

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, February 28, 2018
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 – 02/14/18

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 CONDITIONAL USE PERMIT AND DEVELOPMENT REVIEW PERMIT FOR A DAY CARE CENTER TO OCCUPY AN EXISTING STRUCTURE ON THE NORTHEAST CORNER OF W 7TH AND B STREET (89 W 7TH STREET, ASSESSOR'S PARCEL NUMBER 235-065-14) – THE APPLICANTS ARE ARIANNE MISCHÉAUX AND CANDICE EDWARDS; THE PROPERTY OWNER IS BAY AREA INVESTMENT COMPANY INC – APPLICATION NUMBERS CUP17-0005 AND D17-0021

B. PUBLIC HEARING TO CONSIDER A RECOMMENDATION TO THE CITY COUNCIL TO INTRODUCE AN ORDINANCE AND APPROVE AN AMENDMENT TO THE TRACY MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS (SECOND UNITS) – APPLICATION NUMBER ZA17-0011

2. ITEMS FROM THE AUDIENCE

3. DIRECTOR'S REPORT

4. ITEMS FROM THE COMMISSION
5. ADJOURNMENT

Posted: February 23, 2018

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
FEBRUARY 14, 2018, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

CALL TO ORDER

Recording Secretary Peggy Abundiz called the meeting to order at 7:00 p.m.

ELECTION OF CHAIRPERSON FOR THIS MEETING

Assistant City Attorney Leticia Ramirez announced that Chair Orcutt is absent from this meeting, and there is currently no Vice Chair; therefore, under the Planning Commission Bylaws, the Commission must select an Acting Chairperson to chair the meeting for tonight.

ACTION It was moved by Commissioner Hudson, and seconded by Commissioner Krogh, that Robert Tanner be appointed as Acting Chair for this meeting. Voice Vote found all in favor; passed and so ordered.

PLEDGE OF ALLEGIANCE

Acting Chair Tanner led the pledge of allegiance.

ROLL CALL

Roll Call found Acting Chair Tanner and Commissioners Hudson and Krogh present. Also present were: Randall Bradley, Interim City Manager; Kuldeep Sharma, Interim Assistant City Manager; Thomas Watson, City Attorney; Leticia Ramirez, Assistant City Attorney; Dan Doporto, Consulting Attorney (Jarvis, Fay, Doporto & Gibson); Scott Claar, Senior Planner; Laura Worthington-Forbes, Consultant (Kimley-Horn); Nanda Gottiparthi, Consultant (SNG and Associates); and Peggy Abundiz, Recording Secretary.

MINUTES

It was moved by Commissioner Hudson, and seconded by Acting Chair Tanner, that the Planning Commission meeting minutes of December 6, 2017, be approved. A roll call vote found all in favor, 3-0-2-0; passed and so ordered.

DIRECTOR'S REPORT REGARDING THIS AGENDA

Randall Bradley introduced himself as the Interim City Manager and announced that he is filling in for Andrew Malik, who is out of the area, and that Interim Assistant City Manager Kul Sharma is filling in for Bill Dean.

ITEMS FROM THE AUDIENCE

David Anderson requested that Items 1.A and 1.B be pulled until the entire Commission can be present to address them.

Acting Chair Tanner pointed out that we have a quorum for these items, and referred the question to staff. Leticia Ramirez stated that this portion of the meeting is for items not on the agenda, and that Mr. Anderson can raise this issue under the applicable agenda item. Acting Chair Tanner requested a three-minute time limit during the public comment periods. A

member of the audience voiced an objection, requesting that a five-minute time limit be allowed.

ACTION It was moved by Commissioner Hudson, and seconded by Commissioner Krogh, that a three minute time limit be implemented for each individual who speaks. A roll call vote found all in favor, 3-0-2-0; passed and so ordered.

Acting Chair Tanner requested that the City's stance with regard to any litigation against the Commissioners be included in the Minutes of this meeting. Thomas Watson introduced himself as the City Attorney and stated that, with respect to personal liability, under the Government Code the Commissioners and their legislative actions have immunity from any individualized civil suit. Mr. Watson added that the City and the City Attorney's Office, and/or any attorneys acting on the City's behalf, would provide a full and complete defense to the Commissioners with respect to matters that fall within the scope of the performance of their duties.

1. NEW BUSINESS

- A. PUBLIC HEARING TO CONSIDER A RECOMMENDATION TO THE CITY COUNCIL REGARDING APPROVAL OF A GENERAL PLAN AMENDMENT, AN ELLIS SPECIFIC PLAN AMENDMENT, AND A ZONING ORDINANCE AMENDMENT FOR THE ELLIS PROJECT. THE APPLICANT IS THE SURLAND COMPANIES. APPLICATION NUMBERS GPA15-0003, SPA15-0003, AND ZA17-0012

Scott Claar presented the staff report.

Acting Chair Tanner opened the Public Hearing at 7:10 p.m. Leticia Ramirez clarified for the Commission that the Applicant may be allowed additional time to speak for presentation purposes.

Les Serpa of The Surland Companies, the Applicant, spoke and introduced Barry Long of Barry Design Associates, who gave a slideshow presentation of the project.

Acting Chair Tanner opened the Public Comment period at 7:39 p.m.

Mr. Bazinet spoke in favor of Agenda Item 1.A.

The following individuals spoke in opposition to Agenda Item 1.A: Mark Connolly, Alice English, Pete Mitracos, Trina Anderson, Mary Mitracos, Eleassia Davis, Richard English, and Christine Scherer.

(Note: During the Public Comment period, Acting Chair Tanner called for a recess at 8:09 p.m. for purposes of consulting with staff. Alice English voiced an objection, based on a possible violation of the Brown Act. Leticia Ramirez responded that staff would only be speaking with the Chair. Acting Chair Tanner reconvened the public hearing at 8:18 p.m., and reminded everyone that the purpose of this hearing is to receive public comments for Agenda Item 1.A only, adding that the Development Agreement is Item 1.B and will be addressed later in the meeting.)

Acting Chair Tanner closed the Public Comment period at 8:37 p.m.

Les Serpa spoke.

Acting Chair Tanner closed the Public Hearing at 8:39 p.m.

Acting Chair Tanner disclosed that he had met with the Developer, and invited any similar comments from the other Commissioners. Commissioner Hudson stated that he had met with both the applicant and Mark Connolly. Commissioner Krogh stated that he had not met with either the applicant or Mark Connolly.

Both the Applicant and staff addressed questions from the Commission.

ACTION: It was moved by Commissioner Hudson, and seconded by Commissioner Krogh, that the Planning Commission recommend the City Council take the following actions, as stated in the Planning Commission Resolution dated February 14, 2018:

- Approve a General Plan Amendment (Application Number GPA15-0003)
- Approve an Ellis Specific Plan Amendment (Application Number SPA15-0003)
- Approve a Zoning Ordinance Amendment (Application Number ZA17-0012)

A roll call vote found all in favor, 3-0-2-0; passed and so ordered.

B. PUBLIC HEARING TO CONSIDER INTRODUCING AN ORDINANCE APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES, LLC FOR THE ELLIS SPECIFIC PLAN PROPERTY. THE ELLIS SPECIFIC PLAN SITE IS APPROXIMATELY 321 ACRES LOCATED AT THE NORTHWEST CORNER OF CORRAL HOLLOW ROAD AND LINNE ROAD. APPLICATION DA16-0001 - APPLICANT IS SURLAND COMMUNITIES, LLC

Randall Bradley presented the staff report and addressed questions from the Commission, along with Dan Doporto and Vicki Lombardo, Senior Planner.

