



City of Los Banos

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AGENDA

PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
520 J Street
Los Banos, California

SEPTEMBER 14, 2016

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1. CALL TO ORDER. **7:00 PM**
2. PLEDGE OF ALLEGIANCE.
3. ROLL CALL: (Planning Commission Members)

Cates __, Faktorovich __, Limon __, Llamas __, McCoy __, Spada __,
Toscano __

4. APPROVAL OF AGENDA.

Recommendation: Approve the agenda as submitted.

5. CONSIDERATION OF APPROVAL OF MINUTES CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF JULY 13, 2016.

Recommendation: Approve the minutes as submitted.

6. CONSIDERATION OF APPROVAL OF MINUTES CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF JULY 27, 2016.

Recommendation: Approve the minutes as submitted.

7. 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.

8. DESIGN REVIEW STUDY SESSION – CONSTRUCTION OF A NEW 4,800 SQUARE FOOT MULTI-TENANT RETAIL BUILDING ON 0.44 ACRES LOCATED AT 305 MERCEY SPRINGS ROAD IN THE HIGHWAY-COMMERCIAL (H-C) ZONING DISTRICT.

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

9. COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.

10. COMMISSIONER REPORTS.

A. Cates

B. Faktorovich

C. Limon

D. Llamas

E. McCoy

F. Spada

G. Toscano

11. ADJOURNMENT.

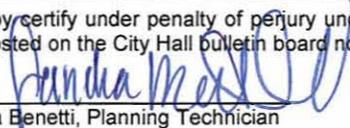
APPEAL RIGHTS AND FILING PROCEDURES

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 9th day of September 2016

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
JULY 13, 2016**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER. Chairperson Spada called the Planning Commission Meeting to order at the hour of 7:01 p.m.

PLEDGE OF ALLEGIANCE. The pledge of allegiance was led by Commissioner Cates.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, Arkady Faktorovich, Palmer McCoy, Tom Spada, and Susan Toscano; Erik Limon and Refugio Llamas absent.

STAFF MEMBERS PRESENT: Senior Planner Stacy Elms, Planning Technician Sandra Benetti, and City Attorney William Vaughn.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by McCoy, seconded by Faktorovich to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Limon and Llamas absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF MAY 25, 2016. Motion by Cates, seconded by Faktorovich to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Limon and Llamas absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF JUNE 22, 2016. Motion by Cates, seconded by Faktorovich to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Limon and Llamas absent.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. Chairperson Spada opened the public forum. No one came forward to speak and the public forum was closed.

City Attorney Vaughn excused himself due to a conflict for the following item and left the City Council Chambers at 7:05 p.m.

PUBLIC HEARING – TO CONSIDER ANNEXATION AND PRE-ZONE #2014-01, GENERAL PLAN AMENDMENT #2015-03, PRE-ANNEXATION DEVELOPMENT AGREEMENT, AND ASSOCIATED MITIGATED NEGATIVE DECLARATION (SCH #2015061056) FOR THE PRESIDENTIAL ESTATES EAST AREA PLAN AND ANNEXATION OF APPROXIMATELY 106 ACRES OF UNINCORPORATED LANDS LYING NORTH OF PIONEER ROAD, WEST OF MERCED SPRINGS ROAD (SR 165), AND EAST OF ELEVENTH STREET, MORE PRECISELY IDENTIFIED AS ASSESSOR’S PARCEL NUMBERS: 026-290-001, 002, 003, 004, 005, 083-120-012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 027, AND 028. Senior Planner Elms presented the staff report, which included a PowerPoint presentation, introduced special legal counsel Dan Cucchi, Abbott & Kindermann, and noted that the City received three total comment letters from Central California Irrigation District (CCID), Merced County Local Agency Formation Commission (LAFCo), and Merced County Farm Bureau.

Commissioner Cates spoke of how this is a lot of work for the City, seems like a partnership between City and applicant, his concern about the City mitigating between different organizations, how this isn't the City's land, his desire for controlled growth, suggested that the applicant should have talked to the entities that submitted comment letters before it was proposed to the City, and how now the City has to spend time and money to work with these folks because the applicant didn't do all the checks and balances first.

Senior Planner Elms clarified that this process has been going on for about three years, to the credit of the applicant it has been a partnership, a cost recovery contract was required at the time of submittal of application so the applicant pays for all time and expense incurred, how the project first started off with meetings with the Cardoza family which was a joint effort, how a decade before it was proposed at the time the Cardoza family was reluctant to join the annexation and opposed it, how the applicant couldn't come up with a solution with the family and postponed the application until 2013, how they met with the Cardoza family at that time to ensure they understood the process, how they answered their questions and provided assurances to them, staff knew the issue was preserving their water rights, we have been having conversations with CCID since then as well regarding possible solutions for the detachment issue, how this has been a long process and what the Commission sees now is the end product, and assured the Commission that the applicant has been a partner during this process.

Commissioner Cates spoke of how there should be understanding by this point from these entities so there shouldn't have been a reason for these letters to have been written and how he supports the proposal but is surprised at the hoops we are having to jump through.

Dan Cucchi, Abbott & Kindermann, responded that it is not uncommon for a handful of big picture issues that ultimately aren't decided at City Council to continue past the City Council stage because they aren't the decision making body and how LAFCo decisions are further out but you will often see that the issues are funneled down to this purview.

Commissioner McCoy spoke of how this isn't the first time this project has come forward and its back with still no resolution, how staff is asking him to make a recommendation to ultimately kill a farming family, how you can't guarantee anything, and how he has a problem with this.

Mr. Cucchi stated that it is not his intent to project that, how we are raising big picture issues, what he means to say is that the solutions is around water detachment and restrictions.

Commissioner McCoy stated that the letter from CCID is saying we are moving too quickly, asked what the big issue with this is, how this is the same issue with the chromium six problem, how he does not want to stifle growth but how this needs to be taken care of.

Commissioner Toscano stated that this is a litigation cesspool, how the letters from CCID and LAFCo are huge details, asked why are we discussing this now, inquired if the Cardoza family is okay with their water reclassification, and wanted to know where the Cardoza family stands on this project.

Senior Planner Elms responded that they would support the project if they can preserve their Class I water rights.

Commissioner Toscano stated that this is a great project that she supports but she wants to get this information like these comment letters much more in advance.

Senior Planner Elms responded that she gave the letters to the Commission as soon as they were received.

Commissioner Toscano spoke of how she doesn't feel comfortable making a decision tonight because there is not enough time to digest it.

Commissioner Faktorovich spoke of needing more time to read the documents, how he is not ready to say yes or no at this point, suggested postponing this item and preparing ourselves more, how certain procedures have to be followed, and how he feels uncomfortable about this.

Chairperson Spada spoke of how he had concern regarding the Cardoza Family's water rights, how there has to be provisions in place to ensure it, how the applicant amended their application and has spent lots of money on this, how the developer is putting his best foot forward, how the letters were received late due to reasons on their own parts but he is not going to speculate, his concerns about higher density with narrow streets,

how there has to be common sense to it, and how it has to match surrounding neighborhoods.

Chairperson Spada opened the public hearing. JEFF ROBERTS, Granville Homes, spoke on behalf of one of the property owners, how they own some of the land and filed the original application with the City, how they took on the suggestion by Council with reduced intensity and being here now, how he has worked on several annexations and never seen one so right for a City, how this will develop with urban uses, how the question is what is the right set of land uses and zoning to set the stage, how they thought the low density was right, how Council favored a lower density, a project like this is surrounded by the City on three sides, how this is a tough project and that's why it hasn't been done yet, commended Senior Planner Elms on the work she has done, having worked with the Cardoza family over the past few years, how they have been easy to work with and concur with recommendation of Council for lower density, how they worked hard to bring this together, solutions like the Page Avenue extension and flood control and sewer lines and water lines, how they'll come back with master plans, how City is surrounding 93% of the property, how someone had to come forward and do this so he and his team are doing it, how Mr. Dan Cucchi brought up a good point that the annexation issues are up to LAFCo, how Planning Commission needs to address issues with land use, in terms of CCID the issue a year ago was they want detachment from the district upon recordation of the annexation, how the issue is still the same, if it cannot be resolved then LAFCo has the authority to deny the annexation, the need for a pathway forward, how this is a very odd peninsula and his team is willing to take on these tasks, how they are in favor of staff's recommendations and in favor of all the mitigation measures, spoke of being frustrated as well, how this has taken about two years longer than anticipated, asking the Planning Commission to focus on land use and pre-zoning and issues the City has control over and not water or agricultural mitigation or LAFCo issues.

Commissioner Toscano inquired how long the pre-annexation development agreement is good for.

Senior Planner Elms stated that they are good for typically 20 years, how a master plan is good for 5 years, and tentative maps usually get filed with the pre-annexation development agreements.

CHRIS WHITE, CCID General Manager, thanked the Planning Commission for the hearing and listening to the concerns, addressed the timing of the letter being standard because the deadline was 30 days, asked for and received a one day extension, how the district's agenda has always been one of cooperation with the City and its endeavors, committed to working with the City, how we are all facing new groundwater management requirements by the state, how this issue is very important to the district, how there are issues relative to the district if its not detached including voting issues within the district, importance of thinking back to the mid 2000s and amount of activity that was going on, a policy in place for the district, how the City has always cooperated with district regarding detachment or reorganization, there being a change in how the

City is dealing with this, spoke of LAFCo workshop in which they spoke regarding detachment and stability of water supply, how the Cardoza family has articulated that they don't want to be part of the annexation if they lose their Class I water rights, how he feels like we are on the verge of working something out with LAFCo to come up with some language that potentially addresses this issue, how a long time farming family wants to preserve their rights and they want to help them do so, and how this was a big letter and strongly written to convey its importance to the district.

Commissioner McCoy inquired what Mr. White thinks would happen to the Cardoza family and their Class I water rights.

Mr. White responded that they would oppose the project unless they can get an agreement that protects the district's interest that and how do we protect the bigger issue and not let our policy open and become unmanageable, CCID board would have to make findings, it's uncertain, working with LAFCo and the City, just know that Mr. Bill Nicholson understands the language needed to satisfy the City and the district, and how he will be meeting with him on July 21st.

Commissioner Toscano spoke of how she is glad these problems are trying to get mitigated, how she doesn't want it to be a hardship on anyone and inquired if it would be more efficient to wait to hear from LAFCo before they make a decision.

Chairperson Spada responded that the project wouldn't go to LAFCo until the Planning Commission and City Council pass it.

