



# City of Los Banos

At the Crossroads of California

[www.losbanos.org](http://www.losbanos.org)

## AGENDA

### PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS  
520 J Street  
Los Banos, California

**MAY 13, 2015**

*If you require special assistance to attend or participate in this meeting, please call the Planning Secretary @ (209) 827-7000 extension 118 at least 48 hours prior to the meeting.*

*The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.*

*Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria del Departamento de Planificación al (209) 827-7000 extensión 118 a lo menos de 48 horas previas de la junta.*

*La Cuidad de Los Banos cumple con la Acta de Americanos con Deshabilidad (ADA) de 1990.*

*Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the meeting and in the Planning Department's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at [www.losbanos.org](http://www.losbanos.org).*

*Cualquier escritura o los documentos proporcionaron a una mayoría del Departamento de Planificación con respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina del Secretaria del Departamento de Planificación del City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la Ciudad en [www.losbanos.org](http://www.losbanos.org).*

1. CALL TO ORDER. **7:00 PM**
2. PLEDGE OF ALLEGIANCE.
3. ROLL CALL: (Planning Commission Members)  
Baker \_\_, Cates \_\_, Faktorovich \_\_, Hammond \_\_, McCoy \_\_, Spada \_\_,  
Toscano \_\_

4. APPROVAL OF AGENDA.

*Recommendation: Approve the agenda as submitted.*

5. PUBLIC FORUM: Members of the public may address the Commission on any item of public interest that is within the jurisdiction of the Commission, including agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation.
6. PUBLIC HEARINGS: If you challenge the proposed action as described herein in court, you may be limited to raising only those issues you or someone else raised at the public hearing described herein or in written correspondence delivered to the City at, or prior to, the public hearing.

A. Public Hearing – to Consider Vesting Tentative Parcel Map No. 2015-02 to Subdivide Approximately 0.38 Acres into Two Parcels in the Low Density Residential Zoning District Located at 160 W. Santa Barbara Street, More Specifically Identified as Assessor's Parcel Number: 081-180-004.

- 1) Planning Commission Resolution No. 2015-12 – Approving Vesting Tentative Parcel Map #2015-02 for the Subdivision of Approximately 0.38 acres into Two Parcels Located at 160 W. Santa Barbara Street, More Specifically Identified as Assessor's Parcel Number: 081-180-004.

*Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt the resolution as submitted.*

B. Public Hearing – to Consider and Make a Recommendation to the Los Banos City Council to Adopt a New Update to the Mobile Vendor Ordinance Located in Title 9, Chapter 3, Article 36 of the Los Banos Municipal Code **(Continued from April 22, 2015).**

- 1) Planning Commission Resolution No. 2015-11 – Recommending to the City Council Adoption of an Ordinance of the City of Los Banos Amending the Mobile Vendor Ordinance as Set Forth in Title 9, Chapter 3, Article 36 of the Los Banos Municipal Code.

*Recommendation: Receive staff report, open the continued public hearing, receive public comment, close the public hearing, and adopt the resolution as submitted.*

C. Public Hearing – to Consider and Make a Recommendation to the Los Banos City Council to Adopt a Proposed Ordinance to Regulate and Create a Process for Farmer's Markets in the City of Los Banos. **(Continued from April 22, 2015.)**

- 1) Planning Commission Resolution No. 2015-13 – Recommending to the City Council Adoption of an Ordinance of the City of Los Banos Adding Article 41, Title 9, Chapter 3 of the Los Banos Municipal Code Relating to Certified Farmers' Markets.

*Recommendation: Receive staff report, open the continued public hearing, receive public comment, close the public hearing, and adopt the resolution as submitted.*

7. DESIGN REVIEW STUDY SESSION – DEVELOPMENT OF A 5,000 SQUARE FOOT INDUSTRIAL BUILDING LOCATED AT THE PACHECO PASS COMMERCE CENTER.

*Recommendation: Receive staff report and provide initial feedback to the applicant.*

8. COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.

9. COMMISSIONER REPORTS.

- A. Baker
- B. Cates
- C. Faktorovich
- D. Hammond
- E. McCoy
- F. Spada
- G. Toscano

10. ADJOURNMENT.

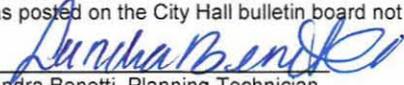
**APPEAL RIGHTS AND FILING PROCEDURES**

Any person dissatisfied with an act or determination of the Planning Commission may appeal such act or determination to the Planning Commission by filing written notice with the Planning Commission Secretary not later than five (5) business days (excluding holidays) after the day on which the act or determination was made. An appeal must state the act or determination which is being appealed, the identity of the applicant and his/her interest in the matter, and set forth in concise statement(s) the reasons which render the Commission's decision unjustified or inappropriate. (Los Banos Municipal Code Section 9-3.2326)

Concerning an action taken by the Planning Commission related to Chapter 2 Articles 1 through 17 of the Los Banos Municipal Code "Subdivisions", if a subdivider or other affected property owner is dissatisfied with any action of the Commission with respect to a tentative map or the nature and extent of improvements recommended or required he/she may within fifteen (15) days after such action appeal to the Planning Commission Secretary for a public hearing on the matter. An appeal must state the action being appealed, identify the agenda item by agency number or project title, and set forth in concise statement(s) the reasons for the appeal. (Los Banos Municipal Code Sections 9-2.807)

Appeals must be in writing and include the appellant's name and address and original signature. A filing fee of \$150.00 must accompany the notice of appeal.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.

  
Sandra Benetti, Planning Technician

Dated this 8<sup>th</sup> day of May 2015



City of  
**Los Banos**  
*At the Crossroads of California*

**PLANNING COMMISSION STAFF REPORT**

**TO: CHAIRMAN SPADA AND PLANNING COMMISSIONERS**

**FROM: STACY SOUZA ELMS, ASSISTANT PLANNER II** *SE*

**FOR: MAY 13, 2015**

**SUBJECT: TENTATIVE PARCEL MAP #2015-02 – VILLAGE GREEN**

**RECOMMENDATIONS:**

1. That the Planning Commission adopts Resolution No. 2015-12 approving Tentative Parcel Map #2015-02 for the subdivision of approximately 0.38 acres into two (2) parcels located at 160 W. Santa Barbara Street, more specifically identified as Assessor's Parcel Number: 081-180-004.

**PROJECT BACKGROUND/ DESCRIPTION:**

The Los Banos Planning Commission on December 10, 2003 approved Vesting Tentative Tract Map #98-03 for the subdivision of approximately 14.7 acres into 45 single-family residential lots including a neighborhood park and a linear park feature for the development known as Village Green.

Subsequent to the approval of the Vesting Tentative Tract Map, Community and Economic Development staff in consultation with Public Works has determined that the neighborhood park is not needed and is not desirable. There are three (3) existing parks within a quarter mile of the Village Green Subdivision. In addition, the park when developed would have significant ongoing maintenance expenses. Instead of development of the neighborhood park and reimbursement to the developer for costs associated with the park, the developer will be paying in lieu fees (park development fee \$6,933.95 and park dedication fee \$518) per dwelling unit that will be contributed to a regional park fund to be used city wide. The purpose of the parcel map is to convert the neighborhood park into two (2) residential lots.

The proposed project is for the subdivision of the neighborhood park consisting of approximately 0.38 acres into two (2) parcels for future single-family residential development.

Proposed Lot A would be subdivided into 8,430 square feet and Lot B would consist of 8,498 square feet. This would be consistent with the Los Banos Municipal Code lot size

requires for the Low Density Residential (R-1) zoning district as the minimum requirement for lot sizes is 6,000 square feet.

**LOCATION AND ACCESS:**

The project site is located at 160 West Santa Barbara Street, west of Nantes Avenue.



**LAND USE:**

Property	Land Use	Zone	General Plan
Project site	Undeveloped	R-1	LDR
North	Agricultural	County	LDR
South	Undeveloped	R-1	LDR
East	Undeveloped	R-1	LDR
West	Agricultural	County	MDR

R-1 = Low Density Residential  
 LDR = Low Density Residential

MDR – Medium Density Residential

**ENVIRONMENTAL ASSESSMENT:**

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is categorically exempt from the provisions of CEQA per Article 19, Section 15315 – Minor Land Divisions.

**TENTATIVE PARCEL MAP ANALYSIS:**

***Code Requirements***

Pursuant to Section 9-3.605 of the Los Banos Municipal Code, building sites for dwellings in the Low Density Residential District shall be a minimum of six thousand (6,000) square feet.

Pursuant to Section 9-3.606 of the Los Banos Municipal Code, the minimum width of lots in the Low Density Residential District shall be a minimum of sixty (60') feet for interior lots and sixty-five (65') feet for corner lots.

**The proposed land subdivision meets the requirements of the Municipal Code in that the proposed Low Density Residential lots created will be greater than 6,000 square feet and wider than 60'. Each lot is over 8,400 square feet and consists of a lot width of more than 86'.**

**PUBLIC COMMENT:**

A public hearing notice was published in the Los Banos Enterprise and notices were provided to adjacent property owners within 300 foot radius of the subject property on May 1, 2015. As of the date of this staff report, no comments have been received.

**RECOMMENDATIONS:**

1. That the Planning Commission adopts Resolution No. 2015-12 approving Tentative Parcel Map #2015-02 for the subdivision of approximately 0.38 acres into two (2) parcels located at 160 W. Santa Barbara Street, more specifically identified as Assessor's Parcel Number: 081-180-004.

**ATTACHMENTS:**

1. Resolution #2015-12  
Exhibit A CEQA Findings  
Exhibit B Project Findings  
Exhibit C Conditions of Approval
2. Tentative Parcel Map #2015-02
3. Public Hearing Notice – May 1, 2015

## RESOLUTION 2015-12

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS APPROVING VESTING TENTATIVE PARCEL MAP 2015-02 FOR THE SUBDIVISION OF APPROXIMATELY 0.38 ACRES INTO TWO PARCELS LOCATED AT 160 W. SANTA BARBARA STREET, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 081-180-004**

WHEREAS, Vesting Tentative Parcel Map #2015-02 meets the criteria set forth in Section 9-2.802 of the Los Banos Municipal Code; and

WHEREAS, Vesting Tentative Parcel Map #2015-02 has been determined to be categorically exempt from the provisions of CEQA per Article 19, Class 32, Section 15315 – Minor Land Divisions; and

WHEREAS, a public hearing notice was advertised in the Los Banos Enterprise and mailed to property owners within 300 feet of the site as required by the City of Los Banos Municipal Code and Government Code Section 65091 on May 1, 2015; and

WHEREAS, the Los Banos Planning Commission has held a public hearing, reviewed said Vesting Tentative Parcel Map request and staff report, has studied the compatibility of the applicant's request with the Subdivision Map Act and has considered this request in accordance with the criteria established in the Subdivision Ordinance and Zoning Ordinance of the Los Banos Municipal Code; and

WHEREAS, the Planning Commission of the City of Los Banos does hereby make the appropriate findings set forth in Exhibit A (California Environmental Quality Act (CEQA) Findings), and Exhibit B (Findings of Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby approve Vesting Tentative Parcel Map #2015-02 for the subdivision of approximately 0.38 acres into two parcels located at 160 W. Santa Barbara Street, more specifically identified as Assessor's Parcel Number: 081-180-004, subject to the Conditions of Approval set forth in Exhibit C, attached hereto and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 13<sup>th</sup> day of May 2015, by Commissioner \_\_\_\_\_, who moved its adoption, which motion was duly

seconded by Commissioner \_\_\_\_\_, and the Resolution is hereby adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

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Tom Spada, Planning Commission Chairman

ATTEST:

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Sandra Benetti, Planning Commission Secretary

## EXHIBIT A

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR VESTING TENTATIVE PARCEL MAP #2015-02:**

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. (the "CEQA Guidelines"), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos Planning Commission hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, the project was evaluated and found to be categorically exempt from the provisions of CEQA per Article 19, Section 15315 – Minor Land Divisions.
2. Vesting Tentative Parcel Map #2015-02 was adequately noticed on May 1, 2015 for consideration at a public meeting on May 13, 2015.
3. No further environmental documentation is required as Vesting Tentative Parcel Map #2015-02 was contemplated and adequately analyzed in the initial review.
4. The proposal is consistent with the Los Banos General Plan as it meets the use and density standards specified.
5. The proposal is consistent with the Los Banos Municipal Code as it meets the use and subdivision standards specified within.

## EXHIBIT B

### FINDINGS FOR APPROVAL OF VESTING TENTATIVE PARCEL MAP 2015-02:

The City of Los Banos Planning Commission hereby finds as follows:

1. The project is consistent with the City of Los Banos General Plan Low Density Residential zoning designations as it meets the use and density standards specified within.
2. The proposal is consistent with the Los Banos Municipal Code as it meets the use and subdivision standards specified within.
3. Pursuant to the Los Banos Municipal Code the applicant has submitted a Vesting Tentative Parcel Map, which meets the criteria set forth in the section.
4. Vesting Tentative Parcel Map #2015-02 complies with the Los Banos Subdivision Ordinance and the California Subdivision Map Act.
5. The proposal will not be detrimental to the health, safety, comfort, or general welfare of the persons residing or working in the City of Los Banos, or injurious to property or improvements in the surrounding neighborhoods as the minor land division simply subdivides the existing parcel into two parcels.