Acting Chair Tanner opened the Public Hearing at 9:21 p.m.

Les Serpa spoke. Mr. Serpa introduced Steve Herum, Attorney-at-Law, who spoke.

Acting Chair Tanner opened the public comment period at 10:18 p.m. A member of the audience expressed concerns over the limited amount of time allowed for public comment. It was determined by the Commission that a three-minute time limit would also be applied to Agenda Item 1.B.

The following individuals spoke in favor of Agenda Item 1.B: Mr. Bazinet; Sandi Taylor; Marsha McCray; and Roy Hawkins.

The following individuals spoke in opposition to Agenda Item 1.B: Mark Connolly; Pete Mitracos; Richard English; Aleassia Davis; Denece Vincent; Mary Mitracos; Trina Anderson; Alice English; David Anderson; Christine Scherer; Jacob Hunter; and Bill Johnson.

Acting Chair Tanner closed the Public Comment period at 11:12 p.m.

Les Serpa spoke and distributed a document to the Commissioners.

Acting Chair Tanner closed the Public Hearing at 11:18 p.m. Dan Doporto addressed questions from the Commission. Discussion amongst the Commissioners ensued.

Staff requested a recess in order to summarize the Commission's discussion into a motion. Acting Chair Tanner called for a recess at 11:36 p.m., and called the meeting back to order at 11:42 p.m.

ACTION It was moved by Commissioner Hudson, and seconded by Commissioner Krogh, that the Planning Commission recommend City Council approve the Development Agreement as proposed by the Applicant, with the following modifications:

- Reduce the number of Development Agreement Residential Growth Allotments available under Section F.3 of the Growth Management Ordinance from 2,250 to 2,000;
- Remove the language that provides a mechanism for applying Residential Growth Allotments to other properties;
- Remove Section 1.8 of Exhibit A, which provides for priority access for event purchases and private cabana rights;
- Remove the last two lines of the paragraph defining "Total Cost" under Section 1, "Definitions," of Exhibit D, which reference a land cost of \$210,000 per acre, since that was a holdover from a previous document;
- Eliminate the extension to 24 months for building permits; and
- Remove language pertaining to free annual passes to the Swim Center for residents and replace it with a 50% discount on the normal access price.

A roll call vote found all in favor, 3-0-2-0; passed and so ordered.

2. ITEMS FROM THE AUDIENCE

None.

3. DIRECTOR'S REPORT

None.

4. ITEMS FROM THE COMMISSION

Commissioner Hudson expressed his appreciation to the members of the community who came out to speak.

5. ADJOURNMENT

It was moved by Commissioner Krogh, seconded by Commissioner Hudson, to adjourn.

Time: 11:52 p.m.

CHAIR

STAFF LIAISON

AGENDA ITEM 1.A

REQUEST

PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT AND DEVELOPMENT REVIEW PERMIT FOR A DAY CARE CENTER TO OCCUPY AN EXISTING STRUCTURE ON THE NORTHEAST CORNER OF W 7TH AND B STREET (89 W 7TH STREET, ASSESSOR'S PARCEL NUMBER 235-065-14) – THE APPLICANTS ARE ARIANNE MISCHÉAUX AND CANDICE EDWARDS; THE PROPERTY OWNER IS BAY AREA INVESTMENT COMPANY INC – APPLICATION NUMBERS CUP17-0005 AND D17-0021

DISCUSSION

Project Description

The proposal is for a day care center to occupy an existing 2,200 square foot commercial building on an approximately six thousand square foot lot. The subject property is located at 89 W 7th Street, on the northeast corner of W 7th and B Streets. Attachment A includes a location map. The building has been vacant for several years. Prior to the vacancy the site was used historically used as church.

Little Investigators Preschool will provide space for up to 45 children from ages 18 months old to 6 years old and up to three staff members. The hours of operation proposed are Monday through Friday from 7:00 a.m. to 6:00 p.m. The applicant has also indicated that there may be several special events outside of the regular day care hours including events such as graduation ceremonies, formal dinners, and open house events.

The proposal does not include any exterior changes to the building, but does include modifying the backyard to accommodate three parking spaces to satisfy the off-street parking requirement for the site, (Attachment C). The off-street parking spaces will have access from Jackson Alley located to the rear of the building. The remaining back yard area will be fully enclosed with a six-foot tall solid wood fence. A shade structure and storage shed are proposed to be incorporated into the backyard area as well as lawn and landscape areas for recreation.

Separate from the City's review of the project, the operator must obtain a Child Care Center License from the State Health and Human Services Agency. The State's review of the permit is focused on health, safety, and operational items such as fence height, indoor area required per child, outdoor area required per child, and number of toilets and sinks required, and training or qualifications of the child care center staff.

Parking and Circulation

The number of parking spaces required by City Zoning Ordinance for the day care center is one space per staff position, or 3 spaces for the anticipated number of employees on the maximum work shift. The existing wood fence that is located along the north property line along the perimeter of the backyard will be relocated toward the

building in order to accommodate the three required parking spaces for staff. This modification will also result in a landscape area located between the parking spaces and sidewalk along B Street. The parking spaces will be accessed through Jackson Alley, to the rear of the site. Both garage and uncovered parking spaces using the alley for access is a common feature in the surrounding neighborhood. The applicant has indicated that the children usually arrive between 7:00 a.m. to 9:00 a.m. and leave between 4:00 p.m. and 6:00 p.m. Since there is no set start time or stop time, children will arrive and depart at various times depending on each family's individual needs. Pick up and drop off of children will occur at the street curb on B and W 7th Streets or as close to the site as practical. Clients of the center may have multiple siblings that attend the center or clients that carpool which will potentially reduce the amount of vehicles traveling to and from the site.

Land-Use Compatibility

The site is zoned Medium Density Residential which allows day care centers as a conditional use. This zone is designed to provide a variety of housing types and supporting uses. The immediate surrounding neighborhood consists of single family homes. Commercial uses and buildings are located approximately 400 feet east on 7th street and approximately 200 feet to the South on B Street. The day care center will provide a service for the surrounding neighborhood and is proposed in a building that was built and used as an assembly use for many decades.

A church, which previously occupied the building, was granted conditional use permit approval by the Planning Commission for a proposed expansion in 1994 (5-94-CUP) and again in 2000 for an additional expansion (1-00-CUP). The proposal in 2000 also included a development review permit (9-00-D). Both those projects have expired as the previous church did not follow through with all the improvements at those times.

One of the recommended conditions of approval (B.8) limits the regular hours of operation are restricted to 7:00 a.m. to 6:00 p.m. from Monday to Friday there by limiting any increase in noise or traffic also will be restricted to those hours. Recommended condition of approval number B.8 also limits the number of special events beyond the regular hours to no more than six per year.

CEQA Documentation

The project is categorically exempt from the California Environmental Quality Act, pursuant to Guidelines Section 15303, New Construction or Conversion of Small Structures which pertains to construction of new facilities or structures not exceeding 10,000 square feet on sites zoned for such use. In accordance with CEQA Guidelines, no further environmental assessment is required.

RECOMMENDATION

Staff recommends the Planning Commission approve the Conditional Use Permit and Development Review Permit for the Little Investigators day care center as indicated in the attached Planning Commission Resolution.

