

NOTICE OF A SPECIAL MEETING

Pursuant to Section 54956 of the Government Code of the State of California, a Special meeting of the City of Tracy **Planning Commission** is hereby called for:

Date/Time: Wednesday, November 14, 2012
7:00 P.M. (or as soon thereafter as possible)

Location: City of Tracy Council Chambers
333 Civic Center Plaza

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Planning Commission on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

SPECIAL MEETING AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTE APPROVAL

DIRECTOR'S REPORT REGARDING THIS AGENDA

ITEMS FROM THE AUDIENCE - *In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2008-140, any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the item shall be placed on an agenda within 30 days*

1. OLD BUSINESS

2. NEW BUSINESS

- A. **PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 1 AND TITLE 10 OF THE TRACY MUNICIPAL CODE, AND AMENDMENTS TO THE I-205 CORRIDOR SPECIFIC PLAN, INDUSTRIAL AREAS SPECIFIC PLAN, AND RESIDENTIAL AREAS SPECIFIC PLAN RELATING TO EATING AND/OR DRINKING ESTABLISHMENTS WITH ENTERTAINMENT – CITY INITIATED – APPLICATION NUMBERS ZA12-0007, SPA12-0005, SPA12-0006, AND SPA12-0007**
- B. **PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE AMENDING SECTIONS 10.210.060 AND 10.12.080 AND ADDING A NEW SECTION 10.12.065 RELATING TO COMPLIANCE WITH REGIONAL HOUSING NEEDS ALLOCATIONS AND STATE AND FEDERAL LAW RELATING TO DEED RESTRICTIONS – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0008**

C. PUBLIC HEARING TO CONSIDER A 60-UNIT RESIDENTIAL APARTMENT PROJECT (MACDONALD APARTMENTS), INCLUDING PARKING AND RELATED ON-SITE IMPROVEMENTS ON APPROXIMATELY 2.87 ACRES LOCATED ON THE NORTH SIDE OF VALPICO ROAD NORTHWEST OF THE INTESECTION OF VALPICO ROAD AND GLENBRIAR DRIVE, 2605 S. MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 246-140-12. THE PROJECT INCLUDES REZONING THE SITE FROM MEDIUM DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL (R12-0002), ZONING REGULATIONS AMENDMENT REGARDING THE MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES (TRACY MUNICIPAL CODE SECTION 10.08.3470) (ZA12-0005), AND DEVELOPMENT REVIEW APPROVAL FOR THE APARTMENT PROJECT (D12-0006). THE APPLICANT IS PETER MACDONALD.

D. PUBLIC HEARING TO CONSIDER A 184-UNIT RESIDENTIAL APARTMENT PROJECT (VALPICO APARTMENTS), INCLUDING PARKING AND RELATED ON-SITE IMPROVEMENTS ON APPROXIMATELY 8.75 ACRES LOCATED ON THE NORTH SIDE OF VALPICO ROAD, NORTHEAST OF THE INTESECTION OF VALPICO ROAD AND GLENBRIAR DRIVE, 501 E. VALPICO ROAD (FORMERLY 2795 S. MACARTHUR DRIVE), ASSESSOR'S PARCEL NUMBERS 246-140-13 AND 14. THE PROJECT INCLUDES A GENERAL PLAN AMENDMENT FROM COMMERCIAL TO RESIDENTIAL HIGH (GPA12-0001), REZONING FROM COMMUNITY SHOPPING CENTER TO HIGH DENSITY RESIDENTIAL (R12-0001), ZONING REGULATIONS AMENDMENT REGARDING THE MINIMUM DISTANCE BETWEEN MAIN BUILDINGS ON A SITE (TRACY MUNICIPAL CODE SECTION 10.08.1610(D)) (ZA12-0004), AND DEVELOPMENT REVIEW APPROVAL FOR THE APARTMENT PROJECT (D12-0004). A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM, PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ARE PROPOSED FOR ADOPTION. THE APPLICANT IS ERIC TAYLOR, SOMIS INVESTMENTS.

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

November 8, 2012

Posted date

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6000), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Development and Engineering Services department located at 333 Civic Center Plaza during normal business hours.

AGENDA ITEM 2-A

REQUEST

PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 1 AND TITLE 10 OF THE TRACY MUNICIPAL CODE, AND AMENDMENTS TO THE I-205 CORRIDOR SPECIFIC PLAN, INDUSTRIAL AREAS SPECIFIC PLAN, AND RESIDENTIAL AREAS SPECIFIC PLAN RELATING TO EATING AND/OR DRINKING ESTABLISHMENTS WITH ENTERTAINMENT – CITY INITIATED – APPLICATION NUMBERS ZA12-0007, SPA12-0005, SPA12-0006, AND SPA12-0007

DISCUSSION

Background

The City's Zoning Ordinance currently permits eating and drinking establishments in the Central Business District Zone, General Highway Commercial Zone, Community Shopping Center Zone, and Highway Service Zone; and conditionally permits them in the Neighborhood Shopping Zone. Eating and drinking establishments are also permitted in certain areas of the I-205 Corridor Specific Plan, Industrial Areas Specific Plan, and the Residential Areas Specific Plan.

On May 30, 2012, an application was submitted for a Conditional Use Permit (CUP) to expand the restaurant and bar operations of The Great Plate (714 Central Avenue) to include entertainment uses, such as live bands, disc jockeys, dancing, and comedy shows, similar to what is commonly referred to as a nightclub. This type of use (an eating and/or drinking establishment with entertainment) is currently not listed in the City's Zoning Ordinance. As a use not listed, it is prohibited until such time that the use is authorized for a particular zone, either as a permitted use or conditionally permitted use, pursuant to Tracy Municipal Code Section 10.08.1070.

On June 28, 2012, City staff informed The Great Plate that their application for a CUP could not be processed until the Zoning Ordinance was amended. City staff returned the application fees to The Great Plate and informed them that the City would initiate a Zoning Ordinance amendment to address this use.

Over the past several months, City staff has also received interest from a potential new business in Tracy, The Frog Eatery & Lounge, with plans for establishing a bar with entertainment at 2706 Pavilion Parkway. The proponent of The Frog Eatery & Lounge has been informed of the City initiated Zoning Ordinance Amendment and is also awaiting the outcome.