## EXHIBIT C

### CONDITIONS OF APPROVAL FOR VESTING TENTATIVE PARCEL MAP 2015-02:

1. Vesting Tentative Parcel Map #2015-02 shall be consistent with the Los Banos Municipal Code and the California Subdivision Map Act.
2. A request for time extension, in accordance with Section 66452.6(a) (1) of the Subdivision Map Act, shall be requested prior to the date of expiration, along with a fee for processing the request and is subject to City Council approval.
3. A letter from the Merced County Tax Collector shall be submitted prior to the recording of the Final Map which indicates that taxes have been paid or a bond has been posted.
4. A Parcel Map Guarantee shall be prepared and provided to the Merced County Recorder.
5. When the submittal has been technically approved, the original mylars and a confirmed mylar will be signed and notarized, (notary shall not be stamped on the map) and delivered to the City Engineer's Office.
6. The Final Map shall be subject to Resolution #2015-12 which describes the development, project and conditions of approval.
7. City easements shall be dedicated in the Owner's Statement, shown on the Final Map and accepted in the City Clerk's Statement, subject to improvements. The City Clerk's statement of Council acceptance completes the dedication process.
8. A Final Map shall be prepared by a Professional Land Surveyor licensed in California or a Professional Engineer licensed in California and qualified to practice land surveying, according to the approved tentative map, the Subdivision Map Act and local ordinances.
9. At least two points shown on the map shall be tied to the California State Plan Coordinate System (NAD 83) with ties shown and closure calculations depicting the tie bearings and distances.
10. The Applicant/Owner shall reimburse the City for all actual and reasonable costs incurred by the City relating to the Applicant's application including but not limited to City's staff time and expense, review of plans, specifications, cost estimates, property descriptions and right-of-ways, CEQA compliance, legal expense and attorney fees, inspection of the improvements, including recording fees, and publishing fees.

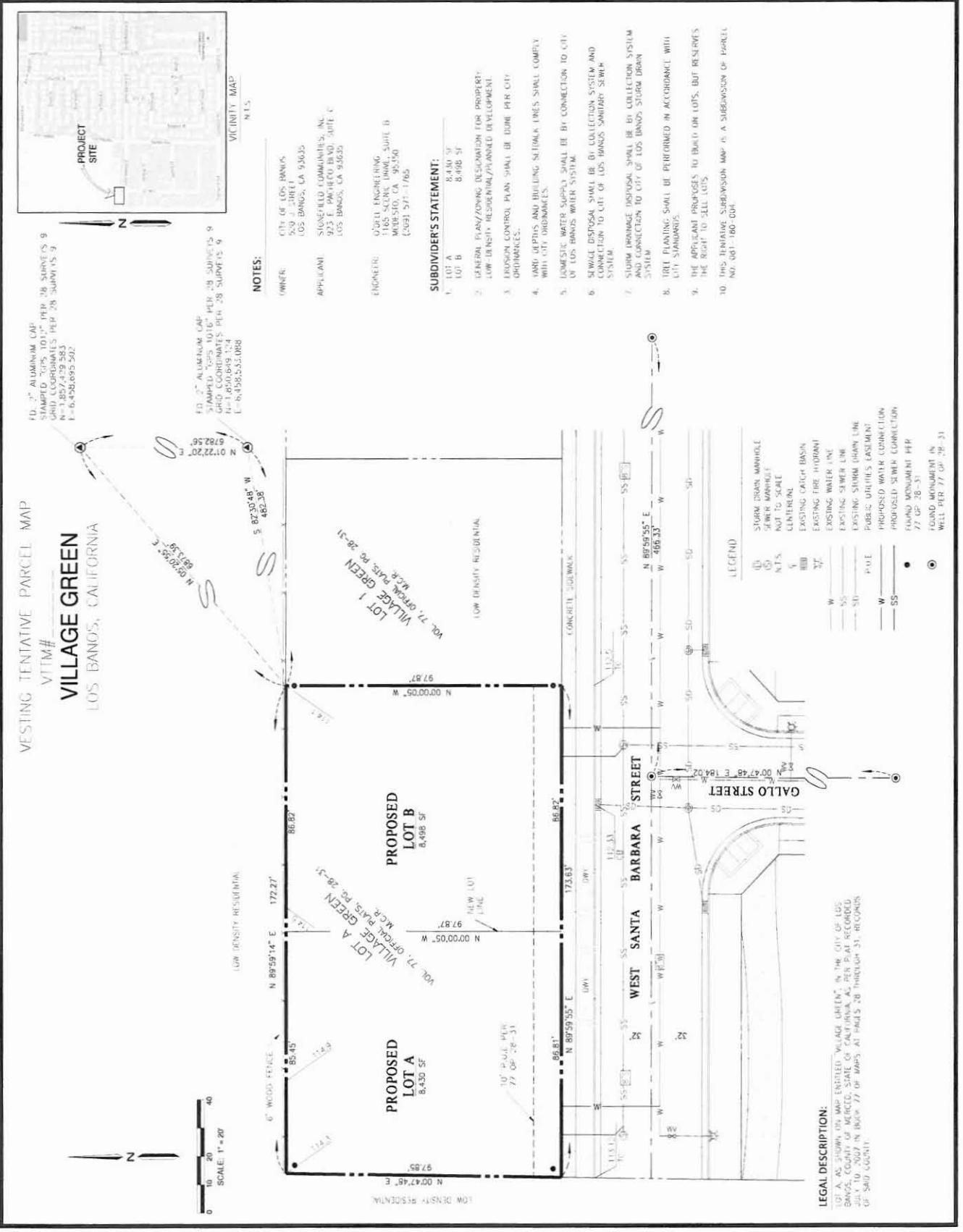
# VILLAGE GREEN TENTATIVE PARCEL MAP

LOS BANOS, CA



DESIGNED BY	MA
DRAWN BY	BEG
CHECKED BY	CC
SCALE	1" = 20'
DATE	2015-04-10
JOB NO.	29170
TITLE	29170-TM-04g

Street No.  
 1  
 01  
 1





City of  
**Los Banos**  
*At the Crossroads of California*

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**COMMUNITY AND ECONOMIC DEVELOPMENT  
DEPARTMENT**

Date: May 1, 2015

Regarding: Notice of Public Hearing

Proposal: Tentative Parcel Map 2015-02 – Village Green Vesting Tentative  
Parcel Map

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider Vesting Tentative Parcel Map No. 2015-02 to subdivide approximately 0.38 acres into 2 parcels in the Low Density Residential zoning district. The project site is located at 160 W. Santa Barbara Street, more specifically identified as Assessor's Parcel Number: 081-180-004.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, May 13, 2015 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Assistant Planner II at City Hall or at (209) 827-7000, Ext. 133.

Persons wishing to provide oral comments on the proposed project may do so at this meeting or may provide written comments on this matter prior to the public meeting. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635. Please be advised that should the action by the City Council be challenged in court, you may be limited to only those issues raised at the public hearings or by written comment per Government Code Section 65009.

THE CITY OF LOS BANOS

Stacy Souza Elms  
Assistant Planner II



City of  
**Los Banos**  
*At the Crossroads of California*

**PLANNING COMMISSION STAFF REPORT**

**TO: CHAIRMAN SPADA & PLANNING COMMISSIONERS**  
**FROM: STACY SOUZA ELMS, ASSISTANT PLANNER II**   
**DATE: MAY 13, 2015**  
**SUBJECT: PROPOSED MOBILE VENDOR ORDINANCE UPDATE**

**RECOMMENDATIONS:**

That the Planning Commission adopt Resolution No. 2015-11 recommending adoption of a new update to the Mobile Vendor Ordinance located in Title 9, Chapter 3, Article 36 of the Los Banos Municipal Code.

**DISCUSSION:**

On March 25, 2015, the Los Banos Planning Commission discussed the existing ordinance, various issues regarding the current Mobile Vendor Ordinance, and staff presented alternatives that the Commission provided feedback on.

On April 22, 2015, the Planning Commission discussed the inclusion of a Downtown Zone for mobile food vending on Friday and Saturday nights from 7:00 p.m. to 1:00 a.m. Parking would be limited to the designated area defined as the Downtown Zone, which is defined as the two block area between H Street and J Street and between 6<sup>th</sup> Street and 5<sup>th</sup> Street.

The following restrictions have been incorporated into the Downtown Zone:

- Must obtain written permission of the storefront operator and/or owner fronting on the proposed parking spaces;
- No vending during and 1 hour before and 1 hour after any special event requiring a street closure (i.e. Christmas Parade);
- Parking shall be limited to the specific location designated in the permit;
- Must maintain 15 feet of any driveway, fire hydrant, or public safety alarm box;
- Must maintain 25 feet from any designated fire lane;

- Must maintain 50 feet from any pedestrian crosswalk and any intersection; and
- Must maintain clearance from any alley.

## **ATTACHMENTS**

1. Resolution #2015-11
2. Downtown Zone
3. Redline Ordinance

## RESOLUTION NO. 2015-11

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE OF THE CITY OF LOS BANOS AMENDING THE MOBILE VENDOR ORDINANCE AS SET FORTH IN TITLE 9, CHAPTER 3, ARTICLE 36 OF THE LOS BANOS MUNICIPAL CODE

WHEREAS, on June 6, 2008, the Los Banos City Council adopted Ordinance No 1071, regulating mobile vendors within the City of Los Banos; and

WHEREAS, the the stated purpose of the Mobile Vendor Ordinance is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens, businesses and visitors of the City of Los Banos; and

WHEREAS, the stated intent of the City of Los Banos to provide mobile food vendors with clear and concise regulations to prevent safety, traffic, and health hazards, as well as to preserve the peace, safety, and welfare of the community; and

WHEREAS, at a public hearing on March 25, 2015 the Planning Commission conducted a comprehensive review of the current Mobile Vendor Ordinance as adopted by the City Council in 2008 and as set forth in Title 9, Chapter 9, Article 36 of the Los Banos Municipal Code; and

WHEREAS, at a public hearing on April 22, 2015, at which time all individuals desiring to comment on the proposed ordinance were heard the Planning Commission considered amendments to the Mobile Vendor Ordinance as set forth in Title 9, Chapter 3, Article 36 of the Los Banos Municipal Code; and

WHEREAS, the proposed amendments to the Mobile Vendor Ordinance are attached hereto and incorporated herein by this reference as Attachment A; and

WHEREAS, the proposed amendments to the Mobile Vendor Ordinance do not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that the proposed ordinance is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines Section 15061(b)(3) and is not subject to environmental review.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby recommend that the City Council of the City of Los Banos consider and approve the attached Ordinance amending Title 9, Chapter 3, Article 36 of the Los Banos Municipal Code.

The foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 13<sup>th</sup> day of May 2015, by Planning Commissioner \_\_\_\_\_ who moved its adoption, which motion was duly seconded by Planning Commissioner \_\_\_\_\_ and the Resolution adopted by the following vote:

AYES:  
NOES:  
ABSENT:

APPROVED:

\_\_\_\_\_  
Tom Spada, Planning Commission Chairman

ATTEST:

\_\_\_\_\_  
Sandra Benetti, Planning Commission Secretary

(C) **Downtown Zone.**

(i) The Downtown Zone shall be defined as the two block area between H Street and J Street and between 6<sup>th</sup> Street and 5<sup>th</sup> Street.

(ii) In the Downtown Zone, a mobile food vendor may remain stationary in the roadway and may vend when legally parked from a legal parking space. Mobile food vendors shall comply with the California Vehicle code, the Los Banos municipal code (Parking), and with all posted parking, stopping, and standing restrictions at all times. The mobile vendor shall obtain the written permission of the storefront operator and/or owner fronting on the proposed parking spaces.

(iii) Permitted hours of operation are Friday and Saturday nights from 7:00 p.m. to 1:00 a.m. No vending during and 1 hour before and 1 hour after any special event requiring a street closure.

(iv) Parking of the mobile vending unit shall be limited to the specific location designated in the permit.

(v) **Location Restrictions**

(a) 15 feet of any driveway;

(b) 15 feet of any fire hydrant or public safety alarm box;

(c) 25 feet of any designated fire lane;

(d) 50 feet of a pedestrian crosswalk;

(e) 50 feet of any intersection;

(f) Within an alley.

(vi) **Sidewalk Clearance and Queuing.** No part of the mobile vending unit or other equipment related to the vending operation may encroach onto the public sidewalk. Vendors may place waste containers on public sidewalks provided that a minimum 4-foot clearance for pedestrian accessibility is maintained. Vendors are responsible for managing customer queuing, ensuring pedestrian accessibility is maintained, and ensuring customers do not loiter after receiving their purchased food. The vendors shall be responsible for maintaining the adjacent sidewalk free of all trash and litter at all times.

(vii) The mobile vending unit shall be removed from the site immediately after operations are ceased.

## Article 36. Mobile Food Vending

### Sec. 9-3.3601 Purpose.

The general purpose of this ~~chapter~~Article is to promote the health, safety, comfort, convenience, prosperity and general welfare of the citizens, businesses and visitors of the City of Los Banos by requiring that new and existing mobile food vendors provide the community and customers with a minimum level of cleanliness, quality, safety and security. It is the purpose and intent of the City Council in enacting this ~~Article~~chapter, to provide mobile food vendors with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

### Sec. 9-3.3602 Definitions.

(a) "Mobile food vending unit" shall mean any vehicle, trailer, pushcart, motorized food wagon, stand, tent; or structure; not affixed to a permanent foundation, with or without wheels, which may be moved from one place to another under its own power or by other means.

(b) "Mobile food vendor" shall mean any person who owns, controls, manages or is otherwise engaged in the business of selling prepared, pre-packaged or unprepared, unpackaged food or foodstuffs of any kind, ~~goods, wares, merchandise, or any other thing of value~~ from a mobile vending unit on private or public property.