Senior Planner Elms responded that it goes from Planning Commission to City Council to LAFCo, how the best case scenario would be by the end of the year going to LAFCo, elaborated on what Mr. Cucchi said, how the focus tonight is land use and what the applicant is proposing, that is the task at hand, the big picture is coming up with a solution and supplying assurances to CCID, we have talked about assurances in which the CCID General Manger would sign the final map, how the City could enter into a Memorandum of Understanding to assure that development would not occur, urban voters in district is one of the district's issues, and how this has been something staff has been working on for a while.

Commissioner Toscano inquired if the Planning Commission passes the resolutions will it expedite the process.

Mr. White responded that the district is going to continue to work on this and that he was not going to say he is optimistic.

Chairperson Spada spoke of how there is no reason to wait, how he is agreeable to pass the resolutions, and how he understands that the issues brought up will be addressed at the appropriate stages.

Senior Planner Elms stated that if this passes then her staff report to City Council that the Planning Commission had the desire that these issues be resolved, how she understands their point, and how the applicant understands as well.

Mr. White inquired about the timing for City Council.

Senior Planner Elms responded that the ordinance's first reading would be on August 3rd and the second reading on September 7th.

Mr. White stated that the Planning Commission could also continue the public hearing.

Commissioner Faktorovich spoke of how he understands the complexity and asked if Mr. White is concerned about setting a precedent.

Mr. White responded that it is a major concern for the district, how future annexations could be affected, how they can look at this differently if it's an island and need to avoid it, but they do not want all annexations to come forward with this in mind.

Mr. Cucchi stated that ultimately there is a policy question out there that has to be resolved.

CHRIS MANDIS, 2088 N. Mercey Springs Road, spoke of receiving a public hearing notice for the annexation and went online to view the staff report and felt was lacking was the traffic study, the connecting factors of Pioneer Road to Mercey Springs Road and Page Avenue to Mercey Springs Road, how there is no map or setbacks, concerned about encroachment to properties on Mercey Springs Road, the need to know where the boundaries are going to be on the street widening, the need to make sure acquisition by Caltrans and the City is just with compensation, and inquired when he would see this.

Senior Planner Elms responded that there is a full build out for Pioneer and Mercey Springs Roads, how it would follow the General Plan, how the traffic mitigation measure is on page 5 of environmental document, how it will occur at the development stage and property owners would be notified at that time.

KATHY BALLARD, Los Banos, questioned if Page Avenue would go straight or curve and if at that time they will be responsible to get a traffic light right.

Senior Planner Elms responded that there is a mitigation measure for a traffic signal addressed in the staff report, how the design will be approved by the City and Caltrans, and traffic study will be done at the time the Cardoza property develops.

Mrs. Ballard inquired if Cardoza property doesn't retain their water rights if they will use a well.

Commissioner McCoy described how wells work.

Mr. White described the process and how it works and how the reclassification affects water.

Mrs. Ballard stated that the roads seem narrow, and inquired why the City took out office buildings.

Mr. Roberts stated that the City Council decided to change all the zoning to low density residential and asked Mr. Roberts to go to the Cardoza family to ask them if they were amenable to it, spoke of how Mr. White mentioned meeting several years ago and that's when he was first informed about the CCID policy and began thinking how they can structure something, how he is optimistic and how this is not something that hasn't been done before.

Rosalie Gilardi, 1524 Eleventh Street, stated that nobody has mentioned the Dairyman's, inquired if the gated community will see this eyesore building, how the high school traffic is much better since Pacheco High was built, inquired if the Madison Avenue extension will that be just for high school families to get to the school, and stated how the school district is having problems with housing students so adding more units will be an additional burden to accommodate.

No one else came forward to speak and the public hearing was closed.

Commissioner Cates spoke of how he understands this is land use that he has to consider in the approvals, the amount of City time staff has had to spend on the project is alarming to him, it shows great character for City to do this, a precedent will be set for future developers and their projects, how great staff is, the need to look out for the health, safety and welfare of the community, how the vote he makes tonight is strictly on the land use and his hopes that these roadblocks get flattened down.

Commissioner McCoy inquired about the likelihood of resolving the chromium six issue by the deadline and if the City was looking to have lawsuits filed against them.

Public Works Director/City Engineer Fachin stated that the City is always susceptible to lawsuits, how the chromium six information is disclosed four times per year and the City has a ten year correction action plan with state approval, how our state representative in the court says this is not a building control issue and it's a get up to conformance issue, the statement we send to the state says where we rest on this, heading towards major solution on this including service water, this being a technical problem, this being a large rate-payer issue because there are no other funding sources, we are currently okay with water supply, we are told with proper permits though the state we can expand our well field if needed, if the City doesn't progress then they can halt issuance of building permits, how he doesn't think the quantity is as big an issue as quality, how this is not a growth control issue by the state, and how there are warnings but you can drink the water.

Commissioner McCoy responded that we are probably not going to fix the issue in the time period so issue is we are telling builders to build more houses.

Public Works Director/City Engineer Fachin responded that he didn't say we wouldn't meet the requirements, how the state has strict requirements and the City has to show progression, how water quality should not and does not stop growth, how he can't guarantee that in exactly 9 years the City will meet all requirements but we do have to have a plan in place, how the state watches us, and he reports to them often.

Commissioner Toscano asked to confirm that there is not a quantity problem.

Public Works Director/City Engineer Fachin confirmed that the aquifer is healthy in quantity, spoke of how the state had changed their chromium six standard of parts per billion that pushed the City out of compliance, and how the chromium six occurring here seems to be naturally occurring.

Chairperson Spada stated that the positive nature of those who have spoken will figure something out, how he feels staff wouldn't recommend this if they truly felt it was a big deal, his value of staff's opinions, and how LAFCo is willing to work on this as well as CCID.

Commissioner McCoy stated that he is not against the project and how he wants the development but not at the cost of the Cardoza family.

Commissioner Cates spoke of how the peninsula was described in a good way, how his concern is the burden being put on the City Council to go thru the same concerns, and how the content of the comment letters this time around makes it more of a concern for him.

Chairperson Spada spoke of how staff has more time to work with these agencies for a response, how the timing of receiving these letters was an issue, and by the time City Council hears this they may have figured out the water issue.

Commissioner Toscano stated that she would like to continue the item but would also like to approve so it moves forward, how Commission Faktorovich hasn't even read it so how can he vote, and how she has read the report but has not absorbed it.

Chairperson Spada spoke of how he has read the staff report and went to staff and asked them to break it down and now it makes sense, how he relies on staff, how the Planning Commission is advisory and staff are the experts, and the need to understand as much as we can but need to overall decide if this fits and makes sense.

Commissioner McCoy inquired how he could approve this with the stipulation that we should continue but in the end the City Council has to figure this out and how he makes a recommendation that they are not in favor of.

Mr. Cucchi responded that one option is to make a motion to adopt the resolution and add “as amended” with wording like “we are only recommending approval upon certain conditions being resolved” on the project’s approval itself, how the Mitigated Negative Declaration with reliance upon the Los Banos 2030 General Plan Environmental Impact Report is sufficient by CEQA, may be a need to clarify issues under CEQA, the second resolution is on the project itself in which you would make the motion to adopt the resolution as amended as you see fit, and that the last two resolutions are for the development agreements and are subject to entitlements that are approved so you wouldn’t need to do an amendment for those.

Commissioner McCoy inquired if they can deny the second resolution contingent upon the water rights issue being taken care of.

Mr. Cucchi responded that they can do a “recommendation of denial unless” on the second resolution if they so desire.

Motion by McCoy, seconded by Cates to adopt Planning Commission Resolution No. 2016-31 – Recommending Approval of a Mitigated Negative Declaration (SCH #2015061056) and Associated Mitigation Monitoring and Reporting Program to the Los Banos City Council for the Presidential Estates East Area Plan. The motion carried by the affirmative action of all Planning Commission Members present; Limon and Llamas absent.

Motion by McCoy, seconded by Cates to deny Planning Commission Resolution No. 2016-32 – Recommending Approval of Annexation #2014-01, General Plan Amendment #2015-03, and Pre-Zone #2014-02 to the Los Banos City Council for the Presidential Estates East Area Plan with the amendment that unless there is a resolution for the Cardoza family to retain their Class I water rights. The motion carried by the following roll call vote: AYES: Cates, Faktorovich, McCoy, Toscano; NOES: Spada; ABSENT: Limon and Llamas.

Motion by McCoy, seconded by Cates to adopt Planning Commission Resolution No. 2016-33 – Recommending Approval of a Pre-Annexation Development Agreement for Stonefield Communities, Inc. to the Los Banos City Council for the Project Commonly Known as the Presidential Estates East Area Plan with the amendment that it is contingent upon the adoption of the Planning Commission Resolution No. 2016-32 being adopted by City Council. The motion carried by the affirmative action of all Planning Commission Members present; Limon and Llamas absent.

Motion by McCoy, seconded by Cates to adopt Planning Commission Resolution No. 2016-34 – Recommending Approval of a Pre-Annexation Development Agreement for the Manuel M. Cardoza Life Estate to the Los Banos City Council for the Presidential Estates East Area Plan contingent upon the adoption of the Planning Commission Resolution No. 2016-32 being adopted by City Council. The motion carried by the affirmative action of all Planning Commission Members present; Limon and Llamas absent.

Chairperson Spada called for a 5-minute recess at 9:30 p.m.

City Attorney Vaughn returned to his seat in the Council Chambers at 9:36 p.m.

PUBLIC HEARING – TO CONSIDER SITE PLAN REVIEW #2016-05 FOR O'REILLY'S AUTO ENTERPRISES, LLC FOR THE CONSTRUCTION OF A NEW 8,712 SQUARE FOOT AUTO PARTS STORE ON 1.06 ACRES LOCATED WITHIN THE HIGHWAY COMMERCIAL ZONING DISTRICT AT THE NORTHWEST CORNER OF PACHECO BOULEVARD AND SIXTH STREET, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBERS: 026-044-041, 042, 043, AND 044 (CONTINUED FROM JUNE 22, 2016). Senior Planner Elms stated that she had not yet received revised plans and asked the Planning Commission to open the public hearing, receive public comment, and close the public hearing.

Chairperson Spada opened the public hearing. No one came forward to speak and the public hearing was closed.

No action taken.

DESIGN REVIEW STUDY SESSION – THE CONSTRUCTION OF A NEW 9,536 SQUARE FOOT MULTI-TENANT RETAIL BUILDING WITH A DRIVE-THRU ON 1.22 ACRES AT 1420 E. PACHECO BOULEVARD IN THE HIGHWAY-COMMERCIAL ZONING DISTRICT. Senior Planner Elms presented the staff report, which included a PowerPoint presentation, and noted that Jonathan Lee with the Orosco Group was present to answer any questions.