MOTION

Move that the Planning Commission approve the Conditional Use Permit and Development Review Permit for the Little Investigators day care center, subject to the conditions and based on the findings contained in the Planning Commission Resolution dated February 28, 2018.

Prepared by: Genevieve Fernandez, Assistant Planner

Reviewed by: Alan Bell, Senior Planner

Approved by: Bill Dean, Assistant Development Services Director

ATTACHMENTS

Attachment A – Location Map

Attachment B – Images of Existing Structure

Attachment C – Site Plan

Attachment D – Planning Commission Resolution (with recommended conditions of approval)

Site Location



Google Aerial



Zoning Map

Site Images

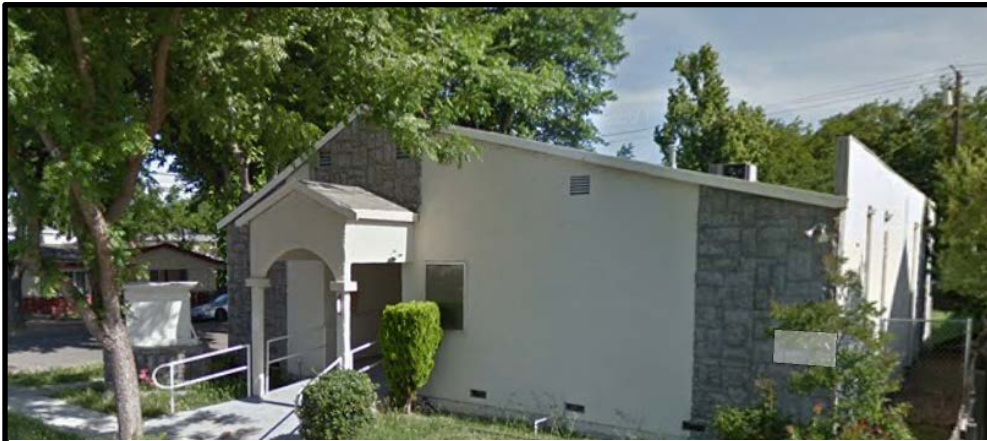


Image 1. South Elevation
The entrance to the building along W 7th street



Image 2. North Elevation
The backyard area, parking will be located off of the alley

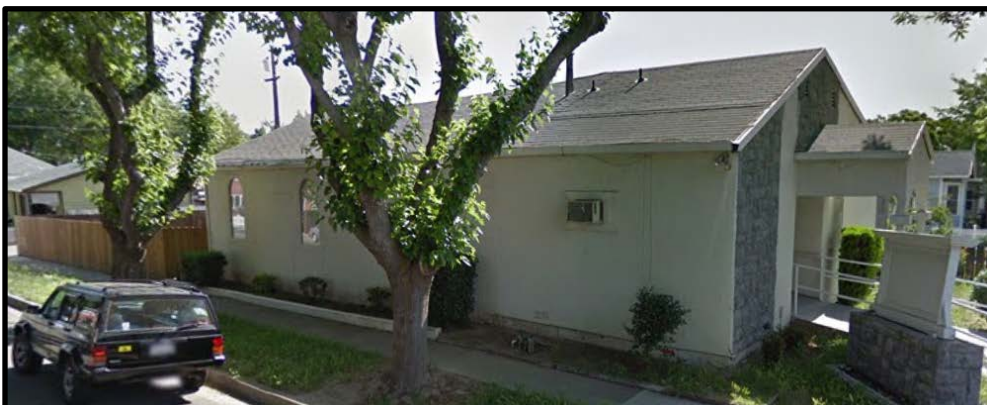
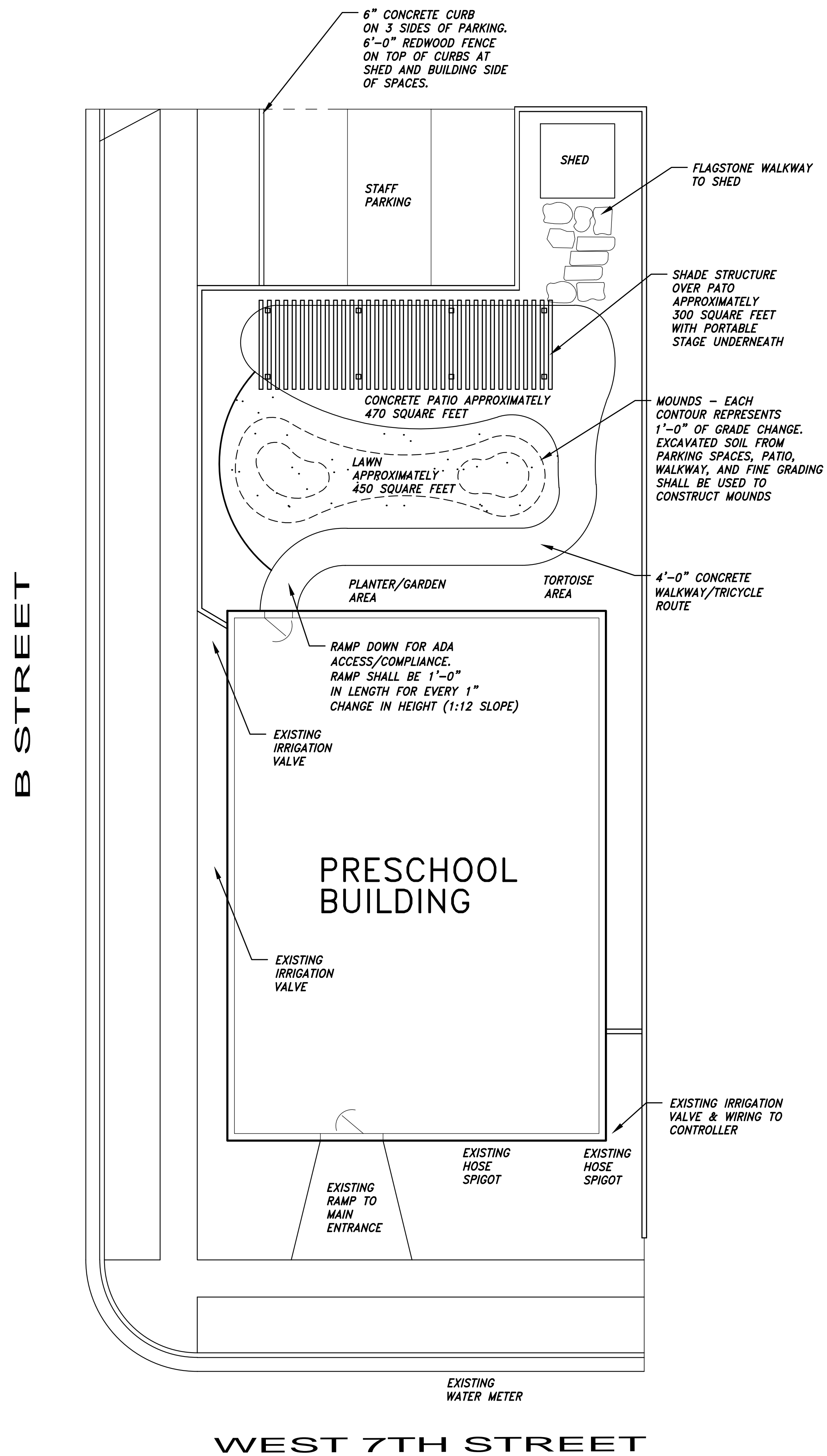
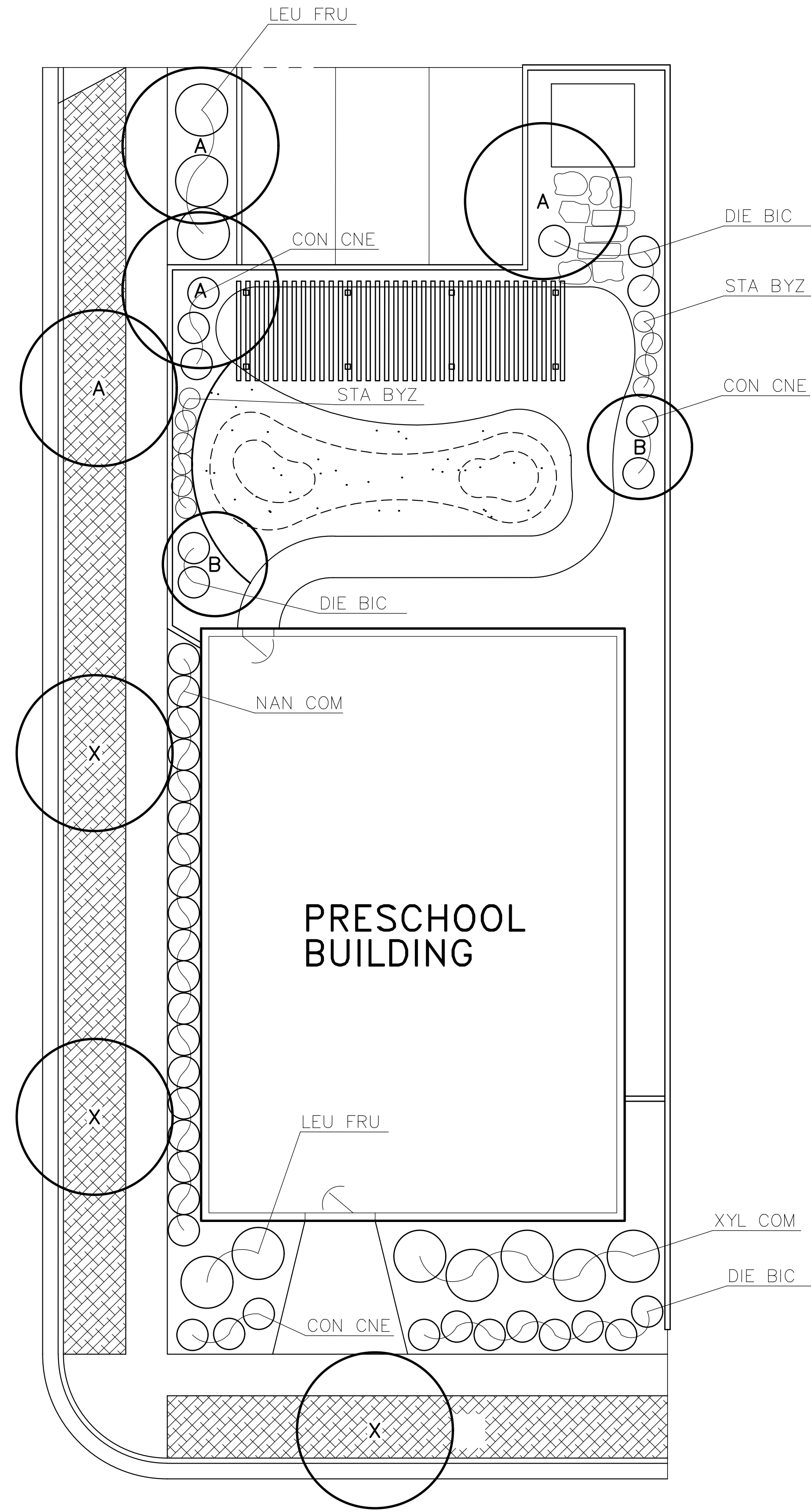