(c) "Persons" shall mean any person, firm, partnership, association, corporation, or business entity, and includes, but is not limited to, owners, operators, drivers, employees, agents, lessors and lessees of a mobile vending unit.

(d) "Vend" or "vending" shall mean the sale, offer for sale, soliciting, preparation, display, barter, or exchange, of prepared, pre-packaged or unprepared, unpackaged food or foodstuffs of any kind, ~~goods, wares, merchandise, or any other thing of value~~ from a mobile food vending unit on private or public property.

### Sec. 9-3.3603 Permit required.

(a) No person may vend from a mobile food vending unit in the City without first obtaining and having in his or her possession a mobile food vendor permit issued by the City in accordance with this ~~chapter~~Article. No permit granted herein shall confer any vested right to any person or business for more than the permit period. All mobile food vendors subject to this ~~chapter~~Article shall comply with the provisions of this ~~chapter~~Article as they may be amended hereafter.

### Sec. 9-3.3604 Permit period.

Except as otherwise provided herein, all mobile food vendor permits issued by the City to operate on public right of way pursuant to Section 9-3.3606 shall be limited to a permit period of one hundred eighty (180) consecutive days during any calendar year with the exception of mobile vendors selling prepared, pre-packaged or unprepared, unpackaged food or foodstuffs exclusively in business parks and/or active construction zones/areas as designated by the planning commission. shall expire one year from the date of issuance.

### Sec. 9-3.3605 Application for permit to operate.

A person desiring to engage in a mobile food vendor operation shall submit a written application for a permit to operate in a form acceptable to and with all supporting information required by the City Planning Community and Economic Development Department. Such application shall be accompanied by a nonrefundable, nontransferable application fee in an

amount as established by resolution of the City Council. Any such permit shall be required to be renewed annually and a separate nonrefundable, nontransferable application fee shall be paid yearly for such renewal application. Mobile food vendors must have the permit in their possession when vending. Permits to operate are nontransferable.

(a) A background check through the Los Banos Police Department must be obtained for the mobile food vendor and each person operating or vending out of the mobile food vending unit.

(b) Every mobile food vendor operator shall obtain a City of Los Banos Business License.

(c) As part of the permit to operate application, the mobile food vendor shall provide the following:

(1) Mailing address for notification purposes. If during the term of the permit, the permit holder has any change in the mailing address submitted on the original or renewal application, the permit holder shall notify the ~~planning department~~Community and Economic Development Department of such change in writing within ten (10) business days thereafter. Failure to provide updated contact information shall be grounds for permit suspension;

(2) Legal names of the mobile food vendor and all persons operating or vending out of the mobile food vending unit;

(3) Proof of current vehicle registration (for mobile food vending unit if applicable);

~~(4) Designation of period of operation (limited to one period of one hundred eighty (180) consecutive days during the calendar year) if located on public right of way;~~

(54) Four (4) photographs (showing different exterior views) of each mobile food vending unit;

~~(65) Dimensioned sample or rendering of proposed signage;~~

~~(76) A copy of a current Merced County Environmental Health permit;~~

~~(87) Proof of automobile insurance as required by the Vehicle Code (for mobile vending unit if applicable);~~

(98) No person shall engage in, conduct or carry on the business of a mobile food vendor in the public right of way or on public property unless there is on file with the ~~planning~~Community Development ~~Department~~, in full force and effect at all times, documents issued by an insurance company authorized to do business in the State of California evidencing that the operator is insured (and naming the City as an additional insured) under a liability insurance policy providing minimum coverage of One Million and No/100ths (\$1,000,000.00) Dollars for injury or death arising out of the operation of the mobile food vending unit;

~~(9) If the mobile food vendor is operating in the public right of way or on public property the mobile food vendor shall be required to execute a hold harmless agreement in a form approved by the City.~~

(10) If the mobile food vendor is operating on private property, the mobile food vendor shall provide the following:

(A) An affidavit in a form approved by the City from the property owner (if other than self) permitting the mobile food vendor to locate on the site;

(B) A site plan, including sufficient parking for the primary use and the mobile food vendor, for all proposed stationary location(s). Parking spaces shall be marked as required by zoning regulations;

(C) An affidavit from the business or location providing the required restroom facilities for food service workers, stating the hours that those facilities are being made available.

(d) The following may constitute grounds for denial of a permit to operate or renewal application:

(1) The proposed mobile food vending activity does not comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety and health regulations;

(2) The applicant is unable to obtain a business license due to a criminal background check or Fire Department approval;

(3) The applicant has, within three (3) years immediately preceding the application filing date, had a permit to operate, vending license or similar permit suspended or revoked in another California jurisdiction;

(4) The applicant has knowingly made a material misstatement in the application for a permit to operate;

(5) Failure to obtain clearance from Merced County Environmental Health.

(e) The Planning Commission shall be the decision-making authority for any initial application of a permit to operate. The PlanningCommunity and Economic Development Director or designee shall be the decision making authority for any renewal application of a permit to operate and/or temporary administrative mobile food vendor permit.

#### **Sec. 9-3.3606 Location.**

(a) A mobile food vendor may locate in the public right-of-way subject to the following conditions:

(1) A mobile food vendor shall not operate within three hundred (300') feet of any church, school grounds, park, playground or City-operated recreation center;

(2) A mobile food vendor shall not operate within one hundred (100') feet of any street intersection;

(3) In addition to the above, a mobile food vendor must comply with the following regulations, depending upon the type of use in which it is located:

(A) Residential Zones.

(i) In a residential zone, a mobile food vendor shall move not less than four hundred (400') feet at least every ten (10) minutes and may not return more than three (3) times to a previous location or within four hundred (400') feet of a previous location on the same calendar day.

(ii) Permitted hours of operation are from 9:00 a.m. to 7:00 p.m.

(iii) A mobile food vendor may not be located within four hundred (400') feet of another mobile food vendor.

(B) Commercial Zones.

(i) In a commercial zone, a mobile food vendor shall move not less than four hundred (400') feet at least every two (2) hours and may not return more than three (3) times to a previous location or within four hundred (400') feet of a previous location on the same calendar day.

(ii) Permitted hours of operation are from 8:00 a.m. to 9:00 p.m.

(iii) If a mobile food vendor is located in a commercial zone and is within one hundred (100') feet of a residence, it shall comply with the requirements listed above for residential zones.

(C) Industrial Zones.

(i) In an industrial zone, a mobile food vendor may operate eighteen (18) hours a day or as long as businesses within three hundred (300') feet of the mobile food vendor location are open, whichever is shorter.

(ii) If a mobile food vendor is located in an industrial zone and is also within one hundred (100') feet of a residence, it shall comply with the requirements listed above for residential zones.

(D) Construction Zones and Business Parks. Permitted days and hours of operation are Monday through Saturday from 8:00 a.m. to 5:00 p.m.

(4) Except as set forth in Section 9-3.3608 ~~No~~ mobile food vendors shall be located or maintained on public property, including bicycle pathways, walking trails, public parks or inconsistent with any other City regulations;

(5) Shall not interfere with access, driveways, aisles, circulation or fire lanes and hydrants and shall not operate in a place where the operation will create an unsafe condition; and

(6) Shall comply with the requirements of the Merced County Environmental Health Department.

(b) A mobile food vendor may locate on private property subject to the conditions as follows:

(1) Be incidental to a primary use with a valid business license; a mobile vending unit shall not be the primary use of a parcel. Mobile food vending units shall not be permitted as an accessory use to a standalone parking lot;

(2) Be located in a commercial or industrial zoning district. Mobile food vendors shall not be located on private property in a residential zoning district;

(3) Not be located on a vacant parcel;

(4) Be located on pavement per City standards;

(5) Not utilize, or be located on, parking spaces required for the primary use. At least two (2) onsite parking spaces, in addition to those required for the primary use, shall be provided for the mobile food vending unit operation;

(6) Not interfere with access, driveways, aisles, circulation or fire lanes and hydrants and shall not operate in a place where the operation will create an unsafe condition;

(7) Comply with the requirements of the Merced County Environmental Health Department;

(8) Not interfere with pedestrian movement or create a hazard for pedestrians; and

(9) ~~Not be located within five hundred (500') feet of a similar business (i.e., food truck cannot be located within five hundred (500') feet of a restaurant or flower stand within five hundred (500') feet of a flower shop).~~ One mobile food unit shall be allowed for each 1000 square feet of paved level area not to exceed three (3) mobile food vending units operating on the same parcel at the same time unless in connection with a special event permit.

#### **Sec. 9-3.3607 Operational requirements.**

(a) Mobile Food Vending Unit.

(1) The mobile food vendor shall display, in plain view and at all times, current permits and licenses and the vendors permit shall be affixed to the mobile vending unit.

(2) While vending, drive wheels of the mobile food vending unit shall be chocked in such a manner as to prevent movement.

(3) The mobile food vending unit shall be entirely self-sufficient in regards to gas, water and telecommunications. All mobile food vending units that use a generator, propane, compressed natural gas, open flame, heat source, or appliance to operate the mobile food vending unit shall obtain Fire Department approval and shall be subject to inspection by the Los Banos Fire Department prior to issuance or renewal of a business license involving use of the mobile food vending unit. All mobile food vending units shall comply with California Fire Code, California Code of Regulations, and California Mechanical Code. Should any utility hook-ups or connections to on-site utilities be used or required, the mobile food vendor shall be required to apply for appropriate permits or receive approval by the appropriate City department to ensure building and public safety and consistency with applicable building and zoning regulations.

(4) The mobile food vendor shall not discharge items onto the sidewalk, gutter, storm drainage inlets or streets.

(5) ~~The operator~~ Any person engaged in mobile food vending shall wear, on their person, identification with a picture and name while vending. Such identification is to be obtained from the Los Banos Police Department.

(b) Appearance of Site.

(1) The site shall be maintained in a safe and clean manner at all times.

(2) No tables, chairs, fences, shade structures or other site furniture, (permanent or otherwise) or any freestanding signs shall be permitted in conjunction with the mobile food vendor.

(3) Any site improvements required for mobile food vendor operations shall require application for the appropriate permits to ensure building and public safety and consistency with applicable building and zoning regulations.

(4) Exterior storage of refuse, equipment or materials associated with the mobile food vendor is prohibited.

(c) Amplification. While moving, a mobile food vending unit may utilize amplified music, provided that such music shall not exceed eighty (80) decibels at ten (10') feet from the source as measured by a sound level meter. Any amplified music shall cease while the mobile food vending unit is stopped for vending purposes.

(d) Sanitation.

(1) All mobile food vendors operating a mobile food facility as defined by the Health and Safety Code shall operate out of a commissary pursuant to Health and Safety Code Section 114295.

(2) All mobile food vending units shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a unit, and the vendor of the mobile unit shall pick up all refuse generated by such operation within a twenty-five (25') foot radius of the vehicle before such unit is moved. No mobile food vendor shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated or otherwise provided by and under the control of such vendor.

(3) All mobile food vendors operating a mobile food facility as defined by the Health and Safety Code shall comply with Health and Safety Code Section 114315 regarding the availability of adequate toilet facilities for use by food service personnel.

(e) Safety and Security.

(1) No vending shall be permitted except after the mobile food vending unit has been brought to a complete stop and parked in a lawful manner.

(2) The mobile food vendor shall install signage in a visible location on the mobile vending unit indicating that loitering is not permitted.

(3) The mobile food vendor shall enforce the no loitering rule.

### Sec. 9-3.3608 Temporary Administrative Mobile Food Vendor Permit.

(a) A mobile food vendor that otherwise meets all the requirements of this Article shall be eligible to obtain temporary administrative mobile food vendor permit issued over the counter by the Community and Economic Development Department for the temporary operation of a mobile food vending unit not to exceed one (1) day per any one week period. A mobile food vendor shall be eligible for a maximum of six (6) temporary administrative mobile food vendor permits per twelve month period.

(b) Notwithstanding the provisions of this Article, a temporary administrative mobile food vending permit may allow the mobile food vending unit to be located in the drive lane

adjacent to the northern boundary of Pacheco Park except immediately before and after and during the time of a special event at the park subject to such other reasonable conditions as deemed appropriate by the Community and Economic Development Director.

**Sec. 9-3.36089 Exemptions.**

The following shall be exempt from the requirements of this Article:

(a) Any person engaged in vending where such person has been authorized by the City of Los Banos to engage in such activity by a special event permit, in connection with a certified farmer's market, or other permit or entitlements issued by the City of Los Banos.

(b) Any person delivering any goods by vehicle where such goods have been ordered in advance for such delivery from any business located at a permanent location and which goods are being delivered from such location to the customer by vehicle, regardless of the point of sale.

(c) Any person on private property in a residential zone operating solely for private catering purposes when (i) the mobile food vending unit is parked entirely on private property; (ii) service is limited to the guests of the catered event; (iii) no admission is charged for attending the event; and (iv) no payment is required from the guests for individual orders from the mobile food vending unit.

**Sec. 9-3.360910 Application of other laws and regulations.**

(a) The provisions of this aArticle prohibiting the stopping or parking of a vehicle shall apply at all times or at those times specified by this aArticle, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(b) The provisions of this aArticle imposing a time limit on stopping or parking shall not relieve any person from the duty to observe other more restrictive provisions of the Vehicle Code, this Code or any other ordinances of the City, prohibiting or limiting the stopping or parking of vehicles in specified places or at specified times.

(c) The provisions of this aArticle shall not relieve any person from the provisions of the Health and Safety Code pertaining to the regulation of Mobile Food Facilities.