There was discussion among commissioners, staff, and the applicant regarding architecture including the color of the building and reciprocal parking access.

Commissioner Faktorovich spoke of he likes the façade, how the flat wall facing Pacheco Boulevard should have tenant spaces varying in depth, would like to see about 2-3 feet set in, how the tower isn't compatible with other structures but not saying it he needs to mimic other structures, and how it will look good and will fit well if keeping those colors on the elevations.

Mr. Lee responded that the site plan shows the building footprint, how there are different jut outs, and how he will make sure there is depth.

Commissioner Cates stated that it would be nice to see a balance of tile roof on either side on the south elevation, how scoping other buildings and tying that in is awesome, how he doesn't want a hodgepodge of different types of buildings, tying in the looks of all the surrounding buildings is nice, and inquired about what type material will be the first 3 feet of the walls.

Mr. Lee stated that they want to make sure there is cohesiveness in the area so it will be similar material to surrounding buildings in the center.

Commissioner Cates stated that he wants to keep palm tree between Espana's and this lot.

Chairperson Spada stated that the north elevation is too plain, perhaps a wainscoting should be added, how he would like to see a mimic of covered walkway like Walgreens, and the need to balance the mission style look overall.

Commissioner Cates spoke of how the columns that separate the suites can potentially have a mission style arch façade and how it can be done cheaply with Styrofoam.

Commissioner McCoy inquired about the air conditioning materials and coverage.

Senior Planner Elms responded that it would be covered by parapet roof.

Commissioner Toscano inquired if there will be a wall to separate residential from this property.

Senior Planner Elms stated that there would be a condition that requires a masonry wall at the northern property line, how staff would like to see a masonry wall up to the landscaping, and how it will be incorporated into the conditions of approval.

Commissioner McCoy inquired if Jeffrey Road will ever open up.

Senior Planner Elms stated that it would not due to being a conflict between the residential and commercial uses.

Commissioner Faktorovich spoke of how a walkway cover would be nicer for the elevation because it's exposed to Pacheco Boulevard and next to Starbucks, which has that little tower, this would bring the roofline up about 4-5 feet to put the cover, and how two columns in the front and a walkway would balance it.

Commissioner Toscano inquired if there is a walkway in front of all of these suites.

Mr. Lee confirmed that there is a walkway.

Commissioner Toscano stated that archways would be good and inquired if they have tenants right now.

Mr. Lee responded that they are in negotiations with tenants for each space.

KATHY BALLARD, Los Banos, stated that an eating facility should be in front of the building because of nice evening weather and how they should put a planter in front of the blank wall in front of drive thru so the clean up of the gum that is spit out is easier.

PATRICIA McCOY, Los Banos, spoke of how new businesses are coming and the City should require bike racks so that teenagers can ride their bikes and lock them up.

Senior Planner Elms responded that the City has been requiring that, how there is a requirement in the zoning code for bike racks based on percentage of parking area, how staff is also making retro to businesses coming for Site Plan Review for existing buildings, and how it has to be near the front entrance.

Commissioner Cates inquired about the sidewalk.

Senior Planner Elms spoke of how they will be to develop the gap and go through Caltrans, as well as striping needs, how it is the developer's requirement to build it, and how they will need an encroachment permit.

There was discussion among commissioners, staff, and the applicant regarding landscaping including the addition of vines on the CMU wall, having landscaping will be similar to that at Walgreens, how they will have hedges and can suggest use of similar species that Walgreens has.

Commissioner Cates stated that he would like to keep the palm tree between Espana's and this property if possible.

Senior Planner Elms responded that she believes the palm tree is located where the driveway will be located.

Chairperson Spada inquired if there was a condition for signage.

Senior Planner Elms stated that they would have to follow the sign ordinance in the municipal code and how they have not indicated they want to exceed the maximums.

There was discussion among commissioners, staff, and the applicant regarding lighting including how lighting will match what the Walgreens shopping center has.

Commissioner McCoy encouraged the applicant to call Senior Planner Elms if he has questions.

Initial feedback provided to applicant, no action taken.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT. Senior Planner Elms reported that City Manager Alex Terrazas has officially come on board, how staff is excited to work with him, and how he is bringing new vision and hitting the ground running.

Commissioner Faktorovich left dais to talk to Mr. Lee at 10:20 p.m.

Commissioner McCoy inquired about the status of the bowling alley opening.

Senior Planner Elms responded that they are going thru final inspections, working with the Merced County Department of Environmental Health, how they are hoping to open in a couple of weeks, and it being just a matter of one of the business partners travelling here from China to be here for the opening.

Commissioner Faktorovich returned to his seat at 10:21 p.m.

Commissioner McCoy inquired about the status of Hobby Lobby.

Senior Planner Elms responded that they are saying they'll be opening around September or October.

Commissioner Cates inquired if any new tenants have been confirmed for the former Lower's building.

Senior Planner Elms responded that no new tenants have been secured at the former Lowe's or former Kmart buildings.

Chairperson Spada inquired if the applicant for the former Kmart building has pulled a building permit yet.

Senior Planner Elms responded that they have applied for a building permit but it has not been approved yet.

Chairperson Spada inquired if the 99 Cent Only Store was complying with Conditions of Approval for the Site Plan Review.

Senior Planner Elms responded that she has talked to the City Manager, staff won't grant occupancy until they comply with the conditions, and how staff may take a harsher approach including possibly temporarily closing the business.

Commissioner McCoy inquired about the status of Pepper Snyder's project.

Senior Planner Elms responded that they are going thru the process still.

PLANNING COMMISSION MEMBER REPORTS.

CATES: No report.

FAKTOROVICH: No report.

LIMON: Absent.

LLAMAS: Absent.

McCOY: Requested an agenda to be left at the dais for him each meeting.

SPADA: Thanked everyone for the lively discussion and spoke of how he is proud of the work being done.

TOSCANO: No report.

ADJOURNMENT: The meeting was adjourned at the hour of 10:27 p.m.

APPROVED:

Tom Spada, Chairperson

ATTEST:

Sandra Benetti, Planning Technician

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
JULY 27, 2016**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER. Chairperson Spada called the Planning Commission Meeting to order at the hour of 7:00 p.m.

PLEDGE OF ALLEGIANCE. The pledge of allegiance was led by Commissioner Cates.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, Arkady Faktorovich (arrived at 7:01 p.m.), Erik Limon, Palmer McCoy, Tom Spada, and Susan Toscano; Refugio Llamas absent.

STAFF MEMBERS PRESENT: Senior Planner Stacy Elms, Planning Technician Sandra Benetti, and City Attorney William Vaughn.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by Cates, seconded by Limon to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Faktorovich (arrived at 7:01 p.m.) and Llamas absent.

Commissioner Faktorovich arrived and took his seat at the dais at 7:01 p.m.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. Chairperson Spada opened the public forum. JOYCE MEZA, Los Banos, spoke of how there will be a forum on community health on August 4th at the Henry Miller building and urged the Commission to pass the word to interested individuals; MARTIN MILOSEVICH, Los Banos, spoke on behalf of Bluff Drive residents regarding the Villas project that came forward to the Commission on May 11th regarding the greenbelt condition and spoke of how Mr. Jeff Roberts came to the neighborhood and spoke to residents; Senior Planner Elms asked that this particular address be done during the public hearing.

No one else came forward to speak and the public forum was closed.

City Attorney Vaughn excused himself due to a conflict for the following item and left the City Council Chambers at 7:06 p.m.

PUBLIC HEARING – TO CONSIDER VESTING TENTATIVE TRACT MAP #2016-01, FINAL DEVELOPMENT PLAN #2016-01, EAST CENTER AREA PLAN AMENDMENT, AND ASSOCIATED MITIGATED NEGATIVE DECLARATION FOR THE VILLAS CONSISTING OF THE SUBDIVISION OF APPROXIMATELY 58.8 ACRES INTO 378 SINGLE-FAMILY RESIDENTIAL LOTS RANGING FROM CUSTOM AND SEMI-CUSTOM HOMES TO PRODUCTION HOMES; APPROXIMATELY 51 ACRES OF THE PROJECT SITE WILL BE CONTAINED WITHIN A PRIVATE GATED-COMMUNITY WITH A FOUR ACRE PARK/DETENTION BASIN; THE FINAL DEVELOPMENT PLAN CONSISTS OF SITE DESIGN AND CONCEPTUAL ARCHITECTURE TO IMPLEMENT THE PLANNED DEVELOPMENT ZONING; THE PROJECT SITE IS LOCATED EAST OF CENTER AVENUE, SOUTH OF THE CRESTHILLS #1 SUBDIVISION, WEST OF CRESTHILLS #2 SUBDIVISION, AND NORTH OF PIONEER ROAD AND THE CITY LIMIT LINE; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBERS: 431-270-010 AND 431-270-004 (CONTINUED FROM MAY 25, 2016; CONTINUE TO A DATE CERTAIN).

Senior Planner Elms stated that the applicant has canvassed the neighborhood, showed a map depicting the neighborhood, and introduced the applicant.

Chairperson Spada opened the public hearing.

JEFF ROBERTS, Granville Homes, spoke on behalf of the applicant and stated that he will do a portion of the presentation on the Villas project and informed the Planning Commission that Ms. Jennifer Trevino will also present information as well. Mr. Roberts presented the report including a statement for the record that they are in general concurrence with staff’s recommendation, how they have a couple of additions to the recommendation, how they were asked by the Planning Commission to look hard at the northern boundary of the project and the type of buffer that can be created, looked extensively at this issue, met with several residents of Bluff Drive, stated for the record that there is confusion about what happened ten years ago with this site and maps that were discussed and conditions that were looked at, how they now see it a little clearer, how there was once a public street idea with a public street along the north side of the property with a green space, how that map was never approved, discovered a City document entitled The Villas Master Planned Community dated 2005 which talked about a circulation plan, handed out that document to the Planning Commission, how this document conflicts somewhat with texts that was made in the staff report, extremely close to the recommendation of staff this evening, have looked closely at this issue, they are proposing a gated community with privates streets, the idea of putting a public trail or street thru a private project is a difficult one, this created a scenario with a single loaded street which is not desirable in development, have to put in curb/gutter/asphalt/base rock/sewer lines/water lines/etc., how this would be an inefficient way to plan and design, there would only be services on one side of the street, how double loaded streets are most efficient to design and plan, spoke of the deficiencies of developing the single loaded street, how this is not a feature they want to

incorporate in their project, asked the Bluff Drive residents if they wanted to participate in the development or maintenance of this in which they declined the idea, how the cost is normally born by a Community Facilities District (CFD), how this is an expensive idea which they don't think will work well in a private gated community, how after meeting with residents they discovered that the residents didn't want to pay for these features, and introduced Jennifer Trevino.

