not to permit them in the City. In doing so it will provide informative discussions on the following types of commercial activities which will be regulated by state law and can be regulated by local law if permitted. We will also discuss how Prop 64 has provided the City the ability to regulate personal use cultivation activities and if there is a need to do so.

#### **Council Workshop (proposed Oct. 3)**

- Provide Council with regulatory detail, information and best practices regarding Prop. 64 implementation and regulation

#### **Community Workshop #1 (2-3 week following Council Workshop, TBD)**

- Overview of State Laws and Current City Ordinances
- Overview of Commercial Cannabis Business Types
- Discussion Topics
  - Commercial Cultivation
  - Retail / Dispensary
  - Manufacturing, Testing, Distribution, Transportation
  - Personal Cannabis Cultivation

In addition, the workshops will provide some education regarding those concerns which impact public safety, welfare and quality of life issues. As such we will discuss the quality of life issues as they pertain to time, place and manner concerns which include the following:

- Odor nuisances
- Security requirements

- Water usage and efficiencies
- Building and Planning requirements
- Land use-zoning requirements
- Sensitive buffers (school, day care centers, youth centers, etc.)

Furthermore, we will address the quality of life concerns and how we can mitigate those issues. This will include the following:

- Neighborhood compatibility
- Youth prevention and education
- Community benefits
- Regulatory compliance and oversight
- Cost of implementing the program
- Addressing other City Council directives

### **Community Workshop #2 (2-3 week following Council Workshop, TBD)**

This workshop will cover the same agenda as in Workshop #1 but will give those that missed the first workshop the opportunity to participate in this event.

### **Survey**

- A community survey is proposed to be administered following the two community workshops

### **Council Summary Agenda Item**

- Summarize community outreach and seek Council direction regarding regulation



## Proposed Changes to TMC Section 10.08.3196 (Redlined)

### Chapter 10.08 - ZONING REGULATIONS

#### Article 23. - General Provisions, Conditions, and Exceptions

10.08.3196 - ~~Medical m~~Marijuana dispensaries and cultivation.

(a) For the purpose of this section, the following definitions apply:

- (1) Commercial marijuana businesses means any activity licensed by the State of California pursuant to California Business and Professions Code sections 19300 et seq. or 26000 et seq., as those sections may be amended from time to time, including but not limited to marijuana cultivation, distribution, manufacturing, transporting and testing.
- (2) Cultivation of marijuana means the planting, growing, harvesting, drying, or processing of marijuana plants, or any part thereof.
- (3) Fully enclosed and secure structure means a space within a building, greenhouse, or other structure that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more lockable doors.
- (4) Marijuana or cannabis means all the parts of the plant Cannabis sativa L. and as defined by California Health and Safety Code section 11018, as this section may be amended from time to time.
- (5) Medical or medicinal marijuana means marijuana used for medical purposes pursuant to the Compassionate Use Act (California Health and Safety Code section 11362.5, as those sections may be amended from time to time) and the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq., as those sections may be amended from time to time).
- (+6) ~~Medical m~~Marijuana dispensary ~~or dispensary~~ means any facility or location where ~~medical~~-marijuana is grown, made available to and/or distributed by or to any of the following: a primary caregiver, a qualified patient, ~~or~~a person with an identification card, ~~or~~ a person over the age of 21.
- (7) Marijuana products means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients or as defined by California Health and Safety Code section 11018.1, as may be amended from time to time.
- (8) Non-medical or adult use marijuana means marijuana that is intended to be used for non-medical purposes pursuant to California Health and Safety Code section 11362.1 et seq., as those sections may be amended from time to time.

(29) *Outdoors* means any location within the City of Tracy that is not within a fully enclosed and secure structure or private residence, as defined by California Health and Safety Code section 11362.2.

(10) *Person with an identification card* shall have the same definition as in California Health and Safety Code section 11362.5 et seq., and as may be amended from time to time.

(311) *Primary caregiver* shall have the same definition as in California Health and Safety Code section 11362.5 et seq., and as may be amended from time to time.

(412) *Qualified patient* shall have the same definition as in California Health and Safety Code section 11362.5 et seq., and as may be amended from time to time.

(b) Marijuana Dispensaries Prohibited.