**Sec. 9-3.361011 Suspension/revocation of permit to operate.**

(a) Violation and Noncompliance. The PlanningCommunity and Economic Development Director or designee may refuse to renew a permit or may revoke or suspend an existing permit on the grounds that the permit holder has failed to comply with the permit conditions or other requirements of this chapterArticle. If a suspended permit lapses during the suspension period, a new application must be filed at the end of the suspension period. In any such case, the permit holder shall have the right to appeal in the time and manner set forth in this section.

(b) Revocation and Suspension of Permit to Operate. When the City concludes that grounds for denial, suspension, revocation or refusal to renew a permit to operate exist, he or she shall serve the applicant or permit holder, either personally or by certified mail addressed to the business or residential address of applicant or permit holder, with a notice of denial or notice of intent to suspend, revoke or refuse to renew permit.

This notice shall state:

- (1) The reasons for the proposed action;
- (2) The effective date of the decision;
- (3) The right of the applicant or permit holder to a hearing; and
- (4) That the decision will be final if no hearing request is filed within five (5) business days.

(c) Hearings and Appeals. Hearings and appeals of the decision of the PlanningCommunity and Economic Development Director or designee or the Planning Commission shall be conducted in the same manner provided by Sections 9-3.2326 through 9-3.2328.

**Sec. 9-3.36~~11~~12 Applicability of ordinance to existing businesses.**

(a) The provisions of the ordinance codified in this ~~chapter~~Article shall be applicable to all mobile food vendors established after the effective date of the ordinance.

(b) All existing mobile food vendors operating within the City shall be required to obtain a permit to operate and otherwise comply with this ~~chapter~~Article upon the expiration of a current business license and/or application of a renewal of a current business license.



City of  
**Los Banos**  
*At the Crossroads of California*

## **Agenda Staff Report**

**TO:** Chairman Spada & Planning Commissioners  
**FROM:** Stacy Souza Elms, Assistant Planner II   
**DATE:** May 13, 2015  
**SUBJECT:** Proposed Certified Farmers' Market

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### **RECOMMENDATIONS:**

That the Planning Commission adopt Resolution No. 2015-13 recommending adoption of a new Ordinance to establish the operation of certified farmers' markets within the City of Los Banos.

### **DISCUSSION:**

On April 22, 2015, the Los Banos Planning Commission discussed the existing situation regarding Certified Farmers' Markets, various issues regarding the current situation, and staff presented alternatives that the Commission provided feedback on.

Attached for your review is a the language proposed for the new Certified Farmers' Market Ordinance based on the previous discussion with the Planning Commission.

### **ATTACHMENTS**

1. Resolution #2015-13
2. Proposed Ordinance Language

## RESOLUTION NO. 2015-13

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE OF THE CITY OF LOS BANOS ADDING ARTICLE 41, TITLE 9, CHAPTER 3 OF THE LOS BANOS MUNICIPAL CODE RELATING TO CERTIFIED FARMERS' MARKETS

WHEREAS, the stated purpose of the certified farmers' market Ordinance is to establish a legal framework for the operation of certified farmers' markets within the City of Los Banos; and

WHEREAS, the stated intent of the City of Los Banos to assure that the certified farmers' markets complement rather than conflict with adjacent uses and ensure that it is maintained primarily as an outlet for farmers to sell their products directly to consumers, while maintaining some product diversity in order to better meet the needs of customers; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the proposed ordinance on April 22, 2015 and May 13, 2015, at which time all individuals desiring to comment on the proposed ordinance were heard and on May 13, 2014 the Planning Commission recommended that the City Council adopt the proposed ordinance adding Article 41 to Chapter 3 Title 9 of the Los Banos Municipal Code;

WHEREAS, the proposed ordinance is attached hereto and incorporated herein by this reference as Attachment A; and

WHEREAS, the proposed Certified Farmers' Market Ordinance does not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that the proposed ordinance is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines Section 15061(b)(3) and is not subject to environmental review.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby recommend that the City Council of the City of Los Banos consider and approve the attached Ordinance adding Title 9, Chapter 3, Article 41 to the Los Banos Municipal Code.

The foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 13<sup>th</sup> day of May 2015, by Planning Commissioner \_\_\_\_\_ who moved its adoption, which motion was duly seconded by Planning Commissioner \_\_\_\_\_ and the Resolution adopted by the following vote:

AYES:  
NOES:  
ABSENT:

APPROVED:

\_\_\_\_\_  
Tom Spada, Planning Commission Chairman

ATTEST:

\_\_\_\_\_  
Sandra Benetti, Planning Commission Secretary

## **CERTIFIED FARMERS' MARKETS**

### **Purpose.**

The general purpose of this Article is to establish a legal framework for the operation of certified farmers' markets within the City of Los Banos, as approved by the community development director; to assure that the certified farmers' markets complement rather than conflict with adjacent use; and to ensure that a certified farmers' market is maintained primarily as an outlet for farmers to sell their products directly to consumers, while maintaining some product diversity in order to better meet the needs of customers.

### **Definitions.**

Terms that are defined or described by the provisions of Chapter 10.5 (commencing with Section 47000) of Division 17 of the California Food and Agricultural Code, and related regulations promulgated thereunder, as the same may be amended from time to time, are intended to have their same meaning under the provisions of this Article, unless a different meaning is expressly set forth herein. For the purposes of this Article, the following words and phrases shall have the meanings given to them by this section, unless the context otherwise requires:

(a) "Certified Farmers' Market" shall mean a location approved by the Merced County Agricultural Commissioner where agricultural products are sold by producers or certified producers directly to consumers or to individuals, organizations, or entities that subsequently sell or distribute the products directly to end users, meeting the requirements of California Code of Regulations Title 3, Section 1392 et seq., as those sections now exist or may hereafter be amended. A certified farmers' market may only be operated by one or more certified producers, by a nonprofit organization, or by a local government agency.

(b) "Certified Farmers' Market Certificate" shall mean a certificate issued by the Merced County Agricultural Commissioner authorizing the location where agricultural products are sold by the producers directly to consumers, or to individuals, organizations, or entities that subsequently sell or distribute the products directly to end users. The certificate is valid only when bearing the original signatures of the county agricultural commissioner and the authorized representative of the certified farmers' market. Upon receipt of a certified farmers' market certificate, an operator shall assume and retain responsibility for all aspects of the operation of a certified farmers' market at the location specified; including, but not limited to legal, financial and regulatory compliance requirements.

(c) "Certified Farmers' Market Operator" shall mean a local government agency, one or more certified producers, or a non-profit organization who has received a certified farmers' market certificate from the Merced County Agricultural Commissioner,

and who or which manages a certified farmers' market under a certified farmers' market permit issued by the City.

### **Certified Farmers' Market Permit Required.**

(a) No person, business entity, or organization of any kind shall maintain, operate, or conduct a certified farmers' market in the City without first obtaining a certified farmers' market permit issued by the City in accordance with this Article.

(b) No person shall sell or offer to sell any item at a certified farmers' market unless authorized by the market operator pursuant to a valid certified farmers' market permit issued to the market operator by the City pursuant to this Article.

(c) One business license and one certified farmers' market permit issued to the market operator shall be sufficient for all vendors of an approved certified farmers' market.

### **Permit Period.**

An approved certified farmers' market permit shall expire one year from the date of issuance.

### **Application For Certified Farmers' Market Permit.**

A certified farmers' market operator desiring to establish a certified farmers' market in the City of Los Banos shall submit a written application for a permit to operate in a form acceptable to and with all supporting information required by the Community and Economic Development Department. Such application shall be accompanied by a nonrefundable, nontransferable application fee in an amount as established by resolution of the City Council. Any such permit shall be required to be renewed annually and a separate nonrefundable, nontransferable application fee shall be paid yearly for such renewal application. The permit application shall not be deemed complete until the permit fee has been paid. Permits to operate are nontransferable.

(a) The applicant shall be an authorized representative of the farmers' market operator.

(b) The application shall include all of the following information:

1. Site plan;
2. Hours of operation and dates;
3. Description of parking available to patrons and growers;
4. Provisions for water and sanitary facilities (toilets);
5. Description of requested signage;
6. If located on private property, documentation indicating that the property owner consents to use of the property as a certified farmers' market;

7. A copy of the certified farmers' market certificate issued by the Merced County Agricultural Commissioner;
8. A copy of the Rules and Regulations pertaining to the operation of the Certified Farmers' Market;
9. Other information as required by the Community and Economic Development Director.

#### **City Review and Determination.**

(a) Within three working days of receipt of a complete certified farmers' market permit application, the Community and Economic Development Director shall circulate the application to affected City departments for comments. The Community and Economic Development Director shall also circulate a notice of receipt of the application to property owners within 300 feet of the property proposed for the market location for comments. Comments from affected City departments and property owners shall be returned to the Community and Economic Development Director within 10 calendar days of the circulation of the notice of receipt of application. Within 30 calendar days of receiving the complete certified farmers' market permit application, the Community and Economic Development director shall render a decision to approve or deny the permit and mail a copy of the decision to the applicant.

(b) The Community and Economic Development Director shall grant the certified farmers' market permit application upon a finding that the establishment, maintenance or operation of the certified farmers' market will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of such proposed certified farmers' market, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

(c) In approving an application for a certified farmers' market permit, the Community and Economic Development Director may impose conditions restricting operational characteristics, including but not limited to market duration, time of day, or otherwise, when such restrictions are deemed necessary in the interest of public health and safety.

#### **Appeal.**

(a) Appeal from any finding of the community development director may be made in writing, to the planning commission within 10 calendar days from the date of the director's action. Within the same 10-day period, the appellant shall pay the then current appeal fee as established by the city council. Said appeal fee shall be nonrefundable.

(b) The city clerk shall schedule a public hearing to consider the appeal. Such hearing shall be held within 45 calendar days after the date of filing the appeal. The appellant shall not be granted a continuance of the appeal beyond the 45-day period.

(c) After the appeal hearing, the planning commission may sustain the action that is being appealed, grant the appeal or modify the previous action subject to specified conditions. The planning commission shall adopt findings, which specify the facts relied upon in deciding the appeal.

### **Standards For Permit.**

(a) The certified farmers' market operator shall insure that all sellers currently have and display at the market all appropriate permits, licenses and certificates, and comply with all applicable federal, state and local laws, ordinances and regulations.

(b) No certified farmers' market shall be permitted to operate in any residential zone districts within the City with the exception of a Public Park; School Grounds; or Church Property.

(c) No certified farmers' market shall operate on City-owned property or in the public right of way without prior written approval from the office of the City Manager.

1. All certified farmers' markets conducted on City property or in the public right of way shall have on file with the Community and Economic Development Department, in full force and effect at all times, documents issued by an insurance company authorized to do business in the State of California evidencing that the operator is insured (and naming the City as an additional insured) under a liability insurance policy providing minimum coverage of One Million and No/100ths (\$1,000,000.00) Dollars for injury or death arising out of the operation of the certified farmers' market.

2. All certified farmers' markets conducted on City property or in the public right of way shall be required to execute a hold harmless agreement in a form approved by the City.

(d) Operation of a certified farmers' market shall be limited to one day per week in any single location permitted by this Article.

(e) The certified farmers' market area shall at all times be maintained in a clean and sanitary condition.

(f) The certified farmers' market shall at all times comply with all conditions of the certified farmers' market permit.

(g) All Certified Farmers' Markets, and each certified producer, producer and/or other vendor shall completely remove all equipment, merchandise and other materials, including without limitation waste materials, from the site upon the conclusion of their respective activities.

(h) Shall operate only on paved surfaces;

- ij) Shall not offer for sale or otherwise distribute any alcoholic beverage;
- (j) Shall not use amplified sound for any purpose;
- (k) Shall operate as a physically cohesive collection of vendors on a site, excepting only those limited physical separations as may be required by state or local law for vendors of non-agricultural products located near a Certified Farmers' Market;
- (l) Shall not obstruct the safe flow of vehicular or pedestrian traffic on or around the site;
- (m) Shall have secured with the property owner of the site on which the Certified Farmers' Market plans to operate, and prior to the commencement of any operation of the Certified Farmers' Market, provision for all of the following:
  - 1. Refuse disposal and sufficient trash and recycling receptacles within the area of the Certified Farmers' Market;
  - 2. Litter removal within and within the boundaries of the Certified Farmers' Market; and
  - 3. Access to adequate sanitary facilities, including restrooms and/or portable sinks and toilets.

#### **Suspension/Revocation of Permit.**

(a) Violation and Noncompliance. The Community and Economic Development Director or designee may refuse to renew a permit or may revoke or suspend an existing permit on the grounds that the permit holder has failed to comply with the permit conditions or other requirements of this Article. If a suspended permit lapses during the suspension period, a new application must be filed at the end of the suspension period. In any such case, the permit holder shall have the right to appeal in the time and manner set forth in this section.

(b) Revocation and Suspension of Permit to Operate. When the City concludes that grounds for denial, suspension, revocation or refusal to renew a permit to operate exist, he or she shall serve the applicant or permit holder, either personally or by certified mail addressed to the business or residential address of applicant or permit holder, with a notice of denial or notice of intent to suspend, revoke or refuse to renew permit.

This notice shall state:

- (1) The reasons for the proposed action;
- (2) The effective date of the decision;
- (3) The right of the applicant or permit holder to a hearing; and
- (4) That the decision will be final if no hearing request is filed within five business days.

(c) Hearings and Appeals. Hearings and appeals of the decision of the Community and Economic Development Director or designee shall be conducted in the same manner provided by Sections 9-3.2326 through 9-3.2328.

**Violations.**

A violation of the requirements of this Article is punishable as an infraction.