Proposed Amendment to the Zoning Ordinance

In drafting this proposed amendment to the Zoning Ordinance, staff aimed to balance the desire for encouraging nightlife and entertainment with the goals of minimizing impacts to public safety resources and ensuring compatibility between neighboring land uses.

Following a review of related ordinances in multiple other cities, including a recently approved ordinance in the City of Walnut Creek, and discussions with City staff from various departments, including Police and Economic Development, staff developed an approach that is intended to encourage evening entertainment in a dining/ post-dining environment while allowing for discretionary review and conditions of approval for establishments serving alcohol and providing late-night entertainment, similar to a nightclub.

The proposed draft ordinance would do the following:

- Eating and/or drinking establishments would be permitted to serve alcohol and provide entertainment up to 11:00 p.m. without requiring a CUP.
- The definition of “entertainment” would be such uses as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances
- A Conditional Use Permit (CUP) would be required for eating and/or drinking establishments that serve alcohol and provide entertainment after 11:00 p.m.
- Eating and/or drinking establishments not providing entertainment would be permitted to serve alcohol before and after 11:00 p.m. without requiring a CUP. This is the same as Tracy’s existing Code.
- Eating and/or drinking establishments not serving alcohol would be permitted to provide entertainment before and after 11:00 p.m. without requiring a CUP.

The time of 11:00 p.m. is recommended by staff as a reasonable threshold for the CUP requirement based on attempting to encourage evening entertainment while still having the necessary controls in place to regulate nightclub-type activity. The City of Walnut Creek’s recently approved ordinance requires a CUP for any eating and/or drinking establishment that serves alcohol after 11:00 p.m., with or without entertainment. Most other cities that staff investigated require a CUP for any bar/restaurant that provides entertainment, regardless of the time of day or night.

The complete draft ordinance is contained in Exhibit 1 to the attached Draft Planning Commission Resolution, Attachment A.

Potential types of conditions of approval that may be relevant to future CUP applications include, but are not limited to, the following:

- Establishment must abide by all licensing requirements of California’s Department of Alcoholic Beverage Control (ABC).
- Security guards required, based on number of occupants. A formula for the number of security guards per number of occupants will be developed by the Police Department.

- Security guards would be required to carry proof of valid registration through the California Department of Consumer Affairs, Bureau of Security and Investigative Services (BSIS) in the form of a Security Guard Card.
- No dual roles for security (i.e. bartender/security).
- No person under 21 years of age allowed in the establishment after 11:00 p.m.
- Trash/litter must be cleaned up from the property by 7:00 a.m. each morning.
- Potential limitations on the hours of operation.
- Requirements regarding Zoning Code regulations, Building Code regulations, Fire Code regulations, and any applicable regulations of the Tracy Municipal Code.

In addition to amending the City's Zoning Ordinance, three Specific Plans would also need to be amended to address the topic on a City-wide basis. The proposed Specific Plan Amendments are described below.

Proposed Amendment to the I-205 Corridor Specific Plan

The I-205 Corridor Specific Plan Area is primarily located in the general vicinity of the shopping areas surrounding Naglee Road, north of I-205, including the West Valley Mall area, Home Depot area, and the Tracy Marketplace area, which is adjacent to W. Grant Line Road, including Wal-Mart and Costco area.

The I-205 Corridor Specific Plan permits eating and drinking establishments in areas designated Commercial Center, General Commercial, Service Commercial, and Freeway Commercial, which generally consists of the areas described above.

Staff is recommending that the I-205 Corridor Specific Plan be amended to be consistent with the proposed amendments to the City's Zoning Ordinance for all areas that permit eating and drinking establishments. The complete Draft Specific Plan Amendment is contained in Exhibit 2 to the attached Draft Planning Commission Resolution, Attachment A.

Proposed Amendment to the Industrial Areas Specific Plan

The Industrial Areas Specific Plan (ISP) generally consists of industrial areas within the City, as is indicated by its name. However, the ISP also contains a couple of areas that permit eating and drinking establishments. The primary area is the Red Maple Village shopping center (Raley's site) at the northeast corner of Tracy Boulevard and Valpico Road. This site is designated Village Center and permits eating and drinking establishments.

A second location within the ISP that permits eat and drinking establishments is a portion of the Flex Office Zone at the northeast corner of Tracy Boulevard and Whispering Wind Drive.

Staff is recommending that the ISP be amended to be consistent with the proposed amendments to the City's Zoning Ordinance for all areas that permit eating and drinking establishments. The complete Draft Specific Plan Amendment is contained in Exhibit 3 to the attached Draft Planning Commission Resolution, Attachment A.

Proposed Amendment to the Residential Areas Specific Plan

The Residential Areas Specific Plan (RSP) generally consists of residential areas within the City, as is indicated by its name. However, the RSP also contains a few areas with commercial zone designations, which permit eating and drinking establishments. These areas primarily include the Save Mart Shopping Center at the southeast corner of W. 11th Street and Corral Hollow Road, the Save Mart Shopping Center at the southwest corner of Tracy Boulevard and Schulte Road, and the commercial area at the southwest corner of Corral Hollow Road and W. Grant Line Road, where Chili's restaurant is located.

Staff is recommending that the RSP be amended to be consistent with the proposed amendments to the City's Zoning Ordinance for all areas that permit eating and drinking establishments. The complete Draft Specific Plan Amendment is contained in Exhibit 4 to the attached Draft Planning Commission Resolution, Attachment A.

Environmental Documentation

The proposed amendments are not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment. (CEQA Guidelines, 14 California Code of Regulations, §15061(b).)

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council approve the proposed amendments to the Tracy Municipal Code, I-205 Corridor Specific Plan, Industrial Areas Specific Plan, and Residential Areas Specific Plan relating to eating and/or drinking establishments with entertainment.