~~A medicinal and adult-use marijuana dispensary is not prohibited~~ and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

~~(c) Medical marijuana cultivation is not allowed, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.~~

~~(d)~~ Commercial Marijuana Businesses Prohibited.

Commercial medicinal and adult-use marijuana businesses are prohibited within the City, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(d) Marijuana Cultivation.

(1) Medical marijuana cultivation is not allowed, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(2) All outdoor cultivation of non-medical marijuana within the City is prohibited, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

~~(e)~~ Penalties.

(1) Violations of this chapter are hereby declared a public nuisance.

(2) Violations of this section are punishable as misdemeanors and as otherwise set forth in chapter 1.04 of this Code. Each day of operation of a ~~medical~~ marijuana dispensary, or outdoor cultivation of ~~medical~~ marijuana occurs, in violation of this section constitutes a separate offense.

(f) Sunset Provision.

This section shall become inoperative on December 31, 2018, and shall be considered repealed on that date, unless a later enacted ordinance that becomes effective on or before December 31, 2018, deletes or extends that date.

## Proposed New TMC Chapter 6.36 (Redlined)

### Title 6 – BUSINESSES, PROFESSIONS AND TRADES

#### Chapter 6.36 –MARIJUANA BUSINESSES AND DELIVERIES

##### 6.36.010 – Purpose.

##### 6.36.020 – Definitions.

##### 6.36.030 – Commercial Marijuana Businesses Prohibited.

##### 6.36.040 – Non-Medical Marijuana Deliveries Prohibited.

##### 6.36.050 – Penalties.

##### 6.36.060 – Sunset Provision.

##### 6.36.010 – Purpose.

The City Council’s intent in enacting this chapter is to protect the safety and welfare of the general public. The purpose of this chapter is to prohibit commercial marijuana businesses from opening and establishing in the City of Tracy, including the delivery of non-medical marijuana and non-medical marijuana products.

##### 6.36.020 – Definitions.

For the purpose of this section, the following definitions apply:

- (a) *Commercial marijuana businesses* means any activity licensed by the State of California pursuant to California Business and Professions Code sections 19300 et seq. or 26000 et seq., as those sections may be amended from time to time, including not limited to marijuana cultivation, distribution, manufacturing, transporting and testing.
- (b) *Marijuana or cannabis* means all the parts of the plant *Cannabis sativa L.* and as defined by California Health and Safety Code section 11018, as this section may be amended from time to time.
- (c) *Medical or medicinal marijuana* means marijuana used for medical purposes pursuant to the Compassionate Use Act (California Health and Safety Code section 11362.5, as those sections may be amended from time to time) and the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq., as those sections may be amended from time to time).
- (d) *Non-medical or adult use marijuana* means marijuana that is intended to be used for non-medical purposes pursuant to California Health and Safety Code section 11362.1 et seq., as those sections may be amended from time to time.
- (e) *Marijuana delivery* means the sale or commercial transfer of marijuana or marijuana products to a person, including any technology that enables persons to arrange for or facilitate the sale or commercial transfer of marijuana or marijuana products, or as

defined by California Business and Professions Code section 26001(p) as may be amended from time to time.

- (f) Marijuana products means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients or as defined by California Health and Safety Code section 11018.1, as may be amended from time to time.

#### 6.36.030 – Commercial Marijuana Businesses Prohibited.

Commercial medical or non-medical marijuana businesses are prohibited in the City, except for medical marijuana and medical marijuana product deliveries terminating in the City. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, a commercial medical or non-medical marijuana business.

#### 6.36.040 – Non-Medical Marijuana Deliveries Prohibited.

- (a) The delivery of non-medical marijuana and non-medical marijuana products is prohibited in the City. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, non-medical marijuana deliveries. This section shall not be interpreted to prohibit the transportation of non-medical marijuana or non-medical marijuana products through the City on public roads, as long as such transportation does not involve the delivery of non-medical marijuana or non-medical marijuana products within the City.
- (b) The delivery of medical marijuana and medical marijuana products that originate within the City is prohibited. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, the delivery of medical marijuana or medical marijuana products that originate within the City. This subsection shall not be interpreted to prohibit the transportation of medical marijuana or medical marijuana products through the City on public roads, as long as the point of origin of such transportation is not within the City.