Image 3. West Elevation
The side of the existing building along B Street



WEST 7TH STREET

SITE AMENITIES



WEST 7TH STREET

PLANTING LAYOUT

PLANT LIST

Symbol	Size	Botanical Name	Common Name	WUCOLS Water Factor Central Valley Region
TREES				
A	15 gal.	<i>Platanus Orientalis</i>	Chinese Platanus	Low
B	15 gal.	<i>Rhododendron</i>	Rhododendron	Low
X	Existing tree to remain			
SHRUBS				
CON CNE	5 gal.	<i>Convolvulus</i>	Bush Morning Glory	Low
DIE BIC	5 gal.	<i>Dietes Bicolor</i>	Fortnight Lily	Low
LEU FRU	5 gal.	<i>Leucophyllum Frutescens</i>	Texas Ranger	Low
NAN COM	5 gal.	<i>Nandina d. 'Compacta'</i>	Compact Heavenly Bamboo	Low
XYL COM	5 gal.	<i>Xylocarpus c. 'Compacta'</i>	Compact Shiny Xylocarpus	Low
STA BYZ	1 gal.	<i>Stachys Byzantina</i>	Lamb's Ear	Low
GROUNDCOVERS & ACCENTS				
		Sod	Delta Bluegrass 90/10 Tall Fescue	Low
		1 gal @ 36" O.C.	<i>Ceanothus maritimus 'Point Sierra'</i>	Low