Prepared by: Scott Claar, Associate Planner
Reviewed by: Bill Dean, Assistant Development Services Director
Approved by: Andrew Malik, Development Services Director

ATTACHMENTS

- A: Draft Planning Commission Resolution, including the following exhibits:
Attachment A - Resolution
Exhibit 1 – Draft City Council Ordinance amending the Tracy Municipal Code
Exhibit 2 – I-205 Corridor Specific Plan Amendment
Exhibit 3 – Industrial Areas Specific Plan Amendment
Exhibit 4 – Residential Areas Specific Plan Amendment

RESOLUTION 2012- _____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TRACY RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 1 AND TITLE 10 OF THE TRACY MUNICIPAL CODE, AND AMENDMENTS TO THE I-205 CORRIDOR SPECIFIC PLAN, INDUSTRIAL AREAS SPECIFIC PLAN, AND RESIDENTIAL AREAS SPECIFIC PLAN RELATING TO EATING AND/OR DRINKING ESTABLISHMENTS WITH ENTERTAINMENT
APPLICATION NUMBERS ZA12-0007, SPA12-0005, SPA12-0006, AND SPA12-0007

WHEREAS, The City of Tracy's Zoning Ordinance permits eating and drinking establishments in the Central Business District Zone, General Highway Commercial Zone, Community Shopping Center Zone, and Highway Service Zone, and conditionally permits them in the Neighborhood Shopping Zone; and

WHEREAS, Eating and drinking establishments are also permitted in certain areas of the I-205 Corridor Specific Plan, Industrial Areas Specific Plan, and the Residential Areas Specific Plan; and

WHEREAS, An eating and/or drinking establishment with entertainment is a use not listed in the City's Zoning Ordinance and the I-205 Corridor Specific Plan, Industrial Areas Specific Plan, and Residential Areas Specific Plan; and

WHEREAS, A use not listed is prohibited until such time that the use is authorized for a particular zone, either as a permitted use or conditionally permitted use, pursuant to Tracy Municipal Code Section 10.08.1070; and

WHEREAS, The City initiated proposed amendments to the Tracy Municipal Code, I-205 Corridor Specific Plan, Industrial Areas Specific Plan, and Residential Areas Specific Plan to authorize eating and/or drinking establishments with entertainment as a permitted use or conditionally permitted use in particular zones; and

WHEREAS, The proposed amendments are not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b).); and

WHEREAS, The Planning Commission held a noticed public hearing on November 14, 2012 to consider the proposed amendments;

NOW, THEREFORE BE IT RESOLVED, by the Planning Commission as follows:

1. Tracy Municipal Code Amendment (ZA12-0007)

The Planning Commission recommends that City Council amend the Tracy Municipal Code as shown in attached Exhibit 1.

2. I-205 Corridor Specific Plan Amendment (SPA12-0005)

The Planning Commission recommends that City Council amend the I-205 Corridor Specific Plan as shown in attached Exhibit 2.

3. Industrial Areas Specific Plan Amendment (SPA12-0006)

The Planning Commission recommends that City Council amend the Industrial Areas Specific Plan as shown in attached Exhibit 3.

4. Residential Areas Specific Plan Amendment (SPA12-0007)

The Planning Commission recommends that City Council amend the Residential Areas Specific Plan as shown in attached Exhibit 4.

The foregoing Resolution 2012-_____ was adopted by the Planning Commission on the 14th day of November 2012, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY ADDING NEW SECTIONS 1.08.075, 10.08.295, 10.08.305, AND 10.08.3105, AND AMENDING SECTIONS 1.08.130, 1.16.010, 10.08.1050, 10.08.1080, 10.08.2100, 10.08.2380, 10.08.2510, AND 10.08.4320 OF THE TRACY MUNICIPAL CODE RELATING TO EATING AND/OR DRINKING ESTABLISHMENTS WITH ENTERTAINMENT

WHEREAS, The City of Tracy's Zoning Ordinance permits eating and drinking establishments in the Central Business District Zone, General Highway Commercial Zone, Community Shopping Center Zone, and Highway Service Zone, and conditionally permits them in the Neighborhood Shopping Zone; and

WHEREAS, An eating and/or drinking establishment with entertainment is a use not listed in the City's Zoning Ordinance; and

WHEREAS, A use not listed is prohibited until such time that the use is authorized for a particular zone, either as a permitted use or conditionally permitted use, pursuant to Tracy Municipal Code Section 10.08.1070; and

WHEREAS, The City Council desires to amend the Zoning Ordinance and other sections of the Tracy Municipal Code to authorize eating and/or drinking establishments with entertainment as a permitted use or conditionally permitted use in particular zones; and

WHEREAS, The proposed amendments are not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b).); and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on November 14, 2012 and recommended that City Council _____; and

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

The Tracy City Council hereby ordains as follows:

SECTION 1. A new Section 1.08.075, City departments, is added to Chapter 1.08 (Rules of Construction) of the Tracy Municipal Code to read as follows:

“1.08.075. City departments. From time to time, the City revises the titles of department heads and managers, and the duties of departments, to improve the efficiency and operation of the City. In this Code, when a department director, manager or other employee is referred to by title, it means that department director, manager, or employee currently designated by the city manager to perform the function, regardless of title.

SECTION 2. Subsection (n) of Section 1.08.130, Significance of certain words, of Title 1 (General Provisions) of the Tracy Municipal Code is amended to read as follows:

“1.08.130, Significance of certain words.

The following words shall be interpreted as follows, unless otherwise apparent from the context:

...

(n) “Person” includes any person, firm, company, corporation, partnership, [limited liability company, cooperative, joint venture](#), association, any public corporation, political subdivision, city (excepting, however, the City of Tracy), county district, the State of California, or the United States of America, or any department or agency thereof, unless this Code expressly provides otherwise. [In the case of a property or business, the term “person” includes an owner, a manager, or both.](#)

SECTION 3. Section 1.16.010, Code enforcement – General, is amended to read as follows:

“1.16.010 Code enforcement – general.

It is unlawful for a person to violate a provision, or to fail to comply with a requirement, of this Code. The City may enforce the provisions of this Code by any one or more of the following methods, at the City's discretion:

- (a) Criminal penalties, under chapter 1.04
- (b) Civil injunction, under section 1.16.060
- (c) Regarding land use and development, by the granting or denial of permits, the forfeiture and revocation of permits, or the recording of a notice of violation (See Title 10, Planning and Zoning, and Title 12, Subdivisions);
- (d) Administrative citations and penalties, under chapter 1.28
- (e) Public nuisance abatement, under chapter 1.32
- (f) Building abatement, under any of the uniform building Codes adopted by the City in Title 9, Building Regulations;
- (g) Any other lawful authority.