#### 6.36.050 – Penalties.

- (a) Violations of this chapter are hereby declared a public nuisance.
- (b) Violations of this chapter are punishable as misdemeanors and as otherwise set forth in chapter 1.04 of this Code. Each day a commercial marijuana business operates in violation of this chapter constitutes a separate offense.

#### 6.36.060 – Sunset Provision.

This chapter shall become inoperative on December 31, 2018, and shall be considered repealed on that date, unless a later enacted ordinance that becomes effective on or before December 31, 2018, deletes or extends that date.

RESOLUTION 2017-\_\_\_\_\_

PLANNING COMMISSION RECOMMENDATION THAT CITY COUNCIL INTRODUCE AND ADOPT AN ORDINANCE AMENDING TRACY MUNICIPAL CODE (TMC) SECTION 10.08.3196 AND ADDING TMC CHAPTER 6.36 TO PROHIBIT OUTDOOR CULTIVATION, COMMERCIAL CULTIVATION AND MANUFACTURING, AND SALES AND DELIVERY OF MARIJUANA (CANNABIS) FOR ADULT USE TO ALLOW TIME FOR THE PLANNING COMMISSION AND CITY COUNCIL TO CONSIDER REASONABLE REGULATIONS FOR SUCH USES

WHEREAS, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA), in November 2016, which legalizes the use of non-medicinal (recreational) marijuana by adults and the cultivation of up to six marijuana plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medicinal marijuana (or cannabis) for adult use, and

WHEREAS, Cities have the authority to ban, restrict, or otherwise regulate certain non-medicinal marijuana activities and uses in their jurisdictions under the AUMA, and

WHEREAS, On June 13, 2017, after a lengthy discussion on the subject, Council stated that they wished to further explore how best to regulate and potentially implement various aspects of Proposition 64, and staff was directed to bring back additional information regarding the commercial activities and potential personal regulations regarding Proposition 64, and

WHEREAS, Staff has recently hired the HDL Companies, a consulting firm with Proposition 64 expertise, to assist in presenting greater detail to Council in an effort to determine how best to regulate or ban certain aspects of this industry in the City, and workshops are tentatively being scheduled for October of this year, and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on August 9, 2017, and recommended that City Council adopt an ordinance prohibiting outdoor cultivation, commercial cultivation and manufacturing, and sales and delivery of marijuana (cannabis) for adult use to allow time for the Planning Commission and City Council to consider reasonable regulations for such uses and to ensure that a more comprehensive and thorough discussion of how best to regulate the industry in the community takes place before the State begins issuing permits in January 2018, and

WHEREAS, The Planning Commission held a duly noticed public hearing on August 9, 2017 to consider the draft ordinance;

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission recommends the City Council introduce and adopt an ordinance amending Tracy Municipal Code (TMC) Section 10.08.3196 and adding TMC Chapter 6.36 to prohibit outdoor cultivation, commercial cultivation and manufacturing, and sales and delivery of marijuana (cannabis) for adult use, as shown in attached Exhibit 1.

\* \* \* \* \*

Resolution \_\_\_\_\_

August 9, 2017

Page 2

The foregoing Resolution 2017-\_\_\_\_\_ was adopted by the Planning Commission on the 9<sup>th</sup> day of August, 2017, by the following vote:

AYES: COMMISSION MEMBERS:

NOES: COMMISSION MEMBERS:

ABSENT: COMMISSION MEMBERS:

ABSTAIN: COMMISSION MEMBERS:

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
STAFF LIAISON

## ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF TRACY PROHIBITING OUTDOOR CULTIVATION,  
COMMERCIAL CULTIVATION AND MANUFACTURING,  
AND SALES AND DELIVERY OF MARIJUANA (CANNABIS) FOR ADULT USE

WHEREAS, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA), in November 2016, which legalizes the use of non-medicinal (recreational) marijuana by adults and the cultivation of up to six marijuana plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medicinal marijuana (or cannabis) for adult use, and

WHEREAS, Cities have the authority to ban, restrict, or otherwise regulate certain non-medicinal marijuana activities and uses in their jurisdictions under the AUMA, and