DRAFT

## DESIGN REVIEW STUDY SESSION

**TO:** Chairman Spada and Planning Commissioners  
**FROM:** Stacy Souza Elms, Assistant Planner II  
**DATE:** May 13, 2015  
**SUBJECT:** Project Study Session Review – Eakin Properties

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### **Project Description**

Eakin Properties (Applicant) is proposing to build a new 5,000 square foot industrial building on two parcels totaling 1.23 acres located in what is known as the Pacheco Pass Commerce Center on Commerce Way off of Willmott Avenue. The applicant is proposing to develop the building at this location for storage and a small office

The Pacheco Pass Commerce Center was completed in January 2011. Currently the only developed parcel in the industrial park is the Electrical Distributors building which was completed in June 2011. The Electrical Distributors parcel is immediately north of the proposed project.



The Community and Economic Development Department has referred the project to the Planning Commission for a study session on the aesthetic aspects related to the proposed project pursuant to Section 9-3.2318(a) of the Design Review Ordinance. The proposed project will require final site plan approval by the Planning Commission through a public hearing at a later date.

### **Zoning**

The property is zoned General Industrial (I). The following uses are permitted by right in the General Industrial zoning district:

- (a) Manufacturing, processing, fabricating, and assembly operations;
- (b) Wholesale business, storage, warehousing, research, and experimental operations;
- (c) Truck terminals, and railroad yards;
- (d) Public utility uses;
- (e) Heavy equipment repair and service;
- (f) Cement pipe and cement block manufacturing;
- (g) Pottery manufacturing;
- (h) Distribution centers;
- (i) Natural gas and gas products;
- (j) Petroleum and petroleum products;
- (k) Railroad repair shop, classification yard;
- (l) Winery, breweries and distilleries;
- (m) Public utility distribution and transmission line towers and poles and underground facilities for the distribution of gas, water, communications, and electricity; and
- (n) Small and large collection recycling facilities.

The following uses are permitted subject to a Conditional Use Permit:

- (a) Material storage yards (auto wrecking and salvage yards) when conducted within a solid fence at least seven (7') feet in height and when all material is stacked below the top of the fence;
- (b) Meat packing, stockyards, and the slaughter of animals and fowl;
- (c) Storage and handling of explosive materials;
- (d) Outdoor advertising structures not appurtenant to any permitted use;
- (e) Adult entertainment businesses subject to the provisions starting in Section 6-10.1.01; and
- (f) Other uses as deemed appropriate by the Planning Commission.

### **Planning Commission Project Study Session Review**

Pursuant to Section 9-3.2318(a) of the Design Review Ordinance, the purpose of the study session is to provide the applicant with feedback from the Planning Commission early on in the design process, before becoming overly invested in a design. The review is in the nature of a discussion between the Planning Commission and the

applicant concerning the aesthetic aspects of a proposal, and does not constitute a final decision by the Planning Commission concerning the proposed development.

Pursuant to Section 9-3.2318(b) of the Design Review Ordinance, the Planning Commission's scope during the study session is to review, consider, and provide feedback on the following design aspects of the proposed project in light of the City's General Plan and applicable policies:

- Architecture;
- Landscaping; and
- Lighting.

### **Architecture**

Pursuant to Section 9-3.2318(c) of the Design Review Ordinance, the Planning Commission shall evaluate and provide feedback on the following architectural elements:

- Architectural style and consistency;
- Height;
- Bulk;
- Area;
- Color of buildings;
- Types of construction materials;
- Physical and architectural relationships with existing and proposed structures;
- Materials and variations of boundary walls;
- Fences;
- Exterior elevations of all sides of the buildings or structures; and
- Methods used to screen mechanical equipment from public view.

The Los Banos Community Design Standards do not contain any specific guidelines for industrial buildings. However, the Planning Commission is required to make specific findings for approval related to the design of the project.

The applicant is proposing a very basic pre-engineered metal building with five (5) metal rollup doors. The proposed building will be 125' long, 40' wide, and 20' high. The length of the building runs east to west with the five (5) roll up doors facing south. The front of the building will be facing south. The rear of the building will be 14' from the northern property line. The rear of the proposed building will be facing north towards the parking lot of Electrical Distributors. The Site Plan indicates pavement at the rear of the building to the northern property line.

The proposed color of the building will be earth-tone tan.

The project site currently consists of a 6' cyclone fencing with slats along the perimeter of the property.

The proposed building is void of any unique architectural elements.

**Discussion Points:**

- Architectural elements of the building
- Exterior Elevations
- Color of the building
- Construction materials
- Fencing

**Landscaping**

Pursuant to Section 9-3.2318(c) of the Design Review Ordinance, the Planning Commission shall evaluate and provide feedback on the following landscaping and site treatment elements:

- Types of planting and vegetation;
- Rock groupings; and
- Topography and location of landscaping areas.

The proposed landscape plan shows planting areas along Commerce Way consisting of various drought resistant plants, shrubs, and ground cover species. The various plant species listed within the plan consist of lavender, hebe coed, cistus "rock rose", phorium, and engieror ground cover. The parking areas consist of trees which are required to meet the City's 50% shade tree canopy ordinance for parking spaces. The tree species listed in the parking areas consist of California ironwood, Italian buckthorn, and sequoia soquel.

The proposal landscape plan meets the City minimum standard of 4% gross landscape area and the 50% shade tree canopy ordinance. Landscaping will be required to be irrigated in a manner that focuses on water conservation, with properly designed and installed low-volume irrigation.

**Lighting**

Pursuant to Section 9-3.2318(c) of the Design Review Ordinance, the Planning Commission shall evaluate and provide feedback on the following lighting elements:

- Aesthetics of exterior lighting

The project proposes to utilize exterior shop light fixtures mounted to the metal building. No other exterior lighting is proposed. All lighting will be directed downward and shielded in accordance with the Los Banos Municipal Code.

**Project Review Board**

The proposed project is currently being reviewed by the Project Review Board (PRB) for these aspects:

- Building layout;
- Location;
- Orientation of all new and existing structures and the relationship to one another and surrounding properties
- Methods of landscape irrigation;

- Location and design of facilities for physically disabled persons;
- Location of fencing and other screening;
- Location and screening of refuse facilities;
- Traffic circulation on-site and off-site;
- Pedestrian and bicycle circulation and safety;
- Arrangement of off-street parking and loading facilities;
- Location and intensity of all onsite lighting; and
- Provision of municipal and public services.

The PRB will be providing a formal recommendation to the Planning Commission concerning the scope of their review during the Site Plan Review process.

### **Planning Commission Findings Required for Approval**

The following findings will need to be made by the Planning Commission during the public hearing process in order to approve the project:

- (1) That the proposed development is consistent with the general plan, any specific plans, and any design standards adopted by the City Council;
- (2) That the design and location of the proposed development and its relationship to existing or proposed developments and traffic in the vicinity thereof is such that it will not impair the desirability of investment or occupation in the neighborhood; and that it will not unreasonably interfere with the use and enjoyment of existing or proposed developments in the vicinity thereof, and that it will not create traffic hazards or congestion;
- (3) That the design of the proposed development is in keeping with the character of the surrounding neighborhood and is not detrimental to the harmonious, orderly, and attractive development contemplated by this ordinance and the general plan of the City;
- (4) That the design of the proposed development would provide a desirable environment for its occupants, as well as for its neighbors, and that it is aesthetically of good composition, materials, textures, and colors;
- (5) That the proposed use complies with all applicable requirements of the zoning district in which it is located and all other applicable requirements; and
- (6) That the overall development of the subject property is designed to ensure the protection of the public health, safety, and general welfare.

### **Recommendation**

Staff is requesting that the Planning Commission evaluate the architectural considerations, landscape and site treatment, and lighting elements as described above

Design Review Study Session  
05/13/15

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and provide initial feedback to the applicant on the proposed design submittal. No formal action will be taken at this time.

**Attachment**

Site Plan

Site Photos



Vicinity Map



Location Map

PROJECT OWNER:  
 Ekins Properties  
 5909 Ross Street  
 Oakland, CA 94618  
 650-208-0780

PROJECT ARCHITECT:  
 Owner

INDEX

- S-1 Site Plan With Title
- E-1 Front and Rear Elevations
- E-2 Side Elevations with Section
- E-3 Floorplan
- F-1 Foundation Plan
- F-2 Foundation Details
- N-1 Notes
- L-1 Landscape Plan

### SITE PLAN

SHOWING CERTAIN REAL PROPERTY DESCRIBED AS:

Lot 4 and Lot 6, (240 & 252), Commerce Way, Los Banos, CA  
 APN: 081-200-008 & 081-200-009  
 Pacheco Pass Commerce Center, filed November 16, 2010 in Book 78, Official Maps, Pages 45-48  
 ZONED General Industrial (I) (Section 9-3, 1502 Los Banos Municipal Code)

Areas

LOT SIZE: 53,579 Sq. Ft. = 1.23 ACRES + or -  
 AREA EXISTING STRUCTURES = 0 Sq. Ft. = 0% of Lots  
 AREA OF (N) STRUCTURES = 5,000 Sq. Ft. = 9.33% of Lots  
 TOTAL AREA OF (E) AND (N) STRUCTURES = 5,000 Sq. Ft. = 9.33% of Lots  
 TOTAL AREA OF GRADING: 50,000 Sq. Ft. = 1.04 Acres = 84.98% of Lot  
 AREA OF PAVEMENT/BASE: 45,000 Sq. Ft. = 1.03 Acres = 83.98% of Lot

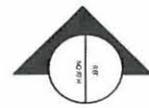
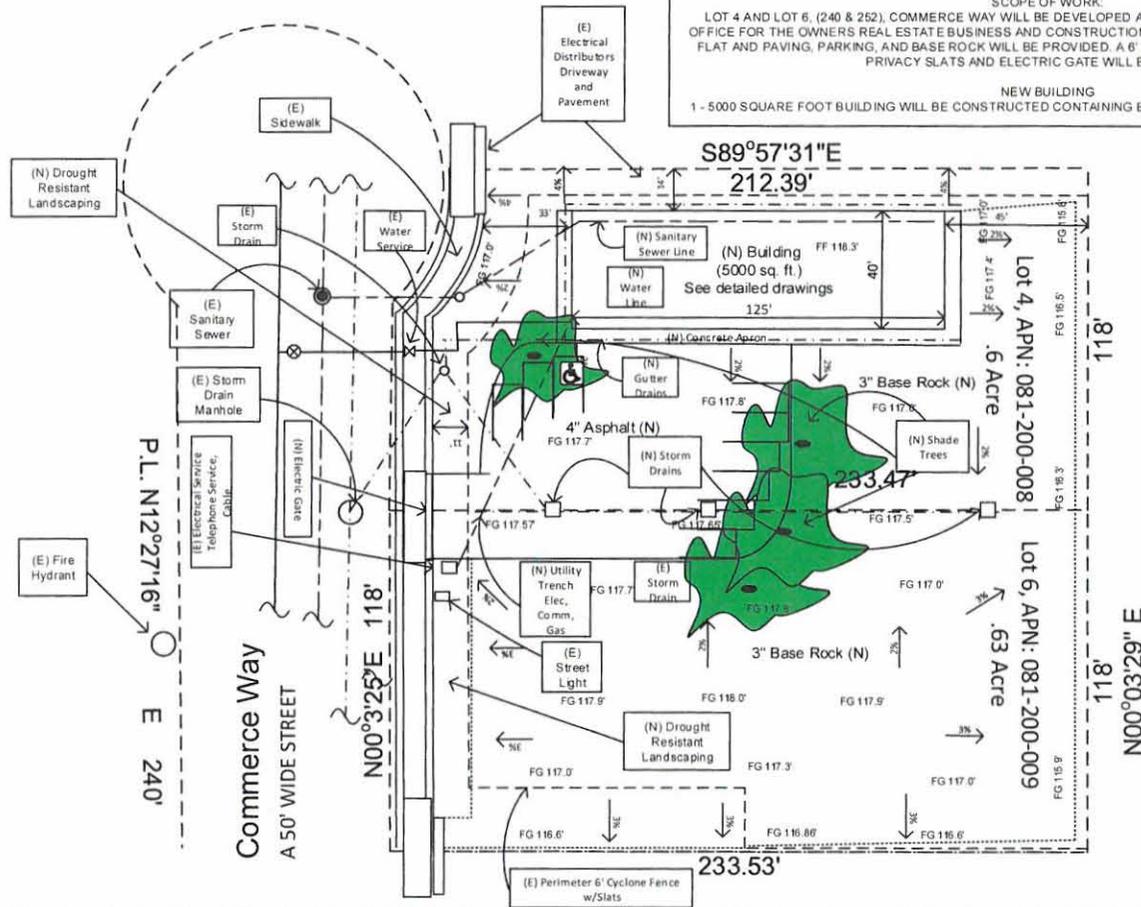
PARKING SPACES: 6 Common

PARKING SPACES: REQUIRED FOR (P) = 8 Common, 1 Handicap  
 INDICATED: 8 Common @ 9 Ft. Wide x 19 Ft. Long  
 1 Handicapped @ 9 Ft. Wide x 19 Ft. Long