JENNIFER TREVINO, Attorney representing the applicant, thanked the residents of Bluff Drive who took time away from their families to speak with them, how a common thread was that nobody wanted to pay for the greenbelt, how there was about 11 different opinions on how to move forward, how there is a missed opportunity there, how they didn't communicate well enough on how the project will look, taking input from the residents, how an outside perspective can give great solutions, how they spoke with 11 out of the 17 families of Bluff Drive, spoke of different conversations with each of the families including how one resident suggested a lot line adjustment, how one understood development is going to happen, how another resident had concerns about having a greenbelt behind their property that would allow pedestrians to throw trash over their fence, how some people didn't realize the project was a gated community, how another resident was excited for the idea of a new fence, how a police officer was discussing the security and safety benefits of having a gated community, after discussing and listening to everyone we had to come up with a buffer solution and make a decision not only fair and just but one to benefit the residents of Bluff Drive, the gated community and community as a whole.

JEFF ROBERTS, Granville Homes, thanked the Bluff Drive residents for their hospitality, explained to the Planning Commission that they are melding old plans and new plans and ideas to come together with an amended version of what they would like to see happen which would be the creation of a buffer against the 17 lots with 14 lots along Bluff Drive that are a minimum of 12,000 square feet that are at least 100 feet wide and 120 feet deep, which is much larger than existing lots on Bluff Drive, would like to have opportunity to build 1 or 2 story homes, they would come up with an attractive fencing program such as redwood double sided picket fence which would be installed at no cost to neighborhood, they would remove and eliminate the old fencing, how they are willing to commit to this as a condition, how they would create homeowners association to maintain green space and private streets, how the large lots and larger setbacks in the rear yard will protect integrity of 17 lots to the north and provide an appropriate buffer between the two tiers of lots, stated that most infill projects like this typically propose a higher density against an existing neighborhood but this is lower and is rare, how going to a public street subdivision would eliminate those custom lots and the quality and attractiveness of this subdivision, how Los Banos deserves a high caliber of housing rages and types with custom and semi custom homes, how this project will supply that need, and thanked the Commission.

Commissioner Toscano inquired about setbacks and lot sizes.

Mr. Roberts spoke of there being a substantially larger lot sizes along Bluff Drive and the increased setbacks.

Commissioner Faktorovich thanked Mr. Roberts and inquired if the City Council ever voted on the buffer zone.

Mr. Roberts responded that there is a resolution that talks about the idea for the design of Cardoza Road as a public street, how the circulation plan that he passed out shows Cardoza Road dropping to the south and providing for a tier of lots between Cardoza Road and the property line to north, we are proposing larger lots and that would push Cardoza Road a little further away, we are consistent with that circulation plan, taking the old information and new conditions and come up with a solution.

Commissioner Faktorovich spoke of how the public believed something was promised and no action was ever taken by Planning Commission or City Council.

Mr. Roberts spoke of divergent information being a struggle with this project and his appreciation of the Commission's consideration.

Chairperson Spada inquired if there were any City Council minutes that gave the residents the greenbelt.

Senior Planner Elms responded that this information was presented at the May 11th Planning Commission meeting, how the staff report referenced City Council Resolution No. 4680 Condition #18, how it was a Condition of Approval and not an exhibit or map, how this was based on public hearing back in 2006 in which they included this condition based off public comment, described the condition to say that Cardoza road shall be aligned near the northern boundary of the planned area with a landscape area and pathway to the north of the road, the applicant is connecting Cardoza Road but what they are changing is the proposal which is a gated community with private streets instead of a public subdivision with public streets, the Whitehurst family owned the property to the north at the time and weren't ready for development, now ten years later staff believes that the proposal is consistent with Cardoza Road aligning to the northern boundary, staff worked with applicant to make Cardoza Road went thru with emergency vehicle access off the backside of Bluff Drive which is Pike Street, how the applicant was able to work with staff on that, how staff feels this meets the intent of this condition, staff was looking for a compromise and this is what was presented on May 11th at the Planning Commission meeting, and how it was staff's opinion that the addition of a gated community caused the landscape area and pathway to be unnecessary.

MARTIN MILOSEVICH, Los Banos, referenced back to City Council Resolution No. 4680 Condition of Approval #18 which addresses the greenbelt, how that's the concern, how residents know the development will be low density, this being an ideal development, how it backs right up against their properties though, how this was addressed in 2006, how residents feel if they didn't speak up on May 11th at the

Planning Commission meeting then it would all be over, and how a wooden fence won't appease me.

Chairperson Spada inquired of Mr. Milosevich what would appease him in reference to a fence.

Mr. Milosevich responded that he is happy with his fence as it is.

Commissioner Toscano inquired who pays for the greenbelt.

Senior Planner Elms spoke of how when it was approved back in 2006 it would have been a public street but now that it has changed to a private and gated community so the homeowner's association would be responsible.

CLAUDIA JORDAN, Bluff Court resident, spoke of her concern that she would have two neighbors behind her, how the cost of the greenbelt should be done by homeowner's association and the developer should pay, confused why she is being asked if she would pay for this, and pointed out that supporters for the project are not present.

Commissioner McCoy inquired of Ms. Jordan regarding what she envisioned with the greenbelt based on the conversation that took place in 2006.

Ms. Jordan responded that it would be something similar to what is on the corner of Ortigalita and Cardoza Roads with a nice masonry wall and landscaping.

Chairperson Spada pointed out that the project discussed ten years ago was for an open development, which had a public walkway, and how it differs from this proposed project which is a private gated community and how a public walkway would not work here.

Commissioner Cates spoke of how he understands both sides, how the Planning Commission can't control what private property owners do in regards to development, how the Planning Commission is charged to do what they are legally bound by law to do, how they are unable to tell a developer that they need to change the project because residents that back up to the development don't like it, and the need to focus on what the Planning Commission is legally bound to do.

Senior Planner Elms stated that conditions could be amended, spoke of how resolutions and the municipal code are living documents that can be amended, and how the charge of the Planning Commission is to recommend to the City Council.

Commissioner McCoy spoke of how the City needs to grow, how the type of housing proposed doesn't exist right now in Los Banos, how it's a great project, how the Planning Commission is a recommending body but he can't recommend without all the facts, the need to get their papers out and re-read it, how the staff report says that the Commission needs to continue the public hearing, how he understands that the

applicant is losing money by delaying, and the need to know more and read all the data before making a decision.

Chairperson Spada stated that there would not be a vote tonight.

Senior Planner Elms spoke of the need for clear direction for staff and the applicant, how we can't waste any more time, the need for the applicant to know exactly what the Planning Commission wants, how redesigning plans costs money to the applicant, and providing the alternatives is costly as well.

Commissioner McCoy spoke of how at the last meeting the applicant was going to redesign and work with landowners to come to a resolution and how it was his understanding that they were going to present alternatives tonight.

Mr. Milosevich Los Banos, spoke of how he thought the applicant was going to present alternatives but only heard one plan presented tonight.

Ms. Jordan stated that she came tonight assuming that she would be looking at something different.

DARRYL LAWRENCE, Bluff Court resident, spoke of how at the last meeting the applicant said he were going to redraw the plans, how the applicant showed him a new drawing and not what was discussed tonight, and how the fence idea doesn't work for him because he has a stucco fence.

Commissioner Faktorovich spoke of how he previously worked as an architect, how he is sympathetic with the applicant, how the final say is from the City, how there was no action taken by City Council or a Planning Commission recommendation at that time, how a conversation gave an impression that was something was cast in stone, how he admires the applicant working with public to find a solution, how this is stretching the applicant's time and budget, understands the demand and costs on their part, and how one of the concerns of having a two story structure looking over the fence shouldn't be an issue if a two story is built butting up to another two story.

Mr. Roberts spoke of his appreciation of the comments, he had hoped to have a decision tonight or a consensus at least, how it is an interesting idea to match a one story to a one story house and discuss with staff, how the fence idea is just to show their willingness and residents don't have to participate, how this is an attractive property in the City ready for development, how the question mark on what will be built won't be answered until a map is approved and one has not yet been approved.

Commissioner McCoy stated that if residents are dead-set on a greenbelt then they are going to end up with a dead-end walkway that will become a nuisance where people will throw trash over the wall.

Ms. Jordan stated that hooligans do come to the neighborhood, how the walkway would be private and hooligans wouldn't be an issue really, questioned the one story to one story houses, spoke of the ball being in the developer's court, and how they have to come up with a plan.

Commissioner Toscano spoke of the need for resolution, how neither party will be 100 percent happy, how she wouldn't want a walkway behind her house, how there are ways to mitigate these issues, how a 20 foot setback is a better idea to provide a greater buffer, how she created her own solution and planted tall trees, and how she would prefer a backyard neighbor as opposed to a walkway.

Mr. Milosevich spoke of being open to a lot line adjustment that would grant residents 10 feet of property that belongs to the applicant.

Commissioner Limon commended Mr. Roberts on his efforts, spoke of his concern for residents as well, how at some point there has to be a compromise, how a greenbelt is nice but can attract issues, and how a homeowner's association will have to monitor it.

Senior Planner Elms stated that staff needs clear direction, how she would like the opportunity to work with the applicant on some conditions, how she has the temperature of the Commission, and how we can work together and present something at the next meeting.

TOM BATES, 423 Bluff Court, spoke of how there wasn't a map ten years ago but residents were invited to a meeting and given a conceptual plan, how they signed a petition at that time to ask for a Class I or Class A walkway, how he is not sure about that definition, how his conception is that there would be shrubs and a pathway and a sidewalk and a street, how residents asked for that but it didn't go forward, how the Condition of Approval #18 isn't specific and doesn't give dimensions, but how they did get a map showing lots.

GREG HOSTETLER, 923 Pacheco Blvd and applicant, spoke of how he can see where some of the confusion is, how he is sympathetic to the neighbors and wants to hear from them, the need to make a bigger attempt to meet with residents, how he didn't own the Whitehurst property at the time of the approval of the area plan, how the Whitehurst family was not part of the development or layout of lots that were going in, how they just went along as cooperative landowners, how a greenbelt probably sounded good at the time but it was an idea or dream of someone's that wasn't an approved or official design, how he wasn't responsible for it, if it becomes a requirement of the City then it falls within what the City has to pay for, after he acquired the Whitehurst property he changed the design, how what he is showing the Commission tonight is what they think is the best alternative, how it is a gated community with large lots, how this is a better design because it will be gated and minimize traffic, how an open greenbelt would have to be maintained by the City and will not benefit his gated community, how his design got approved on his property back in 2005 which included multifamily and he reduced the density to bring a higher value to the neighborhood, how he didn't control things in

2005, and how this is a great plan but they didn't do a good enough job reaching out to community.