[For the purpose of enforcing this Code: \(1\) any partner may be named or cited in enforcement against a partnership; \(2\) any managing member may be named or cited in enforcement against a limited liability company; and \(3\) any corporate officer may be named or cited in enforcement against a corporation.”](#)

SECTION 4. A new Section 10.08.295, Eating and/or drinking establishment, is added to Article 2, Definitions, of Title 10 (Planning and Zoning) of the Tracy Municipal Code to read:

“10.08.295 Eating and/or drinking establishment.

“Eating and/or drinking establishment” means a business serving food or beverages for consumption on or off the premises. Typical uses include, but are not limited to, restaurants, bars, fast food establishments, coffee houses, ice cream/yogurt establishments and juice bars.

“Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.” means the business serves alcoholic beverages and provides entertainment such as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances.”

SECTION 5. A new Section 10.08.305, Entertainment, is added to Article 2, Definitions, of Title 10 (Planning and Zoning) of the Tracy Municipal Code to read:

“10.08.305 Entertainment.

“Entertainment” means such uses as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances.”

SECTION 6: Section 10.08.1050, Use Groups for all zones, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read:

“10.08.1050 - Use Groups for all zones.

The table set forth in Section 10.08.1080 of this article sets forth the Use Groups and the uses permitted in each class of residential, commercial, and industrial zone. The first column lists the zones in which a given Use Group is permitted. The second column lists the zones in which the given Use Group is permitted subject to obtaining a conditional use permit pursuant to the provisions of Article 34 of this chapter. In those instances where the zone regulations list specific uses permitted without reference to a Use Group or Groups, such specific uses listed shall supersede the provisions of this article.

[If there is ambiguity or a conflict between activities designated in a use group versus the zoning district, the regulations of the zoning district prevail.](#)”

SECTION 7: Use Group 40 of Section 10.08.1080, Permitted Uses, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read:

“(40)

Use Group No. 40: Traveler's accommodations and services.

| | Permitted in Zones | Conditionally Permitted in Zones |
|--|--------------------|----------------------------------|
| Use Group No. 40: | | |
| Traveler's accommodations and services (transient living service establishments depending on a large trade area) | CBD GHC HS | CS |

| | | |
|---|--------------|--|
| (a) Hotels; | | |
| (b) Motels; | | |
| (c-1) Eating and/or drinking establishment, <u>(with or without entertainment), without serving alcohol and providing entertainment after 11:00 p.m.;</u> | | |
| <u>(c-2) Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.; and</u> | | CBD, GHC, HS, CS, <u>and all Specific Plan and PUD zones that permit eating and drinking establishments.</u> |
| (d) Auto services and emergency repairs. | CBD, GHC, HS | CS |

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SECTION 8: Use Group 43 of Section 10.08.1080, Permitted Uses, of Title to (Planning and Zoning) of the Tracy Municipal Code is amended to read:

“(43)

Use Groups No. 43; Consumer service and retail trade (shopping and services).

| | Permitted in Zones | Conditionally Permitted in Zones |
|---|--|----------------------------------|
| Use Group No. 43: | CS | |
| Consumer service and retail trade (shopping and services) | <u>CBD</u> GHC (See §10.08.2510 (a).) | NS GHC (See §10.08.2510 (b).) |
| (a) Apparel and accessories; | | |
| (b) Business services, including only: | | |
| (1) Addressing; | | |
| (2) Duplication; | | |
| (3) Mailing; and | | |
| (4) Stenography; | | |
| (c-1) Eating and/or drinking <u>establishment (with or without entertainment), without serving alcohol and providing entertainment after 11:00 p.m. In the NS Districts, beverages must be less than 14% alcohol.</u> | | |
| <u>(c-2) Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m. In the NS Districts,</u> | | <u>CS, CBD, GHC, NS, and</u> |

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| | | | |
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| <u>beverages must be less than 14% alcohol.</u> | | <u>Specific Plan and PUD, z that permit eating and drinking establishments</u> | Formatted: Font: Not Bold, Not Italic |
| (d) Furniture, home furnishings, and appliances; | CS CBD GHC | NS GHC | Deleted: CMD Deleted: POM |
| (e) General merchandise stores; | | | |
| (f) Miscellaneous retail stores, excluding fuel and ice dealers, hay, grain, and feed, monuments and tombstones, and auto accessory stores; | | | |
| (g) Parking lots or structures; and | | | |
| (h) Studios, photographers and artists. | | | |

SECTION 9. Section 10.08.2100, Permitted uses (CS), of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read:

“10.08.2100, Permitted uses (CS).

(a) In the CS Zone, only limited retail business, service, and office facilities which are included in the following Use Groups shall be permitted without conditional approval:

| | |
|----------|---|
| Group 1 | Minor public service uses; |
| Group 4 | Temporary buildings and uses; |
| Group 29 | Accessory uses; |
| Group 30 | Places of public assembly such as educational, cultural, institutional, religious, and recreational uses serving local residential areas, excluding uses that are classified within Use Group No. 48; |
| Group 41 | Business offices and professional offices and laboratories; |
| Group 42 | Consumer service and retail trade (convenience); |
| Group 43 | Consumer service and retail trade (shopping and services), except for uses listed as c-2, Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.; |
| Group 44 | Consumer service and retail trade (goods and services); and |
| Group 54 | Small recycling collection facilities. |

(b) In the CS Zone, limited retail businesses, services, and office facilities which are included in the following Use Groups shall be permitted only with conditional use permits:

| | |
|--------------------------|--|
| Group 2 | Local public service and utility installations; |
| Group 31 | Educational, cultural, institutional, and recreational uses; |
| Group 40 | Traveler's living accommodations, except trailer courts; Deleted: and |
| Group 43 | Consumer service and retail trade, subsection c-2, Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.; and |
| Group 45 | General consumer and business services. |

“

SECTION 10. Section 10.08.2380, Permitted uses (CBD), of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read:

“10.08.2380, Permitted uses (CBD).