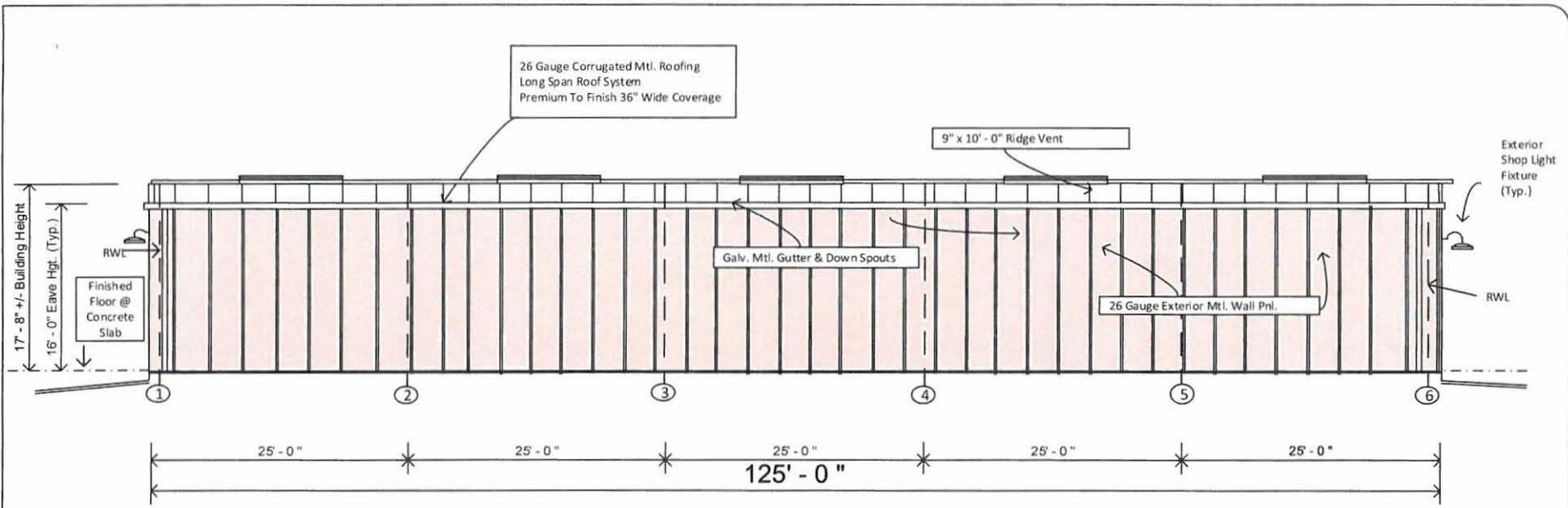
EXISTING STRUCTURES:  
 6' Perimeter Cyclone Privacy Fence

SCOPE OF WORK:  
 LOT 4 AND LOT 6, (240 & 252), COMMERCE WAY WILL BE DEVELOPED AS A STORAGE FACILITY AND PART TIME OFFICE FOR THE OWNERS REAL ESTATE BUSINESS AND CONSTRUCTION EQUIPMENT. THE LOT WILL BE GRADED FLAT AND PAVING, PARKING, AND BASE ROCK WILL BE PROVIDED. A 6' HIGH PERIMETER CYCLONE FENCE WITH PRIVACY SLATS AND ELECTRIC GATE WILL BE INSTALLED.

NEW BUILDING  
 1 - 5000 SQUARE FOOT BUILDING WILL BE CONSTRUCTED CONTAINING BATHROOM, OFFICE AND ROLL UP DOORS.

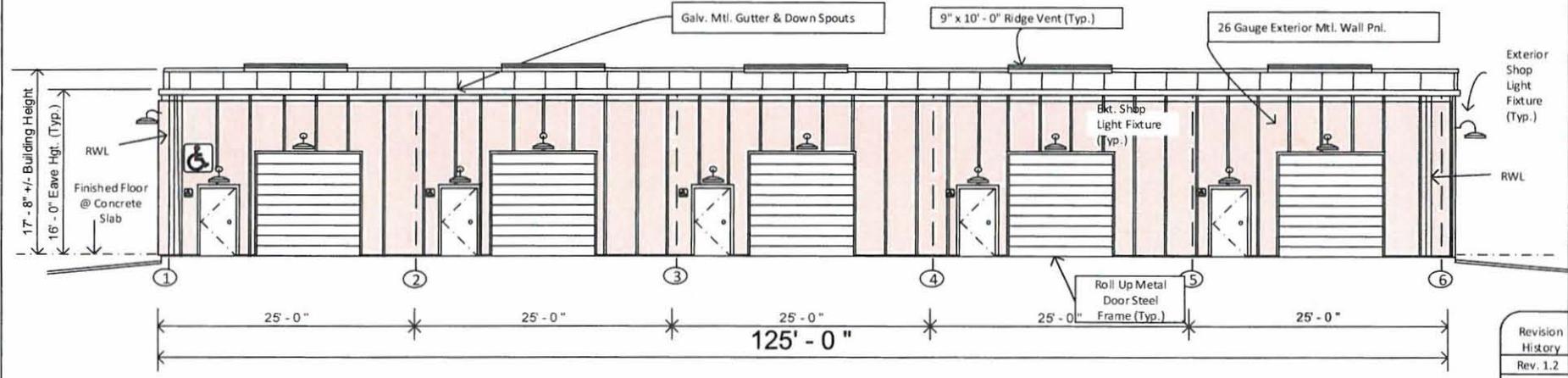


Revision History
Rev. 1.2



1 North Elevation

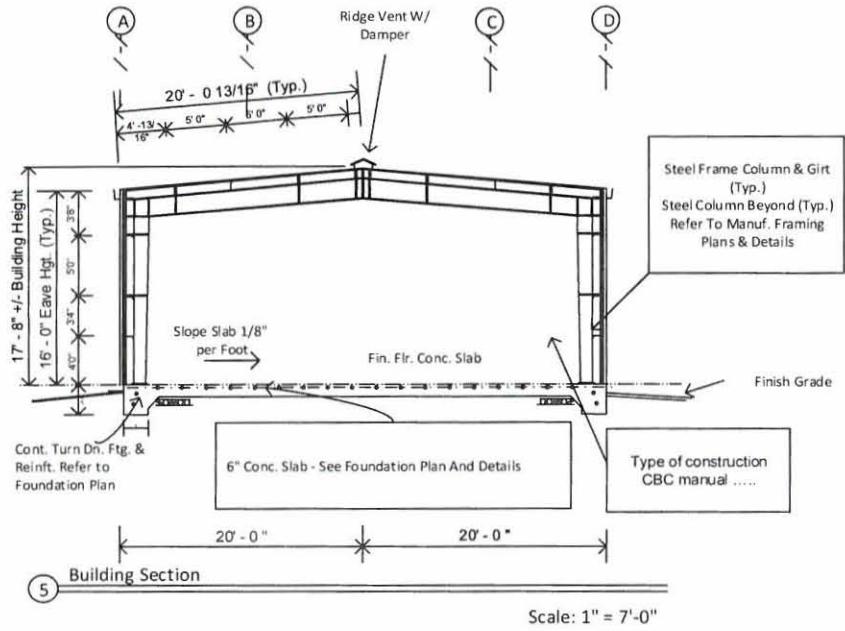
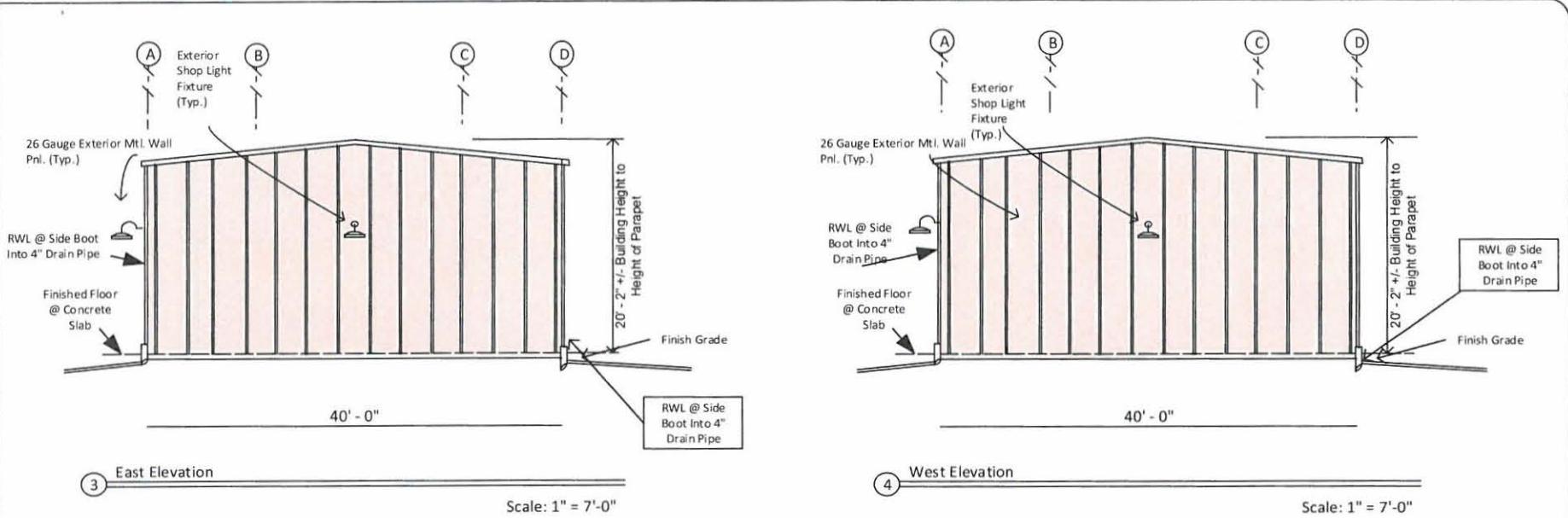
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2 South Elevation

Scale: 1" = 7'-0"

Revision History	
Rev. 1.2	



Revision History
Rev. 1.2

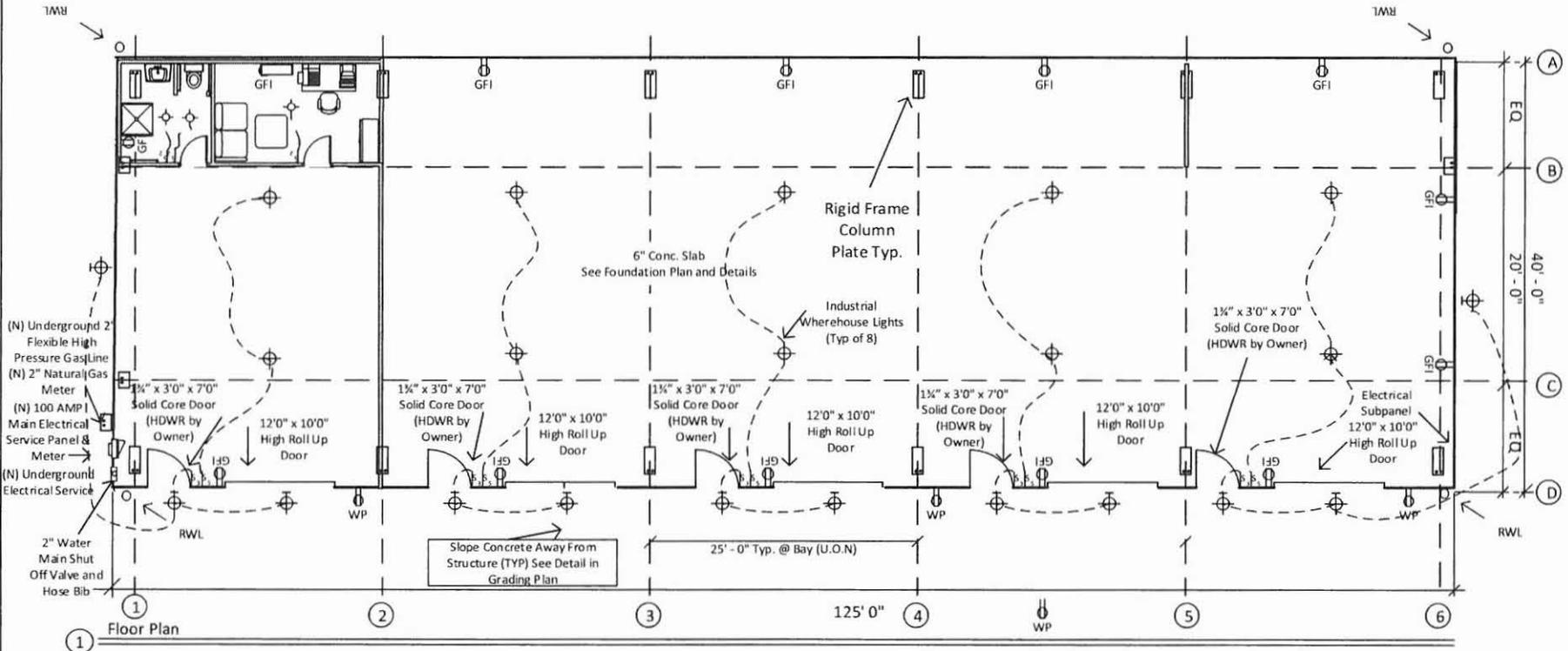
**EAKINS PROPERTIES**  
5909 ROSS STREET OAKLAND CA 94618

Prepared By:  
Mr. Dan Eakins  
5909 Ross Street, Oakland CA 94618

Side Elevations With Section  
Lot 4&6, Commerce Way, Los Banos, CA  
APN 081-200-008 & 081-200-009

Sheet: E-2  
4/19/2015

Electrical Legend	
	Ground Fault Interuptor 110V Recept.
	GFI 110V Recept. w/ Weather Proof Cover
	Wall Light Fixture Switch



Scale: 1" = 7'- 0"