MARSHA NEWTON, Bluff Court resident, asked what the definition of a custom built home.

Mr. Hostetler described a custom home as a one on one single floor plan, how the property owner would design their floor plan and choose colors and sizes, and how they planned to sell lots to individual owners for custom homes.

Ms. Newton inquired if Granville Homes would be building them and have different plans for people to pick from would a person be able to buy the lot and seek out their own builder with their own plans from their own architect and build their home on that lot without any interference from Granville Homes and spoke of Cresthills I issues that arose in which they allowed tract homes to be built instead of custom homes because lots weren't selling.

Mr. Hostetler stated that Ms. Newton is close to right on, how they will be allowed to buy their own lots and pick their own builders and plans but will have to deal with Covenants, Conditions & Restrictions and the architectural committee, how they wouldn't want to sell a lot to someone who builds something not in conformance with the neighborhood, how there will be minimum square footage for homes, and how he would be glad to meet with residents.

Commissioner Toscano stated that those 14 homes are definitely custom and inquired about the other types of homes in the development.

Senior Planner Elms responded that the Final Development Plan (FDP) memorializes and calls out custom, semi-custom, and production homes, how the FDP defines these, and how we are getting off on a side tangent and have already memorialized this hashed this out.

Ms. Newton spoke of there being many nice custom homes in Cresthills I but not all the lots sold and the City allowed another builder to come in and build a custom home on the lots and they may meet CCRs but didn't portray what this applicant is trying to do.

Senior Planner Elms clarified that the difference is there will be an architectural committee for this development.

Ms. Newton responded that her CCRs are not enforced.

Mr. Hostetler responded that the CCRs are not controlled by the City, how it is a civil issue, how the City does not have policing powers, any single homeowner in the development can file an action and that party has to pay attorney fees and the violator has to pay, and reiterated that the City does not have any authority on this.

Commissioner Toscano asked the applicant to please explain the difference between a homeowner's association and CCRs.

Mr. Hostetler responded that a homeowner's association is for maintenance and enforces CCRs, spoke of how historically people don't read their CCRs and what's on their deed and what they are supposed to do, spoke of not wanting production homes on this, how he wants the biggest homes on these lots, and invited Ms. Newton to assist in developing the architectural design rules.

MATT BUFFUNO, Bluff Drive resident, asked if the applicant can share information on the homeowner's association fees and rules.

Chairperson Spada responded that it has not been developed at his point and pointed out that Mr. Hostetler invited Ms. Newton to be on the committee.

JOYCE MEZA, Los Banos, inquired if there was a clubhouse within this gated community and if the gates would open by pressing a button.

Mr. Hostetler confirmed there would be no clubhouse and there would be a button that opens the gates.

Ms. Meza spoke of how she will be surrounded by this development, how she hosts events on her property place, how there is a labyrinth on the property, how she would hope that the plans were stated that there be a gate around her property, how she would like to straighten out the jugged lines on the property on the southside with a lot line adjustment, how she would not want a good neighbor or high end fence but a stone fence that matches other developments that Mr. Hostetler has done around town, and suggested not building two story houses along her property.

TED MEZA, Los Banos, spoke of his concern about the existing school on his property, how it was annexed several years ago, how they have cattle and chickens and goats, how this morning he got email telling him that they will probably get sued for having school on his property, how it was inspected and ADA approved and done professionally, and how the email said they may be illegal in ingress and egress.

Commissioner Toscano inquired who sent the email.

Mr. Meza responded that it came from Mr. Roberts' attorney.

Chairperson Spada responded that it is a civil in which the City cannot get involved.

Mr. Meza inquired about the issue referencing the ingress and egress.

Senior Planner Elms responded that it is a civil issue between property owners, how there was a prescriptive easement because they were using the access road to get on to the property, how the City can't get involved, and it would be up to the court.

Chairperson Spada responded that it is not a public easement and not legally recorded so the City cannot do anything, suggested working with the developer or get a land use attorney to discuss this, how this cannot be discussed during the Planning Commission meeting, and this being a private matter not within the Planning Commission's jurisdiction.

ANDREW MEZA, 1858 Center Avenue, spoke of his concern about the widening of Center Avenue, how it would take over 21 feet of his front yard, how the road will be less than 8 feet from the front of his house, inquired if there would be a median in front of his home, inquired how much parking he would be losing, moving his gate being an issue, asked where the compassion is and spoke of how they are taking away his rights.

No one else came forward to speak and the public hearing was continued to August 10, 2016.

Chairperson Spada spoke of how he would support the development one story homes to one story homes and two story homes to two story homes originally but maybe a fence on developers side that is continuous and leave other fences alone, a row of trees as well, how the project ten years ago included a public road and development, this project is private access, how a greenbelt won't work, how a 20 foot setback is good and traffic will be better, and how walking traffic will be less and there will be less noise and vandalism.

Commissioner Cates stated that the developer is willing to work with residents, empathizes with both sides, has no authority over private property rights, if developer meets all criteria that City specifies then we have no choice, how the Planning Commission is a recommending body and not a mitigating body, can't tell private property owners what they can and cannot build, how they can make suggestions, and his hopes that residents understand that.

Commissioner Faktorovich suggested that the developer work with the public and meet halfway.

Commissioner McCoy asked if staff could clarify the Center Avenue issue according to Mr. Andrew Meza.

Senior Planner Elms responded that the general plan shows Center Avenue built out at 75 feet wide and is currently at 60 feet, in front of cemetery would be double left turn lane, the median would only be along the Hill property, how Mr. Andrew Meza will have access to left turn lane, there would be 15 feet of additional right of way, how staff can look at that closer and speak to the engineer, and how it sounds like he measured 20 feet but should be 15 feet.

Commissioner McCoy inquired about the front setbacks.

Senior Planner Elms responded that planned development has flexibility in setbacks.

Commissioner McCoy spoke of the 20 foot setback, how he likes idea of tall trees, there has to be progress, stuff changes like the economy, when things don't work then things change, the need to make decisions and sometimes having to change course, gated community behind Bluff Drive is an improvement to what can go behind them, how residents need to take their heels out of the dirt and look at both sides, and his hopes when this comes back in August that there will be happy people on both sides.

Commissioner Toscano inquired about Mr. Andrew Meza's property and when it was annexed into the City when he purchased home if he was told about losing frontage.

Senior Planner Elms responded that the area plan is the guiding document for development which was adopted at the time of annexation and shows Center Avenue and how it was to be built, how this was part of the annexation approval, and how the Mezas did protest at Planning Commission and LAFCo.

Mr. Andrew Meza stated that he was not given a voice, was told what was going to happen after the fact and could not even try to stop it, and now the issue is getting bigger.

Motion by McCoy, seconded by Cates to continue Public Hearing – to Consider Vesting Tentative Tract Map #2016-01, Final Development Plan #2016-01, East Center Area Plan Amendment, and Associated Mitigated Negative Declaration for The Villas Consisting of the Subdivision of Approximately 58.8 Acres into 378 Single-family Residential Lots Ranging from Custom and Semi-custom Homes to Production Homes; Approximately 51 Acres of the Project Site Will be Contained within a Private Gated-community with a Four Acre Park/Detention Basin; the Final Development Plan Consists of Site Design and Conceptual Architecture to Implement the Planned Development Zoning; the Project Site is Located East of Center Avenue, South of the Cresthills #1 Subdivision, West of Cresthills #2 Subdivision, and North of Pioneer Road and the City Limit Line; More Specifically Identified as Assessor's Parcel Numbers: 431-270-010 and 431-270-004 to the Planning Commission meeting on August 10, 2016. The motion carried by the affirmative action of all Planning Commission Members present; Llamas absent.

Chairperson Spada called a 5 minutes recess at 9:06 p.m.

City Attorney Vaughn returned to his seat in the Council Chambers at 9:14 p.m.

PUBLIC HEARING – TO CONSIDER A CONDITIONAL USE PERMIT AND ASSOCIATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CATEGORICAL EXEMPTION TO ALLOW THE USE OF A TYPE 41 ALCOHOL LICENSE FOR THE ON-SALE OF BEER AND WINE IN CONJUNCTION WITH AN EATING PLACE FOR WINGSTOP LOCATED AT 1989 E. PACHECO BOULEVARD, SUITE K, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 083-140-028. Senior Planner Elms presented the staff report, which included a PowerPoint presentation.

Chairperson Spada opened the public hearing. No one came forward to speak and the public hearing was closed.

Motion by McCoy, seconded by Limon to adopt Planning Commission Resolution No. 2016-36 – Recommending Approval of Conditional Use Permit #2016-15 to the Los Banos City Council for the Use of a Type 41 Alcohol License for the On-sale of Beer and Wine in Conjunction with an Eating Place for Wingstop Located at 1989 E. Pacheco Boulevard, Suite K. The motion carried by the affirmative action of all Planning Commission Members present; Llamas absent.

PUBLIC HEARING – TO CONSIDER A CONDITIONAL USE PERMIT AND ASSOCIATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CATEGORICAL EXEMPTION TO ALLOW THE USE OF A TYPE 21 ALCOHOL LICENSE FOR THE OFF-SALE OF GENERAL ALCOHOL AND TYPE 86 ALCOHOL LICENSE FOR INSTRUCTIONAL TASTING OF ALCOHOL FOR SAVE MART SUPERMARKETS LOCATED AT 1400 S. MERCY SPRINGS ROAD, SUITE B, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 083-130-040. Senior Planner Elms presented the staff report, which included a PowerPoint presentation.

Commissioner McCoy inquired if Savemart has to ask if they want to move alcohol displays.

Senior Planner Elms responded that staff requires that of all big box stores including grocery stores, how the floor plan is where they are approved to have their displays, and they would need approval to move or change.

Chairperson Spada opened the public hearing.

JEFF WELLS, Senior Manager for Compliance for Savemart, spoke of the company being excited about moving to the larger footprint location, this being a refreshed look, looking forward to adding type 86 license as well, and how this helps to commit to the community and alcohol beverage partners.

KATHY BALLARD, Los Banos, inquired about CEQA and people loitering.

Senior Planner Elms responded that Savemart is an active property owner and ensures panhandlers move off their property, and how they work with law enforcement to do so.

No one else came forward to speak and the public hearing was closed.