PLANTING NOTES

- ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE LOCAL CODES AND ORDINANCES WHICH APPLY TO THE CITY OF FREMONT.
- THE LANDSCAPE CONTRACTOR SHALL INSPECT THE SITE AND BE FAMILIAR WITH ALL EXISTING SITE CONDITIONS PRIOR TO SUBMITTING A BID. THE LANDSCAPE CONTRACTOR SHALL REVIEW RELATED DRAWINGS AND SHALL ENSURE COORDINATION WITH ALL APPLICABLE TRADES PRIOR TO SUBMITTING A BID.
- CONTRACTOR SHALL RECEIVE SITE GRADED TO +/- .1 FT. THE CONTRACTOR IS RESPONSIBLE FOR SURFACE DRAINAGE OF ALL PLANTING AREAS. NO LOW SPOTS WHICH HOLD STANDING WATER WILL BE ACCEPTED.
- CONTRACTOR WILL, FOR BID PURPOSES ONLY, SPREAD 5 CUBIC YARDS OF NITRIFIED SOIL CONDITIONER AND 25 LBS. OF A COMMERCIAL FERTILIZER (6-20-20) PER 1000 SQ.FT. OF PLANTING AREAS, AND ROTOTILL THOROUGHLY INTO THE TOP 6" OF SOIL. THE CONTRACTOR SHALL OBTAIN A SOILS REPORT FOR ACTUAL SOIL AMENDMENTS. CONTRACTOR SHALL SUPPLY DELIVERY TAGS FOR AMENDMENTS AS PROOF OF INSTALLATION PRIOR TO ISSUANCE OF AN OCCUPANCY PERMIT.
- AFTER INSTALLATION OF THE IRRIGATION SYSTEM, ALL PLANTING AREAS SHALL BE RAKED SMOOTH AND ALL ROCKS AND PEBBLES OVER 1" IN DIAMETER REMOVED FROM THE SITE.
- SUPPLY 21G AGRIFORM TABLETS AS FOLLOWS: 1-1G, 2-5G 4-15G 8-24"BOX
- DIG PLANTING PITS TWO TIMES THE HEIGHT AND WIDTH OF THE ROOT BALL. BACKFILL PITS WITH 1/3 SOIL CONDITIONER AND 2/3 EXISTING SOIL. PLANT PITS ARE ALSO TO RECEIVE A COMMERCIAL FERTILIZER (6-20-20) AT 2.5 LBS. PER CUBIC YARD OF BACKFILL.
- STAKE ALL 15G TREES WITH 2" #8 STAKES AND 2 RUBBER TIES PER TREE. SEE DETAIL FOR ADDITIONAL INFORMATION.
- ALL PLANTING AREAS SHALL RECEIVE 3" LAYER OF WALK ON BARK 1/4" x 1 1/2" DIAMETER AFTER ALL TREES, SHRUBS, AND GROUNDCOVERS HAVE BEEN PLANTED.
- PLANT AT THE SPACING SHOWN. AFTER THE SITE IS PLANTED, A PRE-EMERGENT SHALL BE APPLIED TO ALL PLANTING AREAS AS PER MANUFACTURER'S RECOMMENDATIONS. THE LANDSCAPE CONTRACTOR SHALL ASSUME RESPONSIBILITY FOR THE USE OF CHEMICAL PRODUCTS AND IS TO SUPPLY THE OWNER WITH A WRITTEN RECORD OF THE TYPE OF CHEMICAL USED, DATE APPLIED AND RATE OF APPLICATION.
- CONTRACTOR SHALL ENSURE SUBMITTAL OF THE CERTIFICATES OF COMPLETION AND INSTALLATION AND ALL RELATED DOCUMENTS (IRRIGATION SCHEDULING, SCHEDULE OF LANDSCAPE AND IRRIGATION MAINTENANCE, LANDSCAPE IRRIGATION AUDIT REPORT, AND SOIL MANAGEMENT REPORT) UPON COMPLETION OF CONSTRUCTION, PRIOR TO PROJECT ACCEPTANCE.

REVISIONS	BY
12/18/17	JW

2029 Paloma Avenue
Stockton, CA 95209
(209) 954-9065 Office
(209) 320-0707 Fax
www.utopianlandscapes.net

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CLIENT

CONCEPTUAL LANDSCAPE PLAN
SHEET TITLE

LITTLE INVESTIGATORS PRESCHOOL
89 WEST 7TH STREET TRACY, CA
PROJECT

DATE 10/19/17
SCALE 1"=8'
DRAWN JW
SHEET L1
OF 4 SHEETS

RESOLUTION 2018-_____

RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT AND
DEVELOPMENT REVIEW PERMIT (CUP17-0005 AND D17-0021) FOR LITTLE
INVESTIGATORS PRESCHOOL – EXISTING 2,200 SQUARE FOOT STRUCTURE
TO BE OCCUPIED WITH A DAY CARE CENTER LOCATED AT 89 W 7TH STREET

WHEREAS, On September 19, 2017, Arianne Mischeaux and Candice Edwards filed an application for a Conditional Use Permit (CUP17-0005) and Development Review Permit (DD17-0021) (the “project”) to establish a 2,200 square foot day care facility at 89 W 7th Street, and

WHEREAS, The subject property is located within the Medium Density Residential Zone, which requires a Conditional Use Permit for day care centers and Development Review Permit for alterations to the land (such as replacing a portion of the backyard with parking spaces and the addition of accessory structures), and

WHEREAS, The project is categorically exempt from CEQA based on Guidelines Section 15303, which applies to new construction or conversation of small structures not exceeding 10,000 square feet on the sites zoned for such use, and

WHEREAS, The Planning Commission conducted a public hearing to consider the project on February 28, 2018;

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission:

(1) Approves the Conditional Use Permit CUP17-0005 subject to the conditions contained in Exhibit 1 and based on the following findings:

- a. There are circumstances or conditions applicable to the land, structure, or use which make the granting of a use permit necessary for the preservation and enjoyment of a substantial property right as the proposal consists of occupying a vacant commercial building with a commercial use and that the size, hours of operation, and land use are compatible with the surrounding land uses.
- b. The proposed location of the conditional use is in accordance with the objectives of the Medium Density Residential Zone as it is consistent with the intent of the zone to provide a variety of housing types and specifically to provide supporting uses for the surrounding residential neighborhood.
- c. That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity as the day care center will occupy an existing building which will be maintained and in return enhance the neighborhood with a land use that is harmonious to the surrounding area.
- d. That the proposed use will comply with each of the applicable provisions related to conditional uses as the specific land use is appropriate for the site at which it is proposed.

(2) Approves the Development Review Permit D17-0021 subject to the conditions contained in Exhibit 1 and based on the following findings:

- a. The proposed improvements increase the quality of the project site, and enhance the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy as the business will occupy an otherwise vacant building allowing them to maintain the site and in addition, the proposed improvements to the site will provide off-street parking for staff members to help mitigate potential impacts to n-street parking.
- b. The project is consistent with the City of Tracy General Plan, in that the site is designated Residential Medium by the General Plan which encourages the integrating commercial uses into residential designations to provide services that are located within a short walk, bike ride, or drive. The project includes design elements consistent with the City Design Goals and Standards, including number and design of parking spaces, site design, fence design, and landscaping. The project is consistent with zoning as the location of the subject property is zoned Medium Density Residential which states that day care centers are a conditionally permitted use. The project is consistent with other City standards in all respects, including, but not limited to siting standards, off-street parking, and landscaping.

The foregoing Resolution 2018-_____ was adopted by the Planning Commission on the 28th day of February 2018, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

**Little Investigators
Conditions of Approval
Application Numbers CUP17-0005 and D17-0021
February 28, 2018**

These Conditions of Approval shall apply to the real property described as the Little Investigators Preschool Project, Conditional Use Permit and Development Review Permit (Application Numbers CUP17-0005 and D17-0021). The approximately 6,000 square foot subject property is located at the northeast corner of W 7th Street and B Street, 89 W 7th Street, Tracy; (Assessor's Parcel Number 235-065-14).

A. The following definitions shall apply to these Conditions of Approval:

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "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.
3. "City Regulations" means all written laws, rules and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design documents (the Streets and Utilities Standard Plans, Design Standards, Parks and Streetscape Standard Plans, Standard Specifications, and Manual of Storm Water Quality Control Standards for New Development and Redevelopment, and Relevant Public Facilities Master Plans).
4. "Conditions of Approval" shall mean the conditions of approval applicable to the real property described as the Little Investigators Preschool at 89 W 7th Street, Conditional Use Permit and Development Review Permit (Application Number D17-0002). The approximately 6,000 square foot subject property is located on the northeast corner of W 7th Street and B Street (Assessor's Parcel Number 235-065-14).
5. "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.
6. "Project" means the real property consisting of approximately 6,000 square foot proposed for the Little Investigators Preschool at 89 W 7th Street, Conditional Use Permit and Development Review Permit (Application Number D17-0002).
7. "Property" means the real property located at 89 W 7th Street (Assessor's Parcel Number 235-065-14).
8. "Subdivider" 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. "Subdivider" also means Developer. The term "Developer" shall include all successors in interest.