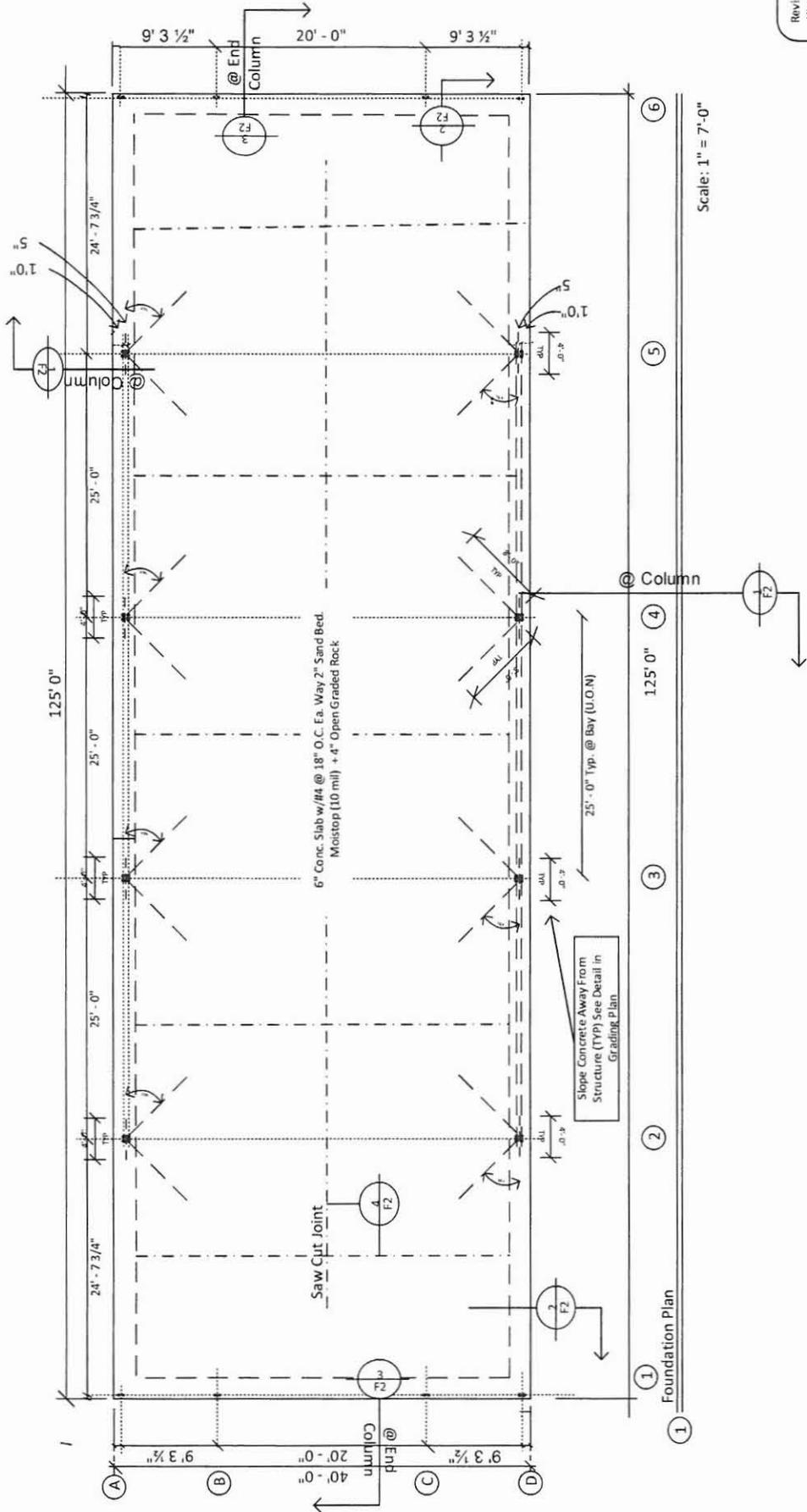
Revision History
Rev. 1.2

**EAKINS PROPERTIES**  
5909 ROSS STREET, OAKLAND, CA 94618

Prepared By:  
Mr. Dan Eakins  
5909 Ross Street, Oakland CA 94618

**Floor Plan**  
Lot 4&6, Commerce Way, Los Banos, CA  
APN 081-200-008 & 081-200-009

Sheet: E-3  
4/19/2015



Revision	History
Rev. 1.2	

Scale: 1" = 7'-0"

**EAKINS PROPERTIES**  
 5909 ROSS STREET, OAKLAND, CA 94618

Prepared By: Mr. Dan Eakins  
 5909 Ross Street, Oakland CA 94618  
 APN: 001-206-008 & 001-206-008

Foundation Plan  
 Lot 486, Commerce Way, Los Banos, CA

Sheet: F-1  
 4/19/2015



**GENERAL:**

- 1. All construction, workmanship and materials shall conform with the requirements of the 1997 U.B.C., and any other governing codes.
- 2. The Architect and Engineer shall be notified of any omissions or discrepancies in the working drawings and/or specifications before proceeding with any work as involved.
- 3. The contractor shall be responsible for the design, installation and maintenance of all bracing and shoring required during construction until all construction is finalized.
- 4. Job site safety is the sole responsibility of the contractor.
- 5. Spot check strength and location of floor and woodwork openings, location of non-bearing partitions, roof and floor elevations, roof slopes, trenching, footings and foundation information on the drawings, the drawings and all drawings. Footings have been designed for frame reactions furnished by the metal building manufacturer. Metal building calculations and details shall be furnished to the building department for approval prior to fabrication.

**I. FOUNDATIONS**

- 1. All foundation and related site work shall comply with the requirements of Chapter 18 of the U.B.C.
- 2. Foundations have been designed for a maximum soil bearing capacity of 2,150 PSF in accordance with a preliminary geotechnical investigation report No. \_\_\_\_\_ dated \_\_\_\_\_ prepared by Grice Engineering and Geology Inc.
- 3. The above mentioned geotechnical investigation report including all its findings and recommendations is part of the structural notes.
- 4. If actual site conditions vary from those in the report the Architect and Geotechnical Engineer shall be notified immediately and prior to proceeding with any work so involved.
- 5. The Geotechnical Engineer or his designated representative shall inspect and approve all foundation excavation prior to foundation placement.
- 6. For compaction, trenching, backfill, slope stability and other requirements, see the preliminary geotechnical investigation report referenced above.

**II. CONCRETE**

- 1. Concrete used in this work shall have the following 28-day ultimate compressive strength,
  - Footings: 2500 psi
  - Slab: 2500 psi
- 2. The Slump shall be the minimum consistent with placing conditions but shall not exceed 4-1/2".
- 3. Unless otherwise noted, minimum concrete coverage for reinforcing bars shall be as follows:
  - Concrete in contact with earth, unformed: 3"
  - Concrete in contact with earth, formed: 2"
  - Slab on grade: 1-1/2"
  - Formed structural slabs: 1"
- 4. All reinforcing bars, and anchor bolts and other concrete inserts shall be well secured in position before placing of concrete.
- 5. Anchor bolts shall have a minimum strength of ASTM A307 bolts, but shall be a height with either a head or 3" hook on the embedded end. Anchor bolts must be located by means of a template, no post hole and anchor bolts.
- 6. Saw cut joints should be determined by contractors. The maximum size is 18' x 20' -C.J. (Construction Joint).

**IV. REINFORCING STEEL**

- 1. Reinforcing bars shall conform to ASTM-A615 Grade 40 for #3 bars and smaller, and Grade 60 for #4 bars and larger. For deformed bars.
- 2. All bars shall be clean of rust, grease or other materials likely to impair bond.
- 3. All reinforcing bar bends shall be made cold and conform to the ACI Manual of Standard Practice.
- 4. Reinforcing bars shall be wired together at splices and lapped 30x diameters in concrete and 40x diameters in masonry (2d" min. lap).
- 5. Miscellaneous steel shall be ASTM A-36.

Revision History
Rev. 1.2

**EAKINS PROPERTIES**  
5909 ROSS STREET, OAKLAND, CA 94618

Prepared for: Mr. Dan Eakins  
5909 Ross Street, Oakland CA 94618

Notes  
Lot 4&6, Commerce Way, Los Banos, CA  
APN 081-200-008 & 081-200-009

Sheet: F-3  
4/15/2015

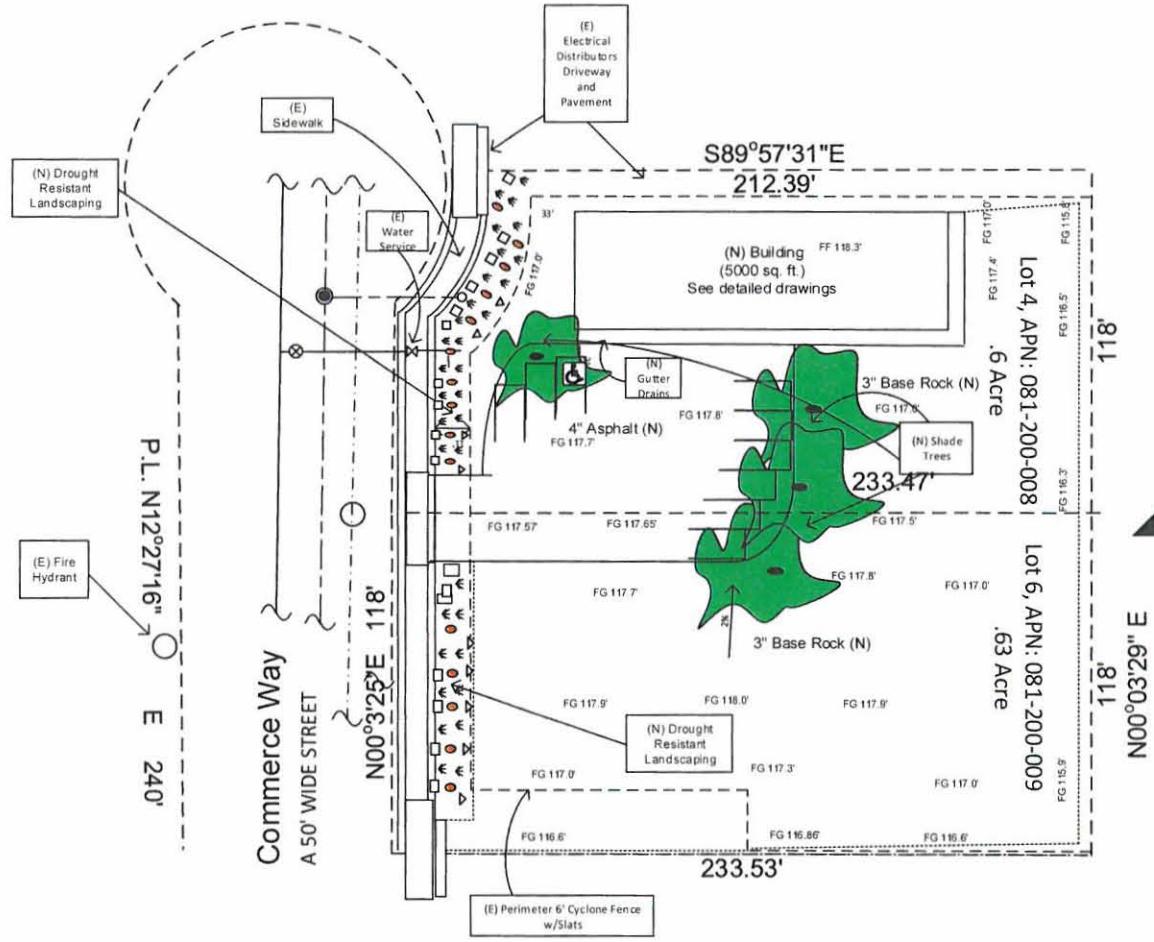
Trees:

1. California Ironwood
2. Italian Buckthorn
3. Sequoia Soquel

Notes:

Plants, Shrubs, Ground Cover

1. Lavender 
2. Hebe coed 
3. Cistus "Rock Rose" 
4. Phorium 
5. Engieror Ground Cover 
6. Soil - 3-1 Blend, Organic Compost
7. Wood Chips Clean (Not Pine)
8. 33 mm Plastic Liner - Weed Control