Motion by Limon, seconded by Faktorovich to adopt Planning Commission Resolution No. 2016-37 – Recommending Approval of Conditional Use Permit #2016-14 to the Los Banos City Council for the Use of a Type 21 Alcohol License, “Off-sale General Alcohol” and Type 86 Alcohol License, “Instructional Tasting”, for Save Mart Supermarkets

Located at 1400 South Mercey Springs Road, Suite B. The motion carried by the affirmative action of all Planning Commission Members present; Llamas absent.

PUBLIC HEARING – TO CONSIDER COTTAGE FOOD OPERATION #2016-01 AND ASSOCIATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CATEGORICAL EXEMPTION AT THE RESIDENCE OF 695 CHINABERRY COURT FOR SARAH VANLOBENSELS LOCATED WITHIN THE LOW RESIDENTIAL ZONING DISTRICT (R-1) AND MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 431-060-016. Senior Planner Elms presented the staff report, which included a PowerPoint presentation.

Commissioner Limon inquired how she will advertise.

Senior Planner Elms responded that the applicant was clear about no customers or employees at home and no advertisements.

Chairperson Spada opened the public hearing. No one came forward to speak and the public hearing was closed.

Motion by McCoy, seconded by Toscano to adopt Planning Commission Resolution No. 2016-35 – Approving Cottage Food Operation Permit #2016-01 for 695 Chinaberry Court, More Specifically Identified as Assessor’s Parcel Number: 431-060-016. The motion carried by the affirmative action of all Planning Commission Members present; Llamas absent.

DESIGN REVIEW STUDY SESSION – THE CONSTRUCTION OF A NEW 9,536 SQUARE FOOT MULTI-TENANT RETAIL BUILDING WITH A DRIVE-THRU ON 1.22 ACRES AT 1420 E. PACHECO BOULEVARD IN THE HIGHWAY-COMMERCIAL ZONING DISTRICT. Senior Planner Elms presented the revisions, which included a PowerPoint presentation, and noted that Jonathan Lee with the Orosco Group was present to answer any questions.

There was discussion among commissioners, staff, and the applicant regarding the project including an arcaded walkway behind the posts on the southern elevation.

Commissioner McCoy spoke of the north elevation facing a parking lot and suggested putting something there to break it up.

Senior Planner Elms responded that it can be part of the landscape plan to add trellises.

Mr. Lee responded that they can add the trellises.

Senior Planner Elms stated that hopefully this will come back in about a month at public hearing after staff hears from the applicant on the traffic study.

Initial feedback provided to applicant, no action taken.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT. Senior Planner Elms had no report.

PLANNING COMMISSION MEMBER REPORTS.

CATES: No report.

FAKTOROVICH: No report.

LIMON: No report.

LLAMAS: Absent.

McCOY: Inquired what will be coming forth to the Planning Commission on August 10th.

Senior Planner Elms responded that it depends on what is provided by applicant, how it can be the same plan or map with different conditions, how the compromise seems to be custom-built homes with conditions to provide a buffer and compromise with residents.

SPADA: Thanked everyone for their participation in the meeting, stated that this is important, and commended the Commission.

TOSCANO: No report.

ADJOURNMENT: The meeting was adjourned at the hour of 9:51 p.m.

APPROVED:

Tom Spada, Chairperson

ATTEST:

Sandra Benetti, Planning Technician



DESIGN REVIEW STUDY SESSION

TO: Chairman Spada and Planning Commissioners

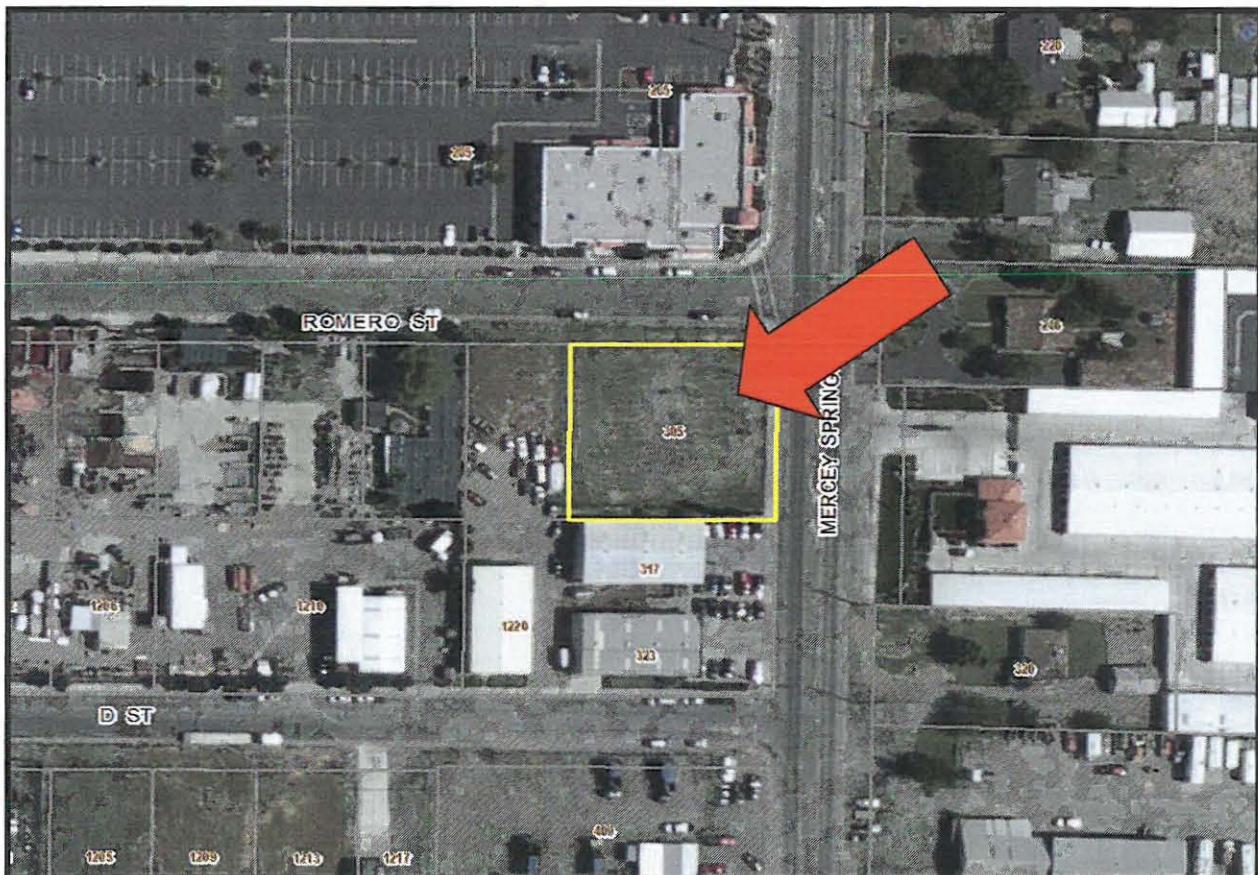
FROM: Stacy Souza Elms, Senior Planner *SE*

DATE: September 14, 2016

SUBJECT: Project Study Session Review – 305 Mercey Springs Road

Project Description

The Applicant, Joseph B. Vieira, is proposing to build a new 4,800 square foot multi-tenant retail building on 0.44 acres at 305 Mercey Springs Road located on the southwest corner of Mercey Springs Road and Romero Street. The proposed building would be divided into 3 suites: 2,400 Laundromat, and two (2) 1,200 square foot suites for future retail. The existing neighborhood currently consists of various commercial uses such as Soares Lumber, Central Valley Smog, Baja Auto Repair, Only Transmissions Specialists, Pinnacle Urgent Care, Bynum's Mortuary, Los Banos Foot Clinic, Premier Cinema, Republic Services, and American Self Storage. The proposed building itself would cover approximately 24% of the existing parcel.



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.

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 preferred style along Mercey Springs Road is Agrarian; however, the Premier Cinema Plaza is more consistent with Spanish/Mission style architecture.

Some of the characteristics of the Community Design Standards incorporated in the elevations include a multiform roof and arcaded entries. In addition to the Community Design Standard requirements, the applicant has incorporated a parapeted roof, various earth tones to break up the building and wall trellises.

The height of the proposed building is in keeping with the surrounding area with a general height of 20 feet and the highest point being 24 feet. The proposed building will have complete visibility from Mercey Springs Road and will be complimentary to the existing area. The orientation of the building is towards Mercey Springs Road with parking in the back which is consistent with the Premier Plaza across the street. There will be no boundary wall or fencing around the perimeter of the project site.

A moderate use of contrasting colors is proposed on different surfaces to provide visual interest and to further articulate the building's mass. The rooftop equipment will be screened by the parapet roof and the downspouts have been integrated into the building's architecture.

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 with various tree, shrub, vine, and ground cover species. The main planting areas are along Mercey Springs Road and Romero Street. Bradford Pear Trees are proposed to be used throughout the parking areas for shading. The shrubs and groundcovers proposed to be used through the site consist of lily of the Nile, fire power nandina, fortnight lily, wheeler dwarf, jack spratt, ballerina Indian hawthorn, photina, and vinca minor.

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 typical parking lot lighting fixtures. In addition, the building will consist of wall mounted sconces around the exterior of the building. All lighting will be directed downward and shielded.

Project Review Board

The proposed project will be 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.

Recommendation

Planning staff has worked closely with the application on the initial design of the proposed project. Staff is requesting that the Planning Commission evaluate the architectural considerations, landscape and site treatment, and lighting elements as described above and provide initial feedback to the applicant on the proposed design. No formal action will be taken at this time.

Attachment

Site Plan
Elevations
Landscape Plan
Neighborhood Photos

PROJECT DATA

A.P.N. 025-133-026-000
 USE: RETAIL
 PROPOSED USE: LAUNDRY/RETAIL SHELL
 OCCUPANCY: M
 TYPE OF CONSTRUCTION: V/B
 ZONING: HC

SITE AREA: 19,800 S.F.
 BUILT AREA: 2,400 S.F.
 SITE (A) AREA: 1,200 S.F.
 BUILT (A) AREA: 1,200 S.F.
 BUILT (C) AREA: 1,200 S.F.
 TOTAL: 4,800 S.F.

REQUIRED PARKING

1 PER 300 S.F.
 PARKING = 4,800/300 = 16
 TOTAL PARKING SPACES REQUIRED: 16 EA.

PARKING-PROVIDED

PROPOSED STANDARD OFF-STREET PARKING SPACES: 16 EA.
 PROPOSED VAN ACCESSIBLE: 1 EA.
 TOTAL: 19 EA.