WHEREAS, On June 13, 2017, after a lengthy discussion on the subject, Council stated that they wished to further explore how best to regulate and potentially implement various aspects of Proposition 64, and staff was directed to bring back additional information regarding the commercial activities and potential personal regulations regarding Proposition 64, and

WHEREAS, Staff has recently hired the HDL Companies, a consulting firm with Proposition 64 expertise, to assist in presenting greater detail to Council in an effort to determine how best to regulate or ban certain aspects of this industry in the City, and workshops are tentatively being scheduled for October of this year, and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on August 9, 2017, and recommended that City Council adopt an ordinance prohibiting outdoor cultivation, commercial cultivation and manufacturing, and sales and delivery of marijuana (cannabis) to allow time for the Planning Commission and City Council to consider reasonable regulations for such uses and to ensure that a more comprehensive and thorough discussion of how best to regulate the industry in the community takes place before the State begins issuing permits in January 2018, and

WHEREAS, The City Council held a duly noticed public hearing to consider the ordinance on \_\_\_\_\_.

The City Council of the City of Tracy hereby ordains as follows:

**SECTION 1.** Section 10.08.3196 of the Tracy Municipal Code is hereby amended to read as follows:

“10.08.3196 - Marijuana dispensaries and cultivation.

(a) For the purpose of this section, the following definitions apply:

(1) Commercial marijuana businesses means any activity licensed by the State of California pursuant to California Business and Professions Code sections 19300 et seq. or 26000 et seq., as those sections may be amended from time to time, including but not limited to marijuana cultivation, distribution, manufacturing, transporting and testing.

(2) Cultivation of marijuana means the planting, growing, harvesting, drying, or processing of marijuana plants, or any part thereof.

(3) Fully enclosed and secure structure means a space within a building, greenhouse, or other structure that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more lockable doors.

(4) Marijuana or cannabis means all the parts of the plant *Cannabis sativa* L. and as defined by California Health and Safety Code section 11018, as this section may be amended from time to time.

(5) Medical or medicinal marijuana means marijuana used for medical purposes pursuant to the Compassionate Use Act (California Health and Safety Code section 11362.5, as those sections may be amended from time to time) and the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq., as those sections may be amended from time to time).

(6) Marijuana dispensary means any facility or location where marijuana is grown, made available to and/or distributed by or to any of the following: a primary caregiver, a qualified patient, a person with an identification card, or a person over the age of 21.

(7) Marijuana products means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients or as defined by California Health and Safety Code section 11018.1, as may be amended from time to time.

(8) Non-medical or adult use marijuana means marijuana that is intended to be used for non-medical purposes pursuant to California Health and Safety Code section 11362.1 et seq., as those sections may be amended from time to time.

(9) Outdoors means any location within the City of Tracy that is not within a fully enclosed and secure structure or private residence, as defined by California Health and Safety Code section 11362.2.

(10) Person with an identification card shall have the same definition as in California Health and Safety Code section 11362.5 et seq., and as may be amended from time to time.

(11) Primary caregiver shall have the same definition as in California Health and Safety Code section 11362.5 et seq., and as may be amended from time to time.

(12) Qualified patient shall have the same definition as in California Health and Safety Code section 11362.5 et seq., and as may be amended from time to time.

(b) Marijuana Dispensaries Prohibited.

Medicinal and adult-use marijuana dispensaries are prohibited, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(c) Commercial Marijuana Businesses Prohibited.

Commercial medicinal and adult-use marijuana businesses are prohibited within the City, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(d) Marijuana Cultivation.

(1) Medical marijuana cultivation is not allowed, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(2) All outdoor cultivation of non-medical marijuana within the City is prohibited, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.



(e) Penalties.

- (1) Violations of this chapter are hereby declared a public nuisance.
- (2) Violations of this section are punishable as misdemeanors and as otherwise set forth in chapter 1.04 of this Code. Each day of operation of a marijuana dispensary, or outdoor cultivation of marijuana occurs, in violation of this section constitutes a separate offense.

(f) Sunset Provision.

This section shall become inoperative on December 31, 2018, and shall be considered repealed on that date, unless a later enacted ordinance that becomes effective on or before December 31, 2018, deletes or extends that date.”