Revision History
Rev. 1.2

Project site

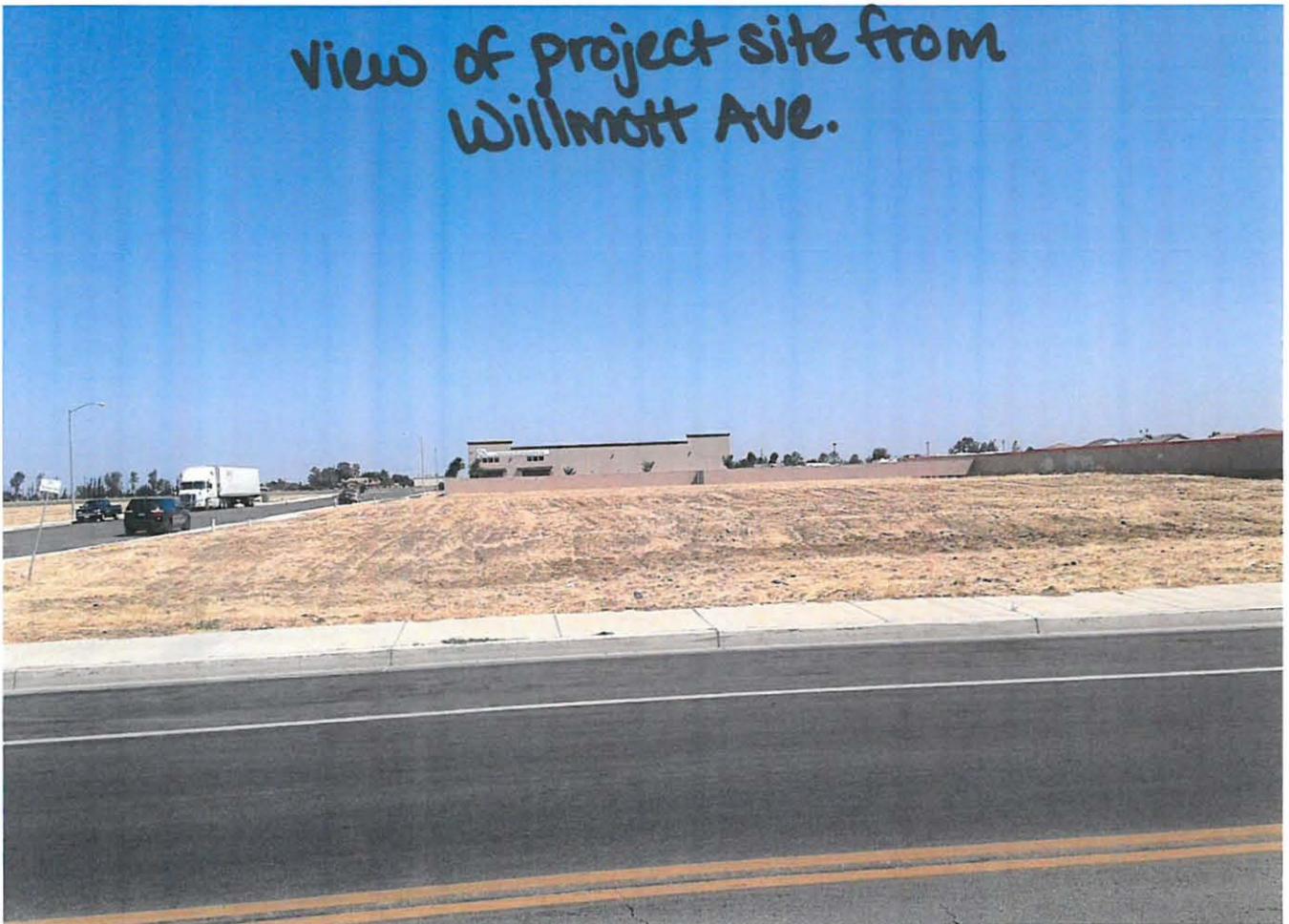


Project site

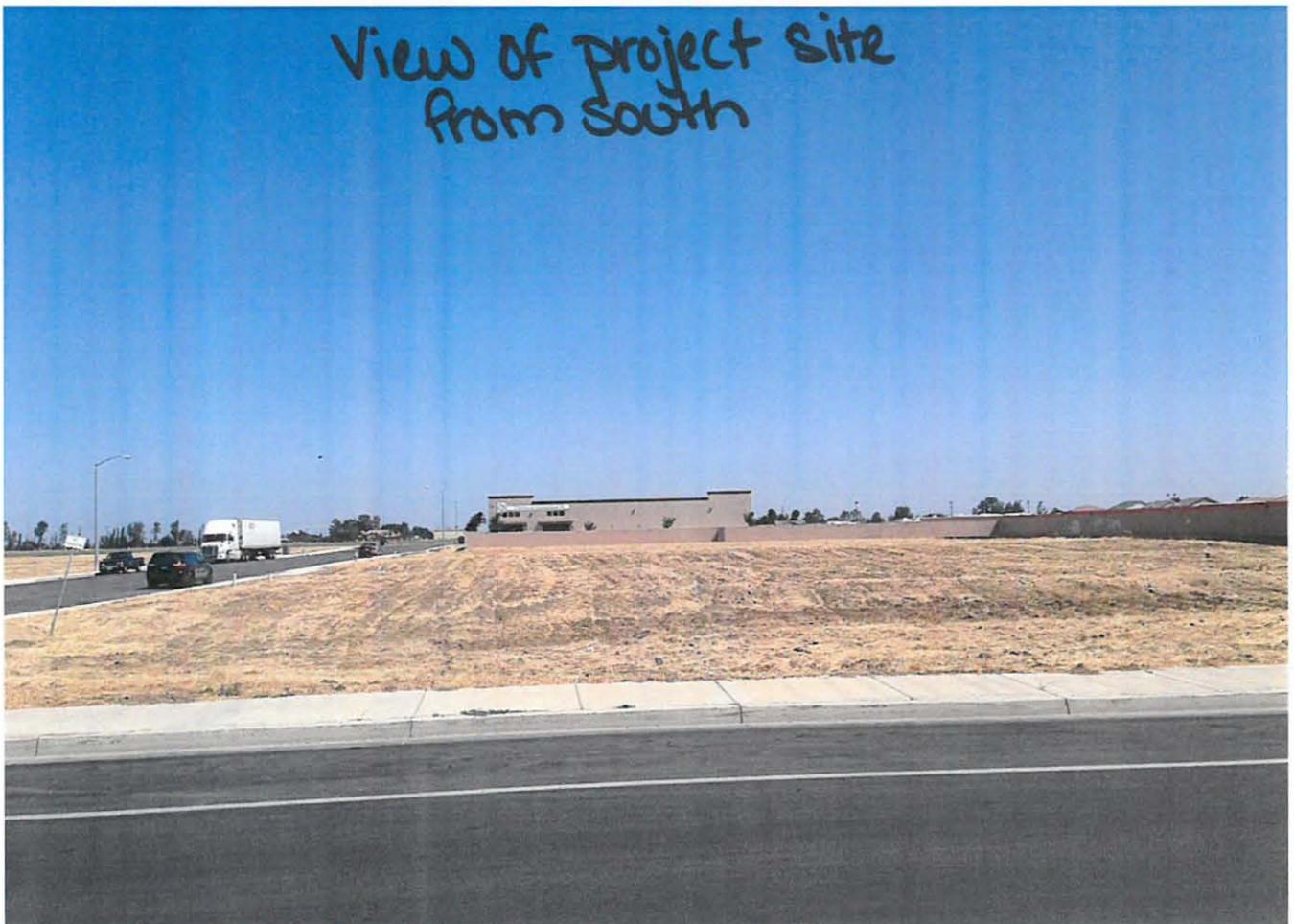




View of project site from  
Willmott Ave.



View of project site  
from south



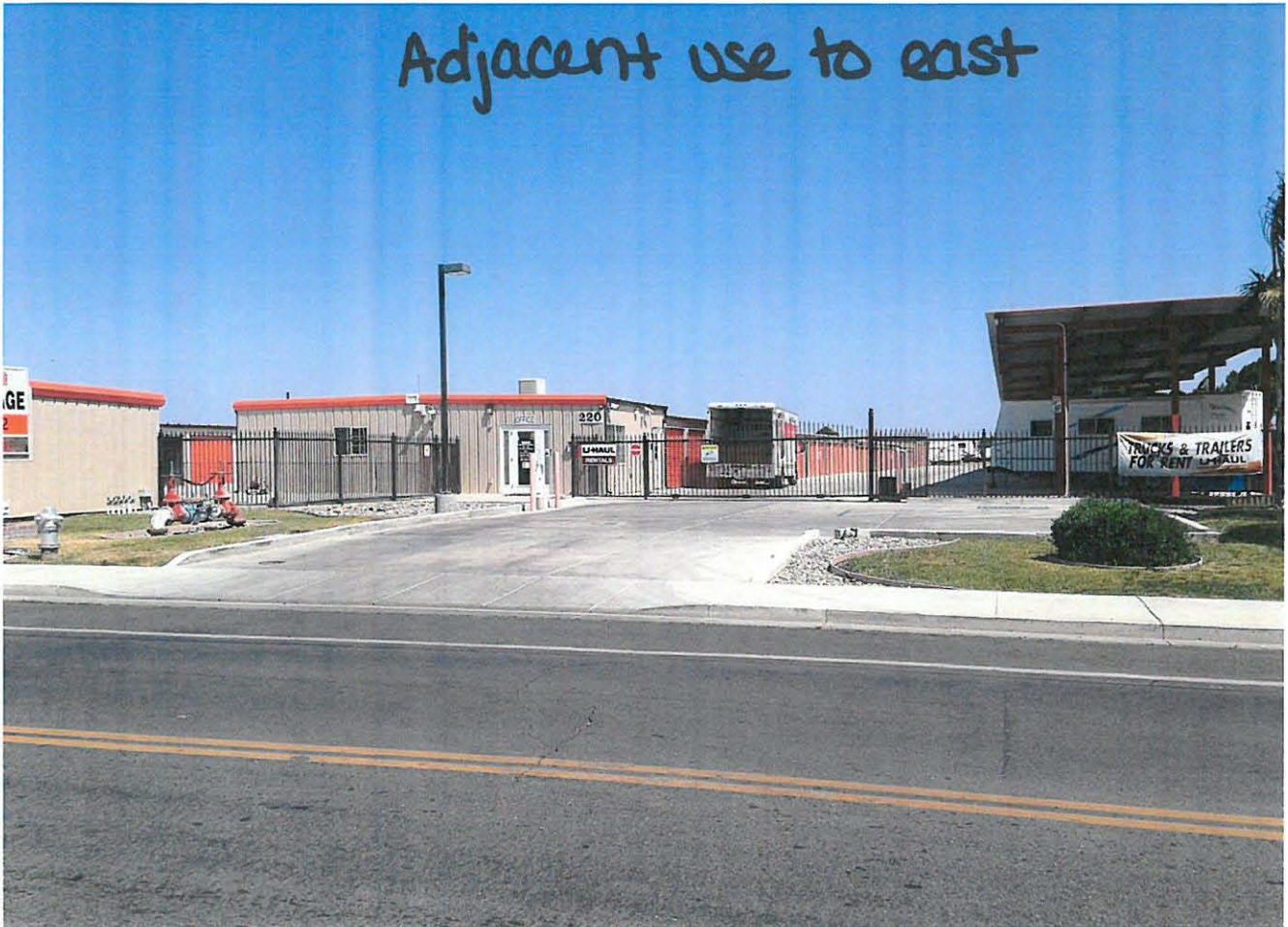
Adjacent use to east



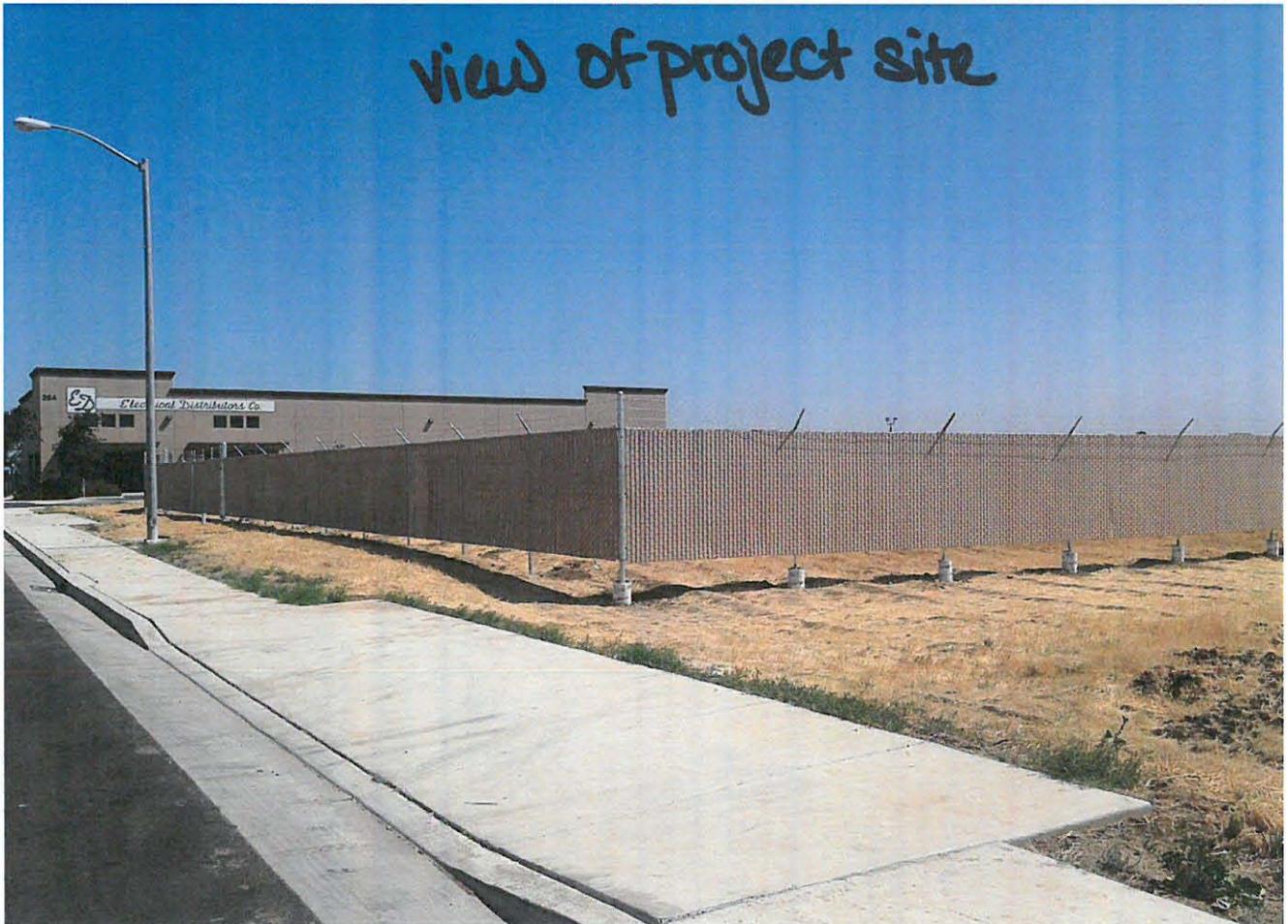
Adjacent use south of  
Willmott Ave.



Adjacent use to east



view of project site



adjacent use to  
east