(a) In the CBD Zone, only general business, commercial, wholesale, and governmental activities which are included in the following use groups shall be permitted without conditional approval:

| | |
|----------|--|
| Group 1 | Minor public service uses; |
| Group 4 | Temporary buildings and uses; |
| Group 29 | Accessory uses, including signs; |
| Group 40 | Travelers' living accommodations, except for Uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.; |
| Group 41 | Business offices and professional offices and laboratories; |
| Group 42 | Retail trade establishments; except veterinary clinics; |
| Group 43 | Consumer service and retail trade establishments, except for Uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.; and |
| Group 54 | Small recycling collection facilities. |

(b) In the CBD Zone, general business, commercial, wholesale, and governmental activities which are included in the following use groups shall be permitted only with conditional approval:

| | |
|----------|--|
| Group 2 | Local public service and utility installations; |
| Group 10 | Crop and tree farming; |
| Group 23 | Multi-family uses; |
| Group 24 | High density multi-family uses and apartment hotels; |
| Group 29 | Accessory uses; |
| Group 30 | Places of public assembly such as educational, cultural, institutional, religious, and |

| | |
|-----------------|---|
| | recreational uses serving local residential areas, excluding uses that are classified within Use Group No. 48; |
| Group 31 | Educational, cultural, institutional, and recreational uses; |
| Group 32 | Educational, cultural, institutional, and recreational uses with special site or locational requirements; |
| <u>Group 40</u> | <u>Traveler’s living accommodations, subsection c-2, Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;</u> |
| <u>Group 43</u> | <u>Consumer service and retail trade, subsection c-2, Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;</u> |
| Group 44 | Consumer service and retail trade establishments; and |
| Group 45 | General consumer and business services, miscellaneous repairs, and catering services only. |

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SECTION 11. Section 10.08.2510, Permitted uses (GHC), of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read:

“10.08.2510, Permitted uses (GHC).

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

| | |
|----------|--|
| Group 1 | Minor public service uses; |
| Group 4 | Temporary buildings and uses; |
| Group 29 | Accessory uses; |
| Group 30 | Educational, cultural, institutional and recreational uses (neighborhoods); |
| Group 31 | Educational, cultural, institutional and recreational uses serving the greater community; |
| Group 40 | Traveler’s living accommodations, except <u>for Uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m., and trailer parks;</u> |
| Group 41 | Business offices/professional offices and laboratories, excluding dwelling units; |
| Group 42 | Retail trade establishment, convenience or goods; food stores, except supermarkets; |
| Group 43 | Consumer services and retail trade establishments, except (a), <u>(c-2),</u> (e), and (f); |
| Group 44 | Consumer services and retail trade; |
| Group 45 | General consumer and business services; |
| Group 46 | Special retail trade and consumer establishments; |
| Group 47 | Special business, consumer, and miscellaneous repair services; |
| Group 50 | Farm equipment sales and services; and |
| Group 51 | Wholesale trade establishments. |

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

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

“

SECTION 12. A new Section 10.08.3105, Enforcement, is added to Article 23 (General Provisions, Conditions and Exceptions) of Title 10 (Planning and Zoning) of the Tracy Municipal Code to read as follows:

“10.08.3105 Enforcement.

The City may enforce the requirements of this Title 10, Planning and Zoning, by any one or more of the following methods at the City's discretion:

- (a) Criminal penalties, under chapter 1.04
 - (b) Civil injunction, under section 1.16.060
 - (c) Regarding land use and development, following notice and the opportunity for hearing, by:
 - (1) the granting or denial of permits;
 - (2) the forfeiture and revocation of permits; or
 - (3) the recording of a notice of violation (See also Title 12, Subdivisions);
 - (d) Administrative citations and penalties, under chapter 1.28;
 - (e) Public nuisance abatement, under chapter 1.32;
 - (f) Building abatement, under any of the uniform building Codes adopted by the City in Title 9, Building Regulations;
 - (g) Any other lawful authority.
- (See also TMC Section 1.16.010.)

For the purpose of enforcing this Code: (1) any partner may be named or cited in enforcement against a partnership; (2) any managing member may be named or cited in enforcement against a limited liability company; and (3) any corporate officer may be named or cited in enforcement against a corporation.”

SECTION 13. Section 10.08.4320, Permits for conditional uses – Conditions of approval, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read:

“10.08.4320 Permits for conditional uses – Conditions of approval.

In recommending the approval of a conditional use permit, the Commission, in its resolution, shall state those conditions of approval necessary to protect the public health, safety, and general welfare. Such conditions may include:

- (a) Special yards, spaces, and buffers.
- (b) Fences and walls;
- (c) The surfacing of parking areas and provisions for surface water drainage, subject to City specifications;
- (d) Requiring street dedications and improvements, including service roads or alleys when practical;
- (e) The regulation of the points of vehicular ingress and egress;
- (f) The regulation of signs;
- (g) Requiring the maintenance of the grounds;
- (h) Requiring landscaping and the maintenance thereof;
- (i) The regulation of noise, vibration, odors, and other similar characteristics;
- (j) The regulation of the time for certain activities to be conducted on the site;
- (k) The time period within which the proposed use shall be developed;
- (l) A bond, deposit of money, or letter of credit for the completion of the street improvements and other facilities or for the removal of such use within a specified period of time to assure faithful performance on the part of the applicant; and
- (m) [The security to be provided at the site.](#)
- (n) Such other conditions as will make possible the development of the City in an orderly and efficient manner in conformance with the intent and purposes set forth in this chapter. “

SECTION 14. This Ordinance takes effect 30 days after its final passage and adoption.

SECTION 15 This Ordinance shall be published once in the Tri-Valley Times, a newspaper of general circulation, within 15 days from and after its final passage and adoption.

* * * * *

Ordinance _____
Page 10

Exhibit 1

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the _____ day of _____, 2012, and finally adopted on the _____ day of _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

Table A-2 of Appendix A of the I-205 Corridor Specific Plan is amended to read as follows:

TABLE A-2

PERMITTED AND CONDITIONALLY PERMITTED COMMERCIAL AND INDUSTRIAL USES

| | CC | GC | SC | FC | LI |
|---|---------------|----------|----------|----------|----|
| Business Services e.g., reproduction, delivery, repair services | | | P | | C |
| Day Care Centers e.g., community care facilities | P | P | P | | C |
| Eating <u>and/or</u> Drinking Establishment, <u>(with or without entertainment²)</u> , <u>without serving alcohol and providing entertainment² after 11:00 p.m.</u> | P | P | P | P | |
| <u>Eating and/or Drinking Establishment that serves alcohol and provides entertainment² after 11:00 p.m.</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> | |
| Equipment Rental and Sales | | | P | | C |
| Gas & Service Stations | C | C | C | P | C |
| Hydrocarbon Resources Extraction | C | C | C | C | C |
| Lodging e.g., hotels, motels | C | P | | P | |
| Manufacturing & Processing | | | C | | P |
| Mini Storage | | | P | | P |
| Outdoor Sales or Display of Merchandise e.g., lumber yards, nurseries, etc. | | C | C | | C |
| Offices e.g., Medical, dental, business, professional, banks, financial services | P | P | P | C | C |
| Park & Ride or Off-site Parking Facilities | C | C | C | C | C |
| Personal Services e.g., nail, hair, tanning salons | P | P | | | |
| Places of Assembly e.g., places of worship, private clubs and related uses | C | C | C | | C |
| Public Streets & Utilities | P | P | P | P | P |
| Recreational Uses e.g., miniature golf, bowling alley, instructional or educational performing arts, gymnastics, etc. | P | C | P | | |
| Residential Uses | See Table A-1 | | | | |
| Retail and Consumer Services e.g., building materials and hardware stores, garden center, clothing and show stores, department stores, drug stores and grocery stores | P | P | P | | |