SECTION 2. Chapter 6.36, entitled “Marijuana Businesses and Deliveries,” is hereby added to the Tracy Municipal Code and shall read as follows:

“Chapter 6.36 –MARIJUANA BUSINESSES AND DELIVERIES

6.36.010 – Purpose.

6.36.020 – Definitions.

6.36.030 – Commercial Marijuana Businesses Prohibited.

6.36.040 – Non-Medical Marijuana Deliveries Prohibited.

6.36.050 – Penalties.

6.36.060 – Sunset Provision.

6.36.010 – Purpose.

The City Council’s intent in enacting this chapter is to protect the safety and welfare of the general public. The purpose of this chapter is to prohibit commercial marijuana businesses from opening and establishing in the City of Tracy, including the delivery of non-medical marijuana and non-medical marijuana products.

6.36.020 – Definitions.

For the purpose of this section, the following definitions apply:

(a) Commercial marijuana businesses means any activity licensed by the State of California pursuant to California Business and Professions Code sections 19300 et seq. or 26000 et seq., as those sections may be amended from time to time, including not limited to marijuana cultivation, distribution, manufacturing, transporting and testing.

(b) Marijuana or cannabis means all the parts of the plant *Cannabis sativa L.* and as defined by California Health and Safety Code section 11018, as this section may be amended from time to time.

(c) Medical or medicinal marijuana means marijuana used for medical purposes pursuant to the Compassionate Use Act (California Health and Safety Code section 11362.5, as those sections may be amended from time to time) and the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq., as those sections may be amended from time to time).

(d) Non-medical or adult use marijuana means marijuana that is intended to be used for non-medical purposes pursuant to California Health and Safety Code section 11362.1 et seq., as those sections may be amended from time to time.

(e) Marijuana delivery means the sale or commercial transfer of marijuana or marijuana products to a person, including any technology that enables persons to arrange for or facilitate the sale or commercial transfer of marijuana or marijuana products, or as defined by California Business and Professions Code section 26001(p) as may be amended from time to time.

(f) Marijuana products means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients or as defined by California Health and Safety Code section 11018.1, as may be amended from time to time.

**6.36.030 – Commercial Marijuana Businesses Prohibited.**

Commercial medical or non-medical marijuana businesses are prohibited in the City, except for medical marijuana and medical marijuana product deliveries terminating in the City. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, a commercial medical or non-medical marijuana business.

**6.36.040 – Non-Medical Marijuana Deliveries Prohibited.**

(a) The delivery of non-medical marijuana and non-medical marijuana products is prohibited in the City. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, non-medical marijuana deliveries. This section shall not be interpreted to prohibit the transportation of non-medical marijuana or non-medical marijuana products through the City on public roads, as long as such transportation does not involve the delivery of non-medical marijuana or non-medical marijuana products within the City.

(b) The delivery of medical marijuana and medical marijuana products that originate within the City is prohibited. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, the delivery of medical marijuana or medical marijuana products that originate within the City. This subsection shall not be interpreted to prohibit the transportation of medical marijuana or medical marijuana products through the City on public roads, as long as the point of origin of such transportation is not within the City.

**6.36.050 – Penalties.**

(a) Violations of this chapter are hereby declared a public nuisance.

(b) Violations of this chapter are punishable as misdemeanors and as otherwise set forth in chapter 1.04 of this Code. Each day a commercial marijuana business operates in violation of this chapter constitutes a separate offense.

**6.36.060 – Sunset Provision.**

This chapter shall become inoperative on December 31, 2018, and shall be considered repealed on that date, unless a later enacted ordinance that becomes effective on or before December 31, 2018, deletes or extends that date.”

**SECTION 3.** The City Council finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(b)(3), which applies to projects that do not have the possibility to have a significant effect on the environment.

**SECTION 4.** This Ordinance shall take effect 30 days after its final passage and adoption.

**SECTION 5.** This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk’s office at least five days before the Ordinance is adopted and within

15 days after adoption, with the names of the Council Members voting for and against the Ordinance. (Gov't. Code §36933.)

\* \* \* \* \*

The foregoing Ordinance \_\_\_\_\_ was introduced at a regular meeting of the Tracy City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, and finally adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