B. Conditions of Approval for CUP17-0005 and D17-0021:

1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, *et seq.*), the Subdivision Map Act (Government Code sections 66410, *et seq.*), the California Environmental Quality Act (Public Resources Code sections 21000, *et seq.*, "CEQA"), and the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 15000, *et seq.*, "CEQA Guidelines").
2. Unless specifically modified by these Conditions of Approval, the Project shall comply with all City Regulations.
3. 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.
4. Except as otherwise modified herein, all construction shall be consistent with the plans received by the Development Services Department (L-1) on December 26, 2017.

C. Conditions of Approval for D17-0021:

5. Prior to the issuance of a building permit, the applicant shall provide a detailed landscape and irrigation plan consistent with City landscape and irrigation standards, including, but not limited to Tracy Municipal Code Section 10.08.3560, the City's Design Goals and Standards, and the applicable Department of Water Resources Model Efficient Landscape Ordinance on private property, and the Parks and Parkways Design Manual for public property, to the satisfaction of the Development Services Director. Newly planted, on-site trees shall be a minimum size of 24-inch box and shrubs shall be a minimum size of five gallons. Landscaping within the new, five-foot-wide planter along the west and south perimeter of the play area shall be planted with evergreen shrubs to substantially match the appearance, spacing, and size at maturity of the existing shrubs along the north side of the play area to achieve a dense, approximately five-foot-tall, visual screen of the play area.
6. Prior to the issuance of a building permit, an Agreement for Maintenance of Landscape and Irrigation Improvements shall be executed and financial security submitted to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements, or \$2.50 per square foot of on-site landscape area.

D. Conditions of Approval for CUP17-0005

7. Prior to the installation of any signs, the applicant shall submit a sign permit application and receive approval from the Development Services Director in accordance with City Regulations. All signs shall be designed and constructed in accordance with the size, height, and other standards of Tracy's Municipal Code.
8. The regular business hours of the day care center shall not start earlier than 7:00am nor end later than 6:00pm. Events beyond the regular business hours such as graduations, formal dinners, and open houses shall be limited to no more than six events per calendar year, but in no instance may operate beyond 10:00pm.
9. Prior to occupancy, applicant shall demonstrate compliance with the California Fire Code to the satisfaction of the Fire Marshal.

AGENDA ITEM 1.B

REQUEST

PUBLIC HEARING TO CONSIDER A RECOMMENDATION TO THE CITY COUNCIL TO INTRODUCE AN ORDINANCE AND APPROVE AN AMENDMENT TO THE TRACY MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS (SECOND UNITS) – APPLICATION NUMBER ZA17-0011

DISCUSSION

Background

A Second Unit is a residential dwelling on the same lot as a single-family home. It may be attached to or detached from the single-family home. A Second Unit contains complete, independent living facilities (kitchen, bathroom(s), bedroom(s)) for one or more persons and is limited in size to 1,200 square feet, if detached from the primary unit, and 30 percent of the living area of the primary unit if attached.

Tracy Municipal Code (TMC) Section 10.08.3180 (Attachment A) contains provisions for Second Units in Tracy. This TMC Section incorporates State law requirements enacted in 2003. Second units must meet the following zoning ordinance regulations:

- There may be only one Second Unit on a lot.
- A Second Unit may not be sold separately from a primary dwelling.
- A Second Unit must meet the setback requirements of the zone district in which it is located.
- The minimum distance between a Second Unit and a primary dwelling is six feet.
- One additional off-street parking space is required for a Second Unit.

Proposed New Ordinance

On January 1, 2017, amendments to California Government Code Section 65852.2 (SB 1069 and AB 2299) became effective. Attachment B contains Government Code Section 65852.2. These amendments are in force in all California jurisdictions and supersede local zoning codes regarding Second Units, whether or not adopted by the local jurisdiction. The City of Tracy began enforcing the new State law requirements in January 2017.

According to the State Department of Housing and Community Development, the legislature adopted these changes, in part, because Accessory Dwelling Units provide additional rental housing, provide affordable housing options, and are an essential component in addressing housing needs in California.

The proposed amendments incorporate the new State law requirements into the TMC. Attachment C contains the proposed TMC amendments in strike-thru/underline format. The primary changes include the following:

- They are now called “Accessory Dwelling Units” (ADUs), not Second Units.

- The maximum size of an attached ADU is now 50 percent of the size of the primary unit or 1,200 square feet, whichever is less.
- An ADU does not need to conform to setbacks from property lines if an existing garage is converted into an ADU; and an ADU constructed over a garage must be at least five feet from rear and side yard property lines.
- An additional, off-street parking space is not required for an ADU if the ADU is located within one-half mile of a public bus stop, the ADU is constructed within the existing space of a primary dwelling, or there is a car share vehicle designated pick up and drop off located within one block of the accessory dwelling unit.
- When an additional off-street parking space is required, the space may be located within a required front, side, or rear yard and may be tandem to another parking space.
- An ADU may replace an existing, otherwise required, garage. The number of required parking spaces replaced by an ADU must be replaced elsewhere on site. Replacement parking spaces may be covered, uncovered, or tandem, and located anywhere on the lot.

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. 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 introduce an ordinance and approve the Tracy Municipal Code amendment regarding Accessory Dwelling Units.

MOTION

Move that the Planning Commission recommend that the City Council approve the Tracy Municipal Code amendment regarding Accessory Dwelling Units, as indicated in the Planning Commission Resolution dated February 28, 2018.

Prepared by: Alan Bell, Senior Planner

Approved by: Bill Dean, Assistant Development Services Director

ATTACHMENTS

- Attachment A – Existing Tracy Municipal Code Section 10.08.3180 Regarding Second Units
- Attachment B – Government Code Section 65852.2
- Attachment C – Proposed Tracy Municipal Code Revisions in Strike-Thru/Underline Format
- Attachment D – Proposed Planning Commission Resolution with Draft Ordinance

10.08.3180 - Second units.

- (a) *Second unit.* A second unit is permitted on any residentially zoned lot having an existing single-family dwelling (the "primary dwelling") if the proposed unit complies with the standards in subsection b. (See Definition at TMC section 10.08.790.) A second unit may be created by the conversion of a portion of, or an addition to, the primary dwelling or by the construction of a new structure.
- (b) *Standards.* These standards apply to a second unit.
 - (1) There may be only one second unit on a lot. The second unit may not be sold separately from the primary dwelling.
 - (2) The primary dwelling must be an allowed use in the zoning district.
 - (3) The size of a detached second unit shall not exceed 1,200 square feet. The size of an attached second unit shall not exceed thirty (30) percent of the living area of the primary unit.
 - (4) The second unit shall conform to the yard setback, lot coverage and building height requirements of the zoning district in which it is located.
 - (5) The minimum distance between a second unit and a primary dwelling or a second unit and an accessory building is six (6) feet.
 - (6) One additional off-street parking space is required. (Government Code, section 65852.2.)

(Prior code § 10-2.2316)

(Ord. No. 1202, Exh. A § 20, 12-1-2015)

State of California

GOVERNMENT CODE

Section 65852.2

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached or located within the living area of the proposed or existing primary dwelling or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) The total area of floorspace of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback

of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. The department may review and comment on this submitted ordinance.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and

sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(6) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(Amended by Stats. 2017, Ch. 602, Sec. 1.5. (AB 494) Effective January 1, 2018.)

Redline Changes to Provisions of Chapter 10.08 regarding Accessory Dwelling Units

10.08.052 - Accessory dwelling unit.