Deleted: &
Deleted: s

Deleted: e.g., restaurants, bars

Exhibit 2

| | | | | | |
|--|-----|-----|-----|-----|-----|
| Schools e.g., public, private, trade, vocational, etc. | C | P | C | | C |
| Temporary Uses as Permitted in TMC Sec. 10.08.4240 | TUP | TUP | TUP | TUP | TUP |
| Vehicle Sales, Service, & Rental (1) | | C | C | | |
| Warehouse & Distribution | | | C | | P |

Note 1: Accessory uses shall be allowed as provided in the Tracy Municipal Code.

Note 2: “Entertainment” means such uses as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances.

The Village Center Zone of the Industrial Areas Specific Plan is amended as follows:

- The use shown as “Eating and drinking establishments (excluding drive-thru establishments)” in the list of permitted uses in the Village Center Zone is amended as follows:

Eating and/or drinking establishment (with or without entertainment¹), without serving alcohol and providing entertainment¹ after 11:00 p.m.
Establishments with drive-thru are not permitted.

- Note 1 is added below the list of permitted and conditionally permitted uses in the Village Center Zone to state the following:

Note 1: The definition of “entertainment” is such uses as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances.

- The following use is added to the list of uses that require a Conditional Use Permit in the Village Center Zone:

Eating and/or drinking establishment that serves alcohol and provides entertainment¹ after 11:00 p.m. Establishments with drive-thru are not permitted.

The Flex Office Zone of the Industrial Areas Specific Plan is amended as follows:

- The use shown as “Eating and drinking establishments with beer and wine sales only” in the list of permitted uses in Building J only of the Flex Office Zone is amended as follows:

Eating and/or drinking establishment with beer and wine sales only (with or without entertainment¹), without serving alcohol and providing entertainment¹ after 11:00 p.m.

- Note 1 is added below the list of permitted and conditionally permitted uses in the Flex Office Zone to state the following:

Note 1: The definition of “entertainment” is such uses as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances.

- The following use is added to the list of uses that require a Conditional Use Permit in the Flex Office Zone:

Eating and/or drinking establishment (beer and wine sales only) that serves alcohol and provides entertainment¹ after 11:00 p.m. (Building J only)

Land Use Section 4.1.2.1, Neighborhood Shopping, of the Residential Areas Specific Plan is amended as follows:

- The use shown as “Restaurants serving beverages with less than 14 percent alcohol” in the list of conditionally permitted uses for NS sites is amended as follows:

Eating and/or drinking establishment serving beverages with less than 14 percent alcohol (with or without entertainment¹), without serving alcohol and providing entertainment¹ after 11:00 p.m.

- Note 1 is added below the list of permitted and conditionally permitted uses for NS sites to state the following:

Note 1: The definition of “entertainment” is such uses as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances.

- The following use is added to the list of conditionally permitted uses for NS sites:

Eating and/or drinking establishment (serving beverages with less than 14 percent alcohol) that serves alcohol and provides entertainment¹ after 11:00 p.m.

Land Use Section 4.1.2.2, General Highway Commercial, of the Residential Areas Specific Plan is amended as follows:

- The use shown as “Restaurants” in the list of permitted uses for GHC sites is amended as follows:

Eating and/or drinking establishment (with or without entertainment¹), without serving alcohol and providing entertainment¹ after 11:00 p.m.

- Note 1 is added below the list of permitted and conditionally permitted uses for GHC sites to state the following:

Note 1: The definition of “entertainment” is such uses as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances.

- The following use is added to the list of conditionally permitted uses for GHC sites:

Eating and/or drinking establishment that serves alcohol and provides entertainment¹ after 11:00 p.m.

AGENDA ITEM 2-B

REQUEST

PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE AMENDING SECTIONS 10.210.060 AND 10.12.080 AND ADDING A NEW SECTION 10.12.065 RELATING TO COMPLIANCE WITH REGIONAL HOUSING NEEDS ALLOCATIONS AND STATE AND FEDERAL LAW RELATING TO DEED RESTRICTIONS – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0008

DISCUSSION

Background

The State Department of Housing and Community Development (HCD) requires that Cities adopt Housing Elements for five-year cycles. The intent of the adoption of the document is to address the housing needs of all economic segments of the community, identifying how the housing needs of the existing and future residents of Tracy can be met. Tracy's Housing Element for the 2009-2014 cycle was adopted by City Council on May 15, 2012, and certified by HCD on July 26, 2012. The Planning Commission reviewed the Housing Element at a public hearing on March 14, 2012, and following the hearing adopted a resolution recommending City Council approval of the Housing Element.

Part of the approval of the City's Housing Element is a Housing Plan that includes all of the implementing tools for the 2009-2014 Housing Element. Program 13 of this plan, under the category of "Remove Governmental Constraints" is a proposal to amend the City's Growth Management Ordinance (GMO) to remove the governmental constraint of annual limitations on Residential Growth Allotments (RGAs) and building permits. Specifically, the amendment would allow the City to issue building permits up to the Regional Housing Needs Allocation (RHNA) number to achieve its obligation in each income category. This program also requires that due to the inconsistency with state and federal housing programs, the deed restriction of 55 years on affordable units must be revised to a deed restriction of ten years.

Tracy's GMO allows for a maximum of 750 RGAs and building permits to be issued annually, with an average of 600 to be maintained (calculated from January 2000 to present day). There are several exemptions to these annual caps, including home remodels, house replacements, secondary residential units (also referred to as mother-in-law units), and small projects such as single custom homes that meet certain requirements.