YARD SET BACK

FRONT YARD: 15 FEET
 SIDE AND REAR YARD: 10 FEET

LOT COVERAGE

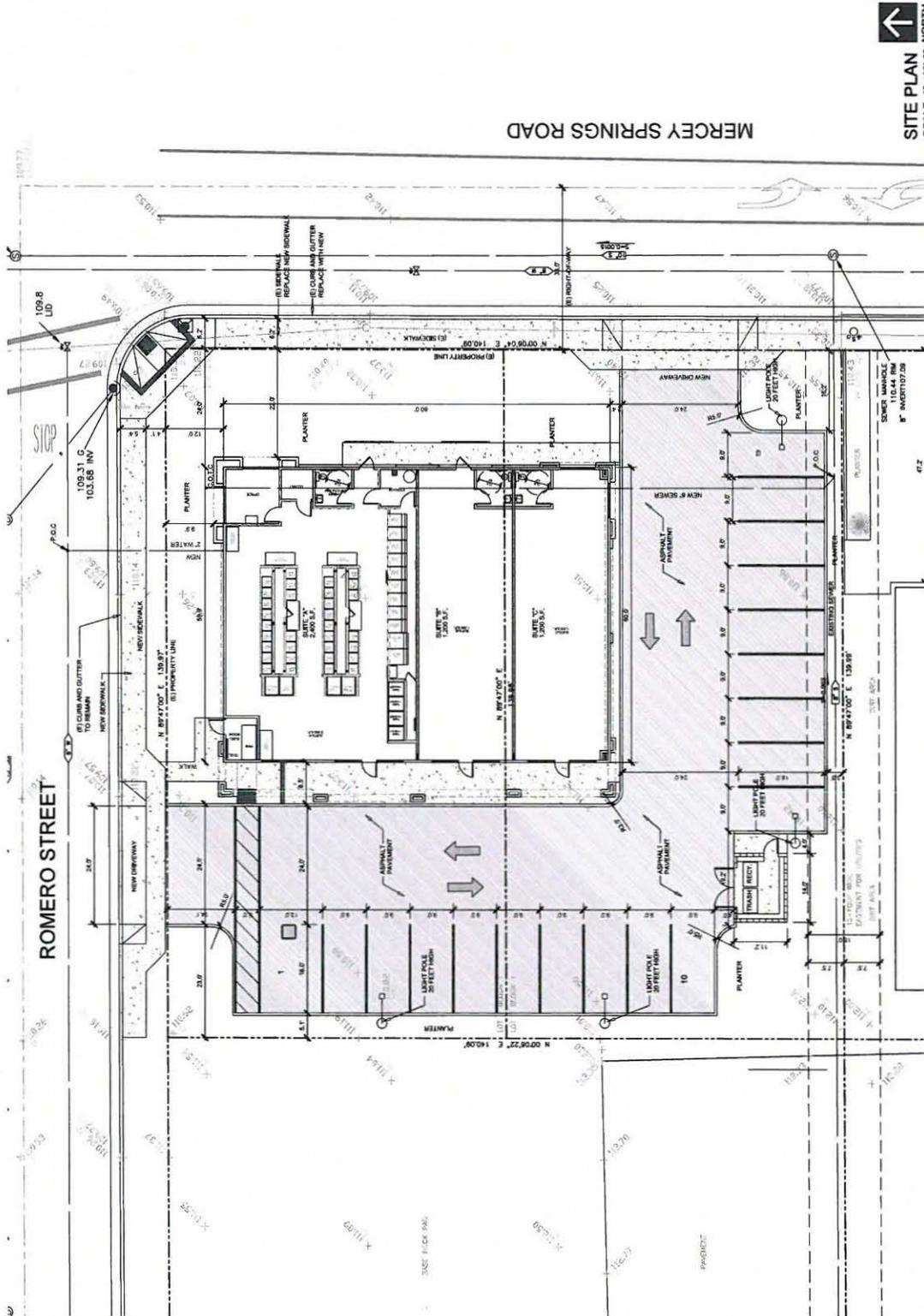
4,800 S.F. OF BUILDING / 19,800 S.F. SITE AREA = 24%
 ASPHALT PAVEMENT AREA = 8,215 S.F.
 LANDSCAPE PAVEMENT AREA = 1,456 S.F.
 LANDSCAPE AREA = 2,429 S.F.

SHEET 1: SITE PLAN
 SHEET 2: FLOOR PLAN
 SHEET 3: EXISTING CONDITIONS
 SHEET 4: CONCEPTUAL LANDSCAPE PLAN

SHEET INDEX



VICINITY MAP



SITE PLAN
 SCALE: 1" = 10'-0"
 NORTH

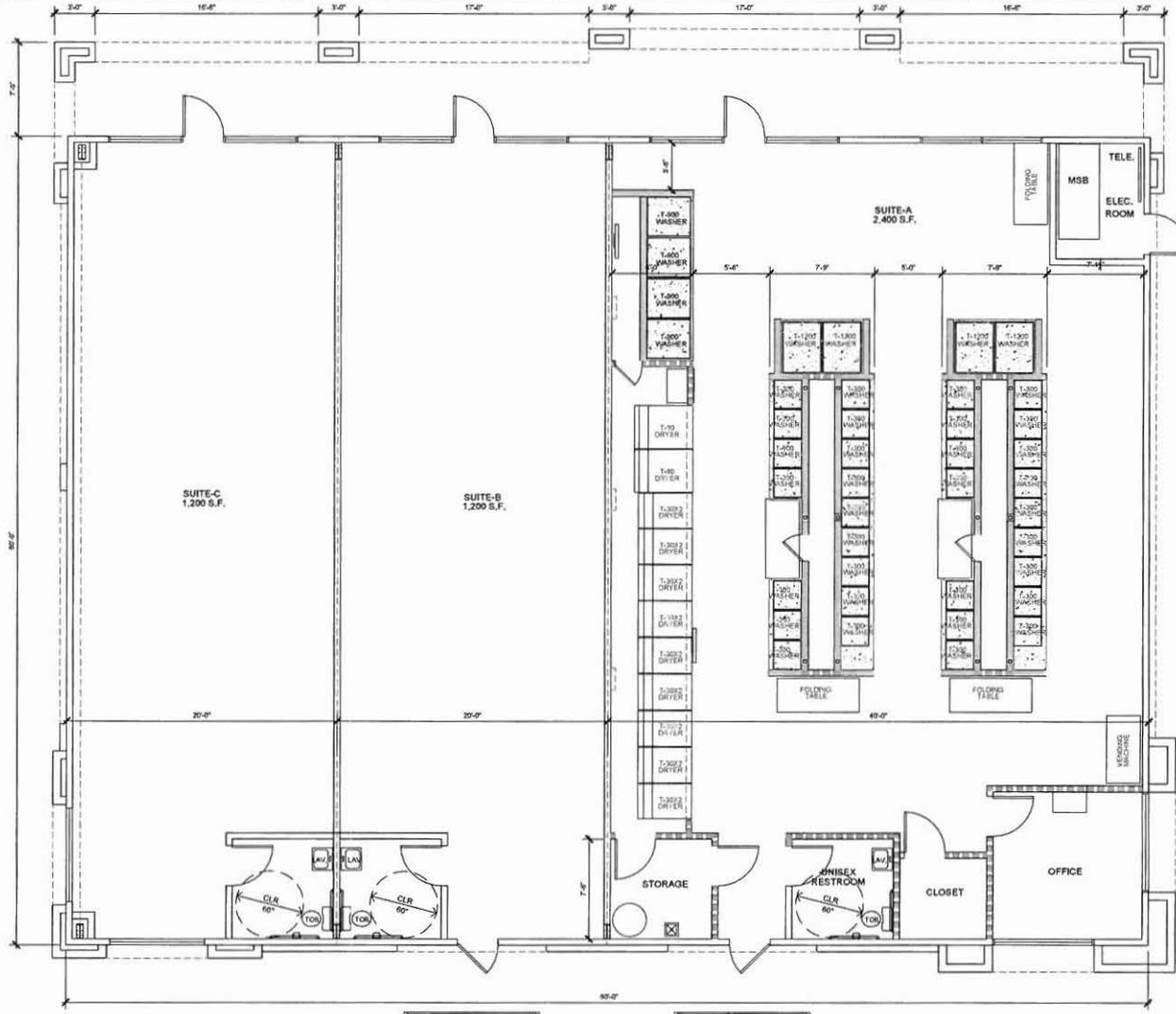


EDMOND JACOBS ARCHITECT
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 Phone: 202-450-0711 | edmond@edmondj.com

PROJECT:
NEW RETAIL BUILDING
 LOS GATOS • CALIFORNIA
 305 MERCY SPRING ROAD
 LOS BANOS • CALIFORNIA

CLIENT:
THE VIEIRA COMPANY
 227 NORTH SANTA CRUZ AVE., SUITE B
 LOS GATOS • CALIFORNIA

AUGUST 18, 2016
 71-08



NORTH

SCALE: 1/4" = 1'-0"

FLOOR PLAN

CLIENT

THE VIEIRA COMPANY

227 NORTH SANTA CRUZ AVE., SUITE B

LOS GATOS • CALIFORNIA

PROJECT:

NEW RETAIL BUILDING

305 MERCY SPRING ROAD

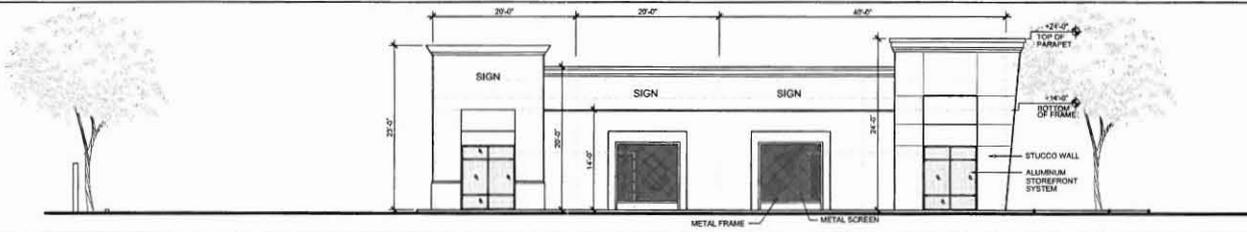
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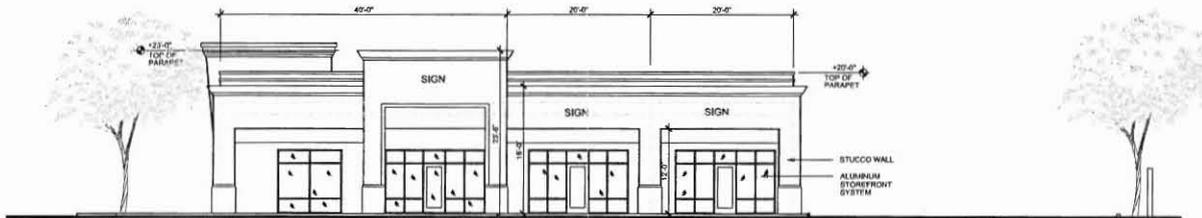
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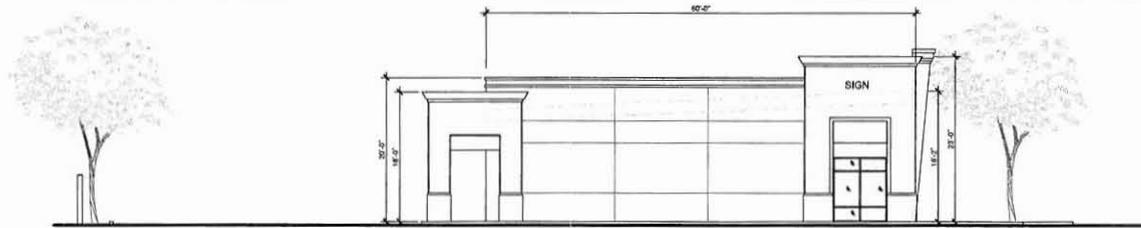
AUGUST 18, 2016
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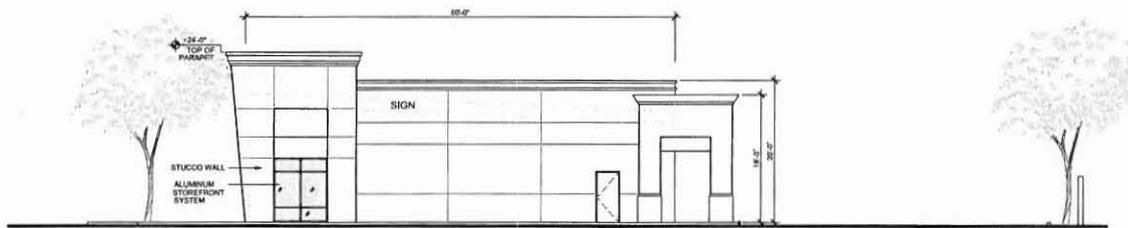
EAST ELEVATION



WEST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION

EXTERIOR COLORS
 STUCCO
 TYPE-A HOT CHOCOLATE-420-5 (PITTSBURG PAINTS)
 TYPE-B SEQUIN-SW6394 (SHERWIN WILLIAMS)
 TYPE-C HEMLOCK-410-5 (PITTSBURG PAINTS)
 TYPE-D GRANITE-421-4 (PITTSBURG PAINTS)
 ALUMINUM STOREFRONT- CLEAR ANODIZED FINISH

EXTERIOR ELEVATIONS
 SCALE: 1/8" = 1'-0"

CLIENT

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LOS GATOS • CALIFORNIA

PROJECT:

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305 MERCY SPRING ROAD

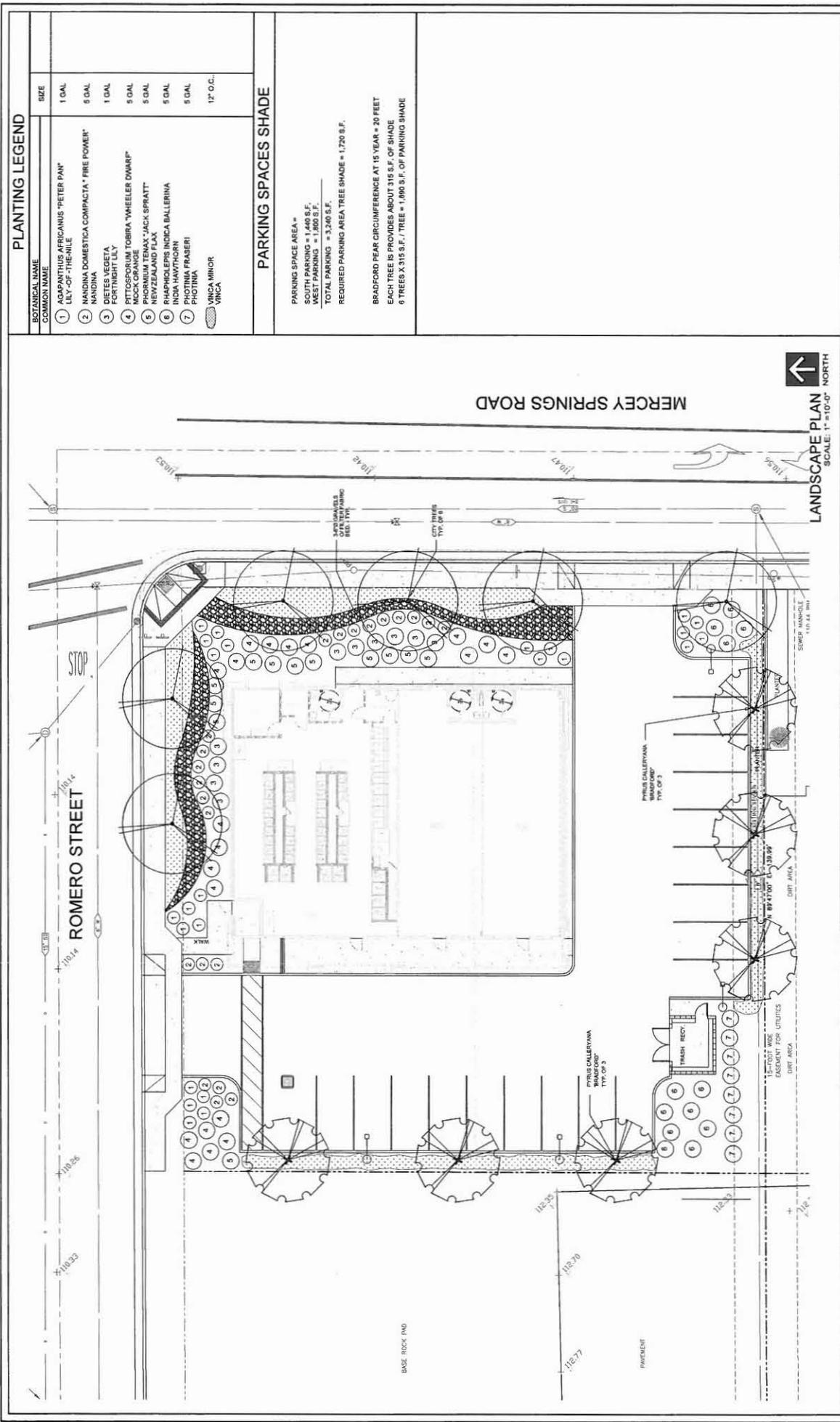
LOS BANOS • CALIFORNIA



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 Phone: 209-498-0974 • edmond@edjarchitect.com

3/4

AUGUST 18, 2016
 71-08



PLANTING LEGEND

BOTANICAL NAME COMMON NAME	SIZE
1 ACACIA THUS AFRICANUS "PETER PAN" ACI-OF-THE-AILE	1 GAL
2 NADINA DOMESTICA COMPACTA "FIRE POWER" NADINA	5 GAL
3 FORTISBERRY LILLY	1 GAL
4 PITTOSPORUM TOBIRA "WHEELER DMMRP" MCKY ORANGE	5 GAL
5 PHORMIUM TENAX "JACK SPRATT" NEW ZEALAND FLAX	5 GAL
6 RHAPHIOLEPIS INDICA BALLERINA INDIA HAWTHORN	5 GAL
7 PHOTINA FRASERI PHOTINA	5 GAL
8 VIVIA MINOR VIVCA	12" O.C.

PARKING SPACES SHADE

PARKING SPACE AREA =
SOUTH PARKING = 1,440 S.F.
WEST PARKING = 1,800 S.F.
TOTAL PARKING = 3,240 S.F.
REQUIRED PARKING AREA TREE SHADE = 1,720 S.F.

BRADFORD PEAR CIRCUMFERENCE AT 15' YEAR = 20 FEET
EACH TREE IS PROVIDES ABOUT 315 S.F. OF SHADE
6 TREES X 315 S.F. / TREE = 1,890 S.F. OF PARKING SHADE

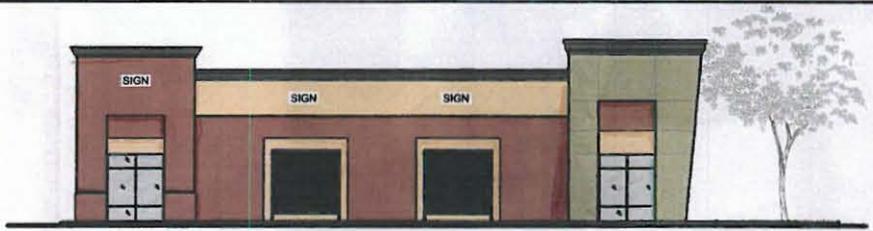
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LANDSCAPE PLAN
SCALE: 1" = 10'-0" NORTH

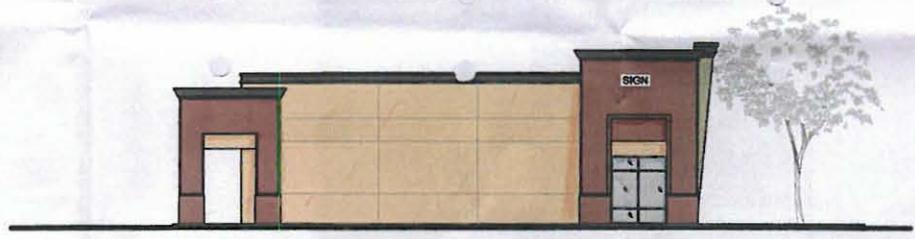
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AUGUST 18, 2016
71-08



EAST ELEVATION



WEST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION

EXTERIOR COLORS
 STUCCO
 TYPE-A HOT CHOCOLATE-430-6 (PITTSBURG PAINTS)
 TYPE-B SEQUIN-SW6294 (SHERWIN WILLIAMS)
 TYPE-C HEMLOCK-416-6 (PITTSBURG PAINTS)
 TYPE-D GRANITE-521-6 (PITTSBURG PAINTS)
 ALUMINUM SOFFRONT - CLEAR ANODIZED FINISH

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EXTERIOR ELEVATIONS
 SCALE: 1/8" = 1'-0"



CLIENT

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NEW RETAIL BUILDING

305 MERCY SPRING ROAD

LOS BANOS • CALIFORNIA



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PHONE: 209-408-0874 | EDJ@EDMONDJACOBS.COM

SITE PLAN 
SCALE: 1" = 10'-0" NORTH