"Accessory dwelling unit" means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking and sanitation on the same lot as one single-family dwelling is situated. An accessory dwelling unit also includes the following: (1) an efficiency unit, as defined in Health and Safety Code section 17958.1; and (2) a manufactured home, as defined in Health and Safety Code section 18007. Any reference in this Code to "second unit" means "accessory dwelling unit." (Gov't. Code, section 65852.2(i). See TMC, section 10.08.3180.)"

10.08.3180 - ~~Second~~-Accessory dwelling units.

- (a) ~~Second-Accessory dwelling unit.~~ One accessory dwelling ~~A second~~-unit is permitted on any residentially zoned lot having an existing single-family dwelling (the "primary dwelling") if the proposed unit complies with the standards in subsection b. (See Definition at TMC section 10.08.~~79052~~.) An accessory dwelling unit is not permitted if there is more than one single-family dwelling, a duplex, or multi-family on the lot. An accessory dwelling ~~second~~-unit may be attached or detached from the primary dwelling unit and may be created by the conversion of a portion of, or an addition to, the primary dwelling, accessory structure, or by the construction of a new structure.
- (b) Standards. These standards apply to an accessory dwelling ~~second~~ unit.
- (1) One unit. There may be only one ~~second-accessory dwelling~~ unit on a lot. The ~~second accessory dwelling~~ unit may not be sold separately from the primary dwelling.
 - (2) Primary dwelling required. The primary dwelling must be a permitted n-allowed-use in the zoning district, and the lot must contain only one existing single-family dwelling.
 - (3) Size. The total area of floor space size-of a detached ~~second-accessory dwelling~~ unit shall not exceed 1,200 square feet of living area. The total area of floor space size-of an attached ~~second accessory dwelling~~ unit shall not exceed thirty-fifty (350) percent of the living area of the primary ~~unit~~dwelling or 1,200 square feet, whichever is less.~~-(Living area means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or an accessory structure.)~~.
 - (4) Zoning requirements. The ~~second-accessory dwelling~~ unit shall conform to the height, setback, lot coverage, and other zoning requirements ~~yard setback, lot coverage and building height requirements~~-of the zoning district in which it is located.
 - (i) Setback requirements.
 - a. A setback of five feet from the side and rear yards is required for an accessory dwelling unit that is constructed above a garage. (See also Government Code section 65852.2 (a)(1)(D)(vii).)
 - b. Accessory dwelling units must conform to the setback requirement of the primary dwelling. However, no setback shall be required for an existing garage that is converted to an accessory dwelling unit.
 - (5) ~~—Building code requirements.~~ The proposed unit shall conform to the building code requirements that apply to detached dwellings

Redline Changes to Provisions of Chapter 10.08 regarding Accessory Dwelling Units

(6) *Distance; Access.* The minimum distance between an accessory dwelling-second unit and a primary dwelling or an accessory dwelling-second unit and an accessory building is six (6) feet. An attached accessory dwelling unit may have either an exterior or interior access.

(67) *Parking.* One additional off-street parking space is required per accessory dwelling unit. (Government Code, section 65852.2.) The space may be tandem parking, or parking in the setback area. If any required garage or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, the number of required parking spaces for the primary dwelling-shall be replaced and replacement parking space(s) may be located in a garage, covered, uncovered, or tandem spaces anywhere on the same lot as the accessory dwelling unit.

However, the parking requirement for an accessory dwelling unit does not apply if one of the following apply:

- (i) the unit is located within one-half mile of a City of Tracy Tracer or San Joaquin RTD bus stop;
- (ii) the unit is located within the existing space of the existing primary dwelling or an existing, accessory structure, and not constructed as additional living area of an attached or detached accessory dwelling unit; or
- (iii) there is a car share vehicle designated pick up and drop off located within one block of the accessory dwelling unit.-

(c) *Authority.* This section is adopted under the requirements of Government Code section 65852.2.

(Prior code § 10-2.2316)

(Ord. No. 1202, Exh. A § 20, 12-1-2015)

10.08.3480 - Parking spaces required.

Except as otherwise provided in this chapter, the number of off-street parking spaces for the various uses shall be as set forth in the "Permitted Parking Chart." The parking requirements for handicapped persons shall conform to the provisions of Title 24 of the State Building Code, and shall be provided according to the schedule in City of Tracy Standard Plans.

(Prior code § 10-2.2604)

PERMITTED PARKING CHART

Uses	Minimum Parking Spaces Required
Residential	
Single-family residential	

Redline Changes to Provisions of Chapter 10.08 regarding Accessory Dwelling Units

Attached or detached.	Two (2) non-tandem enclosed (in garage) spaces per unit. Exception: housing designated by the City as in a very low or low income housing program, in
Duplex	which case only one of the two (2) spaces per unit is required to be enclosed. See section 10.08.3180 for accessory dwelling unit parking regulations.
Multiple-family residential Studio or one bedroom	One and one-half (1½) spaces, one of which shall be covered, plus one additional space marked "guest" per every five units
Two (2) or more bedrooms	Two (2) spaces with one covered per unit, plus one space marked "Guest" for every five residential units
Clubs with sleeping rooms Fraternity houses with sleeping rooms Lodges with sleeping rooms Lodging and rooming houses Sorority houses with sleeping rooms	One space per two (2) sleeping rooms
Residential, Group care and convalescent hospitals and the like	One space per three (3) beds
Day care uses, excluding large and	One space per staff position

Redline Changes to Provisions of Chapter 10.08 regarding Accessory Dwelling Units

small family day care	
Commercial	
Retail	One space per 250 square feet of gross floor area
Vehicle sales and rentals, including recreational vehicles and mobile homes	One space per 250 square feet of gross floor area plus one space per vehicle for sale or stored on lot
Offices: business, professional (not including medical or dental), banks	One space per 250 square feet of gross floor area
Dental and medical clinics or offices	One space per 200 square feet of gross floor area
Motor vehicle repair garages	One space per 600 square feet of gross floor area; repair stalls not counted as parking spaces

Redline Changes to Provisions of Chapter 10.08 regarding Accessory Dwelling Units

Mortuaries and funeral homes	One space per four (4) fixed seats, or one space per 40 square feet of assembly area if no fixed seats; plus one space per 250 square feet of office area
Cafes, restaurants and other establishments for the sale and consumption of food and beverages	Dining: one space per 45 square feet of customer area and one space per 250 square feet of all other area, plus additional space connected to uses such as drinking establishments. Drinking bars, cocktail lounges: one space per 35 square feet of drinking, bar, lounge area
Hotels and motels	One space per guest room
Hospitals	One space per bed
Industrial	
Research and development	One space per 200 square feet of gross floor area
Warehouses, storage buildings and wholesale	One space per 1,000 square feet of the first 20,000 square feet of gross floor area, plus one space per 2,000 square feet of the second 20,000 square feet of gross floor area, plus one space per 4,000 square feet of the remaining square feet of gross floor area

Redline Changes to Provisions of Chapter 10.08 regarding Accessory Dwelling Units

Manufacturing	One space per 600 square feet of gross floor area, or if the number of employees on the maximum work shift can be verified, one space per one employee on the maximum work shift
Assembly	
Auditoriums, churches, sports arenas, stadiums, theaters, and other places of assembly	One space per five (5) fixed seats or, if the assembly area does not have fixed seats, one space per 60 square feet of assembly area. If the number of parking spaces required for the sum of all accessory uses does not exceed the number of parking spaces required for the assembly area no additional parking is required. Uses which are not accessory to the assembly use, shall provide additional off-street parking in accordance with this title
Bowling alleys	Four (4) spaces per bowling lane, plus additional spaces for dining and drinking areas as required
Educational	
Elementary and junior high schools	Two (2) spaces per classroom
High schools and colleges	One space per 40 square feet of classroom area.