The City's RHNA obligation for this Housing Element Cycle (2009-2014) is 4,888 units total (divided among all four income categories: Very Low, Low, Moderate and Above Moderate). The numerical limits of the GMO (600 annual average) would not allow a rate of residential construction during this Housing Element cycle that would achieve the RHNA. With less than three years left in the cycle, that would allow only 1,800 new housing units – 2695 short of the RHNA.

On March 1, 2011, City Council directed staff to propose to HCD an amendment to the City's GMO that would allow for building permits for housing units to be issued in order to meet the City's RHNA obligation. Staff proposed the amendment to HCD in the form of a revised draft Housing Element with said provisions, and HCD responded by certifying the Housing Element upon the condition that we amend the GMO accordingly. This amendment must be completed within one year from the certification of the Housing Element (by July of 2013). Additionally, the program requires the City to reduce the deed restriction on affordable units from 55 years to ten years.

Proposed Zoning Code Amendment

The proposed amendment is contained in the draft Ordinance, Exhibit 1 to the attached Planning Commission Resolution, Attachment B. The proposal would add a section discussing RHNA compliance that would allow for building permits for residential housing units to be issued in excess of the 600 average and 750 maximum in order to meet the RHNA for Tracy for the Housing Element cycle. The amendment also makes the timeframe for maintenance of housing affordability consistent with state and federal law requirements. Minor clarifications to Tracy Municipal Code Section 10.12.060 regarding exemptions are also proposed, and do not add, change or delete any exemptions, but rather create sub-titles to ease understanding and readability of the section.

CEQA Compliance

The proposed amendments to the Growth Management Ordinance are consistent with the Initial Study and Negative Declaration for the Housing Element adopted by the City Council on May 15, 2012. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15183, no further environmental review is required.

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council approve the proposed Ordinance, adding Tracy Municipal Code Section 10.12.065, and amending Tracy Municipal Code Sections 10.12.060, and 10.12.080, regarding building permit issuance for housing units to meet the RHNA for the Housing Element cycle and revising the timeline of affordable housing deed restrictions.

Prepared by: Victoria Lombardo, Senior Planner
Reviewed by: Bill Dean, Assistant Development Services Director
Approved by: Andrew Malik, Development Services Director

ATTACHMENTS

Attachment A – Housing Element Excerpt related to RHNA GMO revision
Attachment B – Proposed Planning Commission Resolution with attached Draft City Council Ordinance (Exhibit 1)

Funding Sources: Departmental Budget

Program 13: Growth Management Ordinance (GMO)

Under the GMO, builders must obtain a Residential Growth Allotment (RGA) in order to secure a residential building permit. The GMO limits the number of RGA's and building permits to an average of 600 housing units per year for above moderate income housing with a maximum of 750 units in any single year. The City is proposing to amend the GMO to ensure that the RHNA can be entirely accommodated within each income category for the Housing Element planning period. Specifically, the City is proposing to amend the GMO which would allow issuance of building permits, up to the City's RHNA in each income category based on HCD criteria. Should the demand for building permits exceed Measure A limits in a calendar year, the City would issue building permits until the City's RHNA obligation in each income category for the planning period has been met. The GMO shall be revised to include a new "RHNA exemption". The number of RGAs and building permits issued under this exemption shall be included in the existing calculations for GMO averages. Additionally, in no RHNA planning period shall the City issue permits that exceed the higher of GMO maximums or RHNA by income category.

By Contrast, current exemptions in the GMO include the following: (1) rehabilitations or additions to existing structures; (2) conversions of apartments to condominiums; (3) replacement of previously existing dwelling units that had been demolished; (4) construction of "model homes" until they are converted to residential units; (5) development of a project with four or fewer dwelling units; and (6) secondary residential units.

With the exception of the new RHNA exemption, residential projects currently exempt from the GMO are not counted toward the 600 annual average or the 750 annual maximum. The RHNA exemption, in contrast to the other exemptions listed above, would be limited to the number of permits necessary to achieve the RHNA for each income category during each Housing Element planning period.

In addition, the current GMO requires that the affordable units utilizing the affordable housing exemption be deed restricted for 55 years. Recognizing that the 55-year deed restriction term is not consistent with several State and federal housing programs, the City will be amending the GMO to reduce the affordability restriction to ten years.

Objectives and Timeframe:

- Amend the GMO within one year of the adoption of the Housing Element.
- Annually monitor and evaluate the Growth Management Ordinance for the impacts on the cost, supply and timing of housing including seeking input from residential developers and affordable housing stakeholders in reviewing the effects of the GMO. The annual review will analyze the ability to accommodate the City's regional housing need, constraints on supply and affordability of housing and the process for applying and reviewing allocations. The review will reflect the RHNA as a minimum and consider impacts on overall housing supply in addition to accommodating the RHNA. Factors to be considered include:
 - New RHNA exemption program;
 - Overall impacts on housing supply based on the new RHNA exemption in addition to the annual limit;
 - Number of building permits issued under the exemption by income categories and housing type;
 - Number of total applications, applications approved or denied and developer interest in applications;
 - Timing for approving allocations; and
 - Potential uncertainty associated with scoring criteria used to evaluate application for allocations.

Information will be included and evaluated as part of the annual Growth Management Status report, published in the fourth quarter of each calendar year. Based on the outcomes of the evaluation and consideration of stakeholder input, the City will establish appropriate action such as revising the ordinance within one year of the evaluation.