(Ord. 1050 § 5, 2003; prior code § 10-2.2604)

RESOLUTION 2018-_____

PLANNING COMMISSION RECOMMENDATION THAT THE CITY COUNCIL
INTRODUCE AND ADOPT AN ORDINANCE AMENDING SECOND UNIT
(ACCESSORY DWELLING UNIT) REGULATIONS OF THE CITY ZONING ORDINANCE,
TRACY MUNICIPAL CODE SECTIONS 10.08.790, 10.08.3180, AND 10.08.3480

WHEREAS, The Tracy Municipal Code contains provisions for second units (accessory dwelling units), and

WHEREAS, On January 1, 2017, amendments to State law (Government Code Section 65852.2) became effective, resulting in changes to provisions that all cities must implement for second units (accessory dwelling units), and

WHEREAS, The proposed TMC amendments are designed to make the Tracy Municipal Code consistent with State law requirements, 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 February 28, 2018, 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 Sections 10.08.790, 10.08.3180, and 10.08.3480 regarding second units (accessory dwelling units) as indicated in Exhibit 1, attached.

* * * * *

The foregoing Resolution 2018-_____ was adopted by the Planning Commission on the 28th day of February, 2018, 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 AMENDING SECTIONS 10.08.790, 10.08.3180, AND 10.08.3480 OF THE TRACY MUNICIPAL CODE REGARDING SECOND UNITS, NOW CALLED ACCESSORY DWELLING UNITS

The California Legislature adopted Assembly Bill 2299 and Senate Bill 1069 amending the Government Code section 65852.2 requirements for second units, and renaming them as accessory dwelling units.

The Legislation took effect on January 1, 2017 and cities are required to comply with the new requirements.

The Planning Commission conducted a public hearing to consider the amendments on February 28, 2018, and

The City Council conducted a public hearing to consider the amendments on _____, 2018.

The City Council of the City of Tracy does ordain as follows:

SECTION 1: A new Section 10.08.052, entitled "Accessory Dwelling Unit" is added to Article 2 "Definitions" of Chapter 10.08 "Zoning Regulations" and shall read as follows:

"10.08.052 - Accessory dwelling unit.

"Accessory dwelling unit" means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking and sanitation on the same lot as one single-family dwelling is situated. An accessory dwelling unit also includes the following: (1) an efficiency unit, as defined in Health and Safety Code section 17958.1; and (2) a manufactured home, as defined in Health and Safety Code section 18007. Any reference in this Code to "second unit" means "accessory dwelling unit." (Gov't. Code, section 65852.2(i). See TMC, section 10.08.3180.)"

SECTION 2: Section 10.08.3180 of the Tracy Municipal Code is retitled and amended to read as follows:

"10.08.3180 - Accessory dwelling units.

(a) *Accessory dwelling unit.* One accessory dwelling unit is permitted on any residentially zoned lot having one existing single-family dwelling (the "primary dwelling") if the proposed unit complies with the standards in subsection b. (See definition at TMC section 10.08.052.) An accessory dwelling unit is not permitted if there is more than one single-family dwelling, a duplex, or multi-family dwelling on the lot. An accessory dwelling unit may be attached or detached from the primary dwelling and may be created by the conversion of a portion of, or an addition to, the primary dwelling, accessory structure, or by the construction of a new structure.

(b) *Standards.* These standards apply to an accessory dwelling unit.

- (1) *One unit.* There may be only one accessory dwelling unit on a lot. The accessory dwelling unit may not be sold separately from the primary dwelling.
- (2) *Primary dwelling required.* The primary dwelling must be a permitted use in the zoning district, and the lot must contain only one existing single-family dwelling.
- (3) *Size.* The total area of floor space of a detached accessory dwelling unit shall not exceed 1,200 square feet of living area. The total area of floor space of an attached accessory dwelling unit shall not exceed fifty (50) percent of the living area of the primary dwelling or 1,200 square feet, whichever is less. (*Living area* means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or an accessory structure.)
- (4) *Zoning requirements.* The accessory dwelling unit shall conform to the height, setback, lot coverage, and other zoning requirements of the zoning district in which it is located.
 - (i) *Setback requirements.*
 - a. A setback of five feet from the side and rear yards is required for an accessory dwelling unit that is constructed above a garage. (See also Government Code section 65852.2 (a)(1)(D)(vii).)
 - b. Accessory dwelling units must conform to the setback requirement of the primary dwelling. However, no setback shall be required for an existing garage that is converted to an accessory dwelling unit.
- (5) *Building code requirements.* The proposed unit shall conform to the building code requirements that apply to detached dwellings.
- (6) *Distance; Access.* The minimum distance between an accessory dwelling unit and a primary dwelling or an accessory building is six (6) feet. An attached accessory dwelling unit may have either an exterior or interior access.
- (7) *Parking.* One additional off-street parking space is required per accessory dwelling unit. The space may be tandem parking, or parking in the setback area. If any required garage or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, the number of required parking spaces shall be replaced and replacement parking space(s) may be located in a garage, covered, uncovered, or tandem spaces anywhere on the same lot as the accessory dwelling unit.

However, the parking requirement for an accessory dwelling unit does not apply if one of the following apply:

- (i) the unit is located within one-half mile of a City of Tracy Tracer or San Joaquin RTD bus stop;

- (ii) the unit is located within the existing space of the existing primary dwelling or an existing, accessory structure, and not constructed as additional living area of an attached or detached accessory dwelling unit; or
- (iii) there is a car share vehicle designated pick up and drop off located within one block of the accessory dwelling unit.

(c) *Authority.* This section is adopted under the requirements of Government Code section 65852.2.”

SECTION 3: The “Minimum Parking Spaces Required” for “Single-family residential” within the “PERMITTED PARKING CHART” is amended to read in Section 10.08.3480 “Parking spaces required” is amended to read

“Two, non-tandem, enclosed (in garage) spaces per unit. Exception: housing designated by the City as in a very low or low income housing program, in which case only one of the two spaces per unit is required to be enclosed. See section 10.08.3180 for accessory dwelling unit parking regulations.”

SECTION 4: The following sections of the Tracy Municipal Code are amended to substitute the term “second unit” with “accessory dwelling unit ” wherever it appears, matching the singular or plural form of the term:

10.08.1080
10.08.1100
10.08.1200
10.08.1280
10.08.1390
10.08.1580
10.12.060(e)
12.04.050

SECTION 5: The adoption of this ordinance to implement Government Code 65852.2 is exempt from the California Environmental Quality Act (CEQA), under Public Resources Code section 21080.17.

SECTION 6. The City Clerk shall submit a copy of this ordinance to the California Department of Housing and Community Development within 60 days after adoption. (Government Code section 65852.2(h).)

SECTION 7. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 8. 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

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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 _____, 2018, and finally adopted on _____, 2018, by the following vote:

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

Mayor

ATTEST:

City Clerk

[document name]