Responsible Agency: Tracy Development and Engineering Services (DES) Department
Funding Sources: Departmental Budget

RESOLUTION 2012-_____

RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE
AMENDING THE TRACY MUNICIPAL CODE REGULATIONS
(TMC SECTIONS 10.12.060 AND 10.12.080)
AND ADDING NEW SECTION (10.12.065)
REGARDING RHNA COMPLIANCE AND DEED RESTRICTIONS
APPLICANT IS THE CITY OF TRACY – APPLICATION NUMBER ZA12-0008

WHEREAS, The Tracy Municipal Code (TMC) contains regulations related to the management of residential growth, and

WHEREAS, the Department of Housing and Community Development establishes a Regional Housing Needs Allocation (RHNA) to assure that housing is provided for all economic segments of the community, and

WHEREAS, the City adopted a Housing Element on May 15, 2012, and on July 26, 2012 the Department of Housing and Community Development found that Housing Element to be in compliance with state housing element law on the condition of implementation of Program 13 of the Housing Element, establishing a RHNA exemption and revising the timeline for deed restrictions on affordable housing, and

WHEREAS, the City wishes to amend its Growth Management Ordinance to allow for compliance with the RHNA as established in the City's adopted Housing Element, and

WHEREAS, The proposed amendments to the GMO will not be detrimental to the health safety and welfare of the residents of Tracy because they ensure that the GMO's numeric caps on the number of permits issued annually will not prevent the City from meeting its Regional Housing Needs Assessment, and

WHEREAS, On November 14, 2012 the Planning Commission held a public hearing to review and discuss the proposed amendments to the Residential Growth Management Ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby recommends that the City Council approves the amendments to the Tracy Municipal Code Residential Growth Management Ordinance regarding compliance with RHNA and affordability deed restriction timelines as indicated in Exhibit 1.

* * * * *

The foregoing Resolution 2012-_____ was adopted by the Planning Commission on the 14th day of November, 2012, by the following vote:

| | |
|----------|---------------------|
| AYES: | Commission Members: |
| NOES: | Commission Members: |
| ABSENT: | Commission Members: |
| ABSTAIN: | Commission Members: |

Chair

ATTEST:

Staff Liaison

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING TRACY MUNICIPAL CODE SECTIONS 10.12.060 and 10.12.080 AND ADDING A NEW SECTION 10.12.065 RELATING TO COMPLIANCE WITH REGIONAL HOUSING NEEDS ALLOCATIONS AND STATE AND FEDERAL LAW RELATING TO DEED RESTRICTIONS WITHIN THE RESIDENTIAL GROWTH MANAGEMENT PLAN

WHEREAS, The City Council adopted the Housing Element for the 2009-2014 cycle on May 15, 2012 and the state Department of Housing and Community Development accepted that Housing Element on the condition that the City amend the Growth Management Ordinance to allow for compliance with the Regional Housing Needs Assessment and to amend deed restrictions for affordable housing units to gain compliance with state and federal laws, and

WHEREAS, The City Council held a public hearing to consider the proposed ordinance amendments on December 4, 20012,

The Tracy City Council hereby ordains as follows:

SECTION 1: Section 10.12.060, Exemptions, of Chapter 10.12 (Residential Growth Management Plan) of the Tracy Municipal Code, is amended to read as follows:

“10.12.060 - Exemptions.

A project shall be exempt from further compliance with this chapter if the developer includes (in addition to the requirements of this chapter and the GMO guidelines) documentation, to the satisfaction of the Development and Engineering Services Director, which establishes that the development project which is the subject of the application meets the requirements of one of the following subsections:

- (a) Remodel; minor addition; conversion. The development project is a rehabilitation or remodeling of, or a minor addition to, an existing structure, or a conversion of apartments to condominiums; or
- (b) Replacement. The development is replacing legally established dwelling units that have been demolished and do not exceed the number of legally established dwelling units demolished. Where the number of new dwelling units exceeds the number of legally established dwelling units demolished, an allocation of RGAs must be obtained for the additional dwelling units; or
- (c) Model homes. To the extent the development project includes "model homes" (structures used as an advertisement for housing sales and not used as dwellings), the model homes shall not be required to obtain an allocation of RGAs; provided, however;
 - (1) the number of model homes shall be limited to the lesser of 20% of the total dwelling units identified in the application, or seven dwelling units per project;
 - (2) prior to the issuance of each building permit, the subdivider shall pay all required fees, including impact fees required by title 13 of this Code; and
 - (3) model homes may be converted and occupied as dwellings only after RGAs are allocated for each dwelling unit as required by this chapter; or

Deleted: twenty percent (

Deleted:)

Deleted: (7)

- (d) Four units or fewer on a single lot. The development project is either a four-plex or lesser number of dwelling units on a single existing lot; provided, however;
 - (1) the dwellings are not part of a larger eligible parcel that will result in more than four dwelling units at build-out of the project;
 - (2) the exemption is limited to no more than a total of four such dwelling units per subdivider per calendar year; and
 - (3) prior to the issuance of each building permit, the subdivider shall pay all required fees, including impact fees required by title 13 of this Code.

Deleted: (4)

- (e) Second unit. The development is a secondary residential unit.
(See also Residential Housing Allocations at TMC Section 10.12.065 and Exceptions at TMC section 10.12.080.)

Deleted: 1

SECTION 2: A new Section 10.12.065, Residential Housing Allocations, is added to Chapter 12.10 (Residential Growth Management Plan) of the Tracy Municipal Code to read as follows:

“Section 10.12.065, Compliance with the Regional Housing Needs Assessment

(a) Authority. This section is enacted under the authority of and is intended to comply with and implement Government Code section 65584.

(b) RHNA. The State Department of Housing and Community Development requires that each city adopt a housing element as part of its general plan. That Department also establishes a “Regional Housing Needs Allocation” (RHNA) for all cities, setting forth the target number of dwelling units to be constructed during any planning period. (The “planning period” is defined in each housing element. The planning period in effect at the time this code amendment was adopted is July 1, 2009 through June 30, 2014.) The RHNA housing unit allocations are established by income categories: very low-, low-, moderate, and above-moderate-income.

(c) Requirement. Notwithstanding other provisions of this chapter, in any calendar year, once building permits have been issued for the number of residential units permitted by this chapter, the City shall issue additional building permits for residential dwelling units if they are necessary to achieve the RHNA goals in a particular income category (during each planning period). The number of building permits may not exceed the RHNA goals in each income category. Any building permits issued in accordance with this provision shall not require an RGA.

(d) GMO averages. The number of building permits issued under this authority shall be included in the calculations of GMO average under TMC Section 10.12.110.”

SECTION 3. Section 10.12.080, Exceptions, of Chapter 10.12 (Residential Growth Management Plan) of the Tracy Municipal Code, is amended to read as follows:

“10.12.080 - Affordable housing project exceptions.

An application for an RGA shall be considered an affordable housing project exception if the application includes (in addition to the application requirements of this chapter and the GMO guidelines) documentation, to the satisfaction of the Board, which establishes that the housing unit which is the subject of the application meets the following requirements:

- (a) The housing unit meets the income level requirements for low, very low, or moderate income levels, as defined by section 10.12.030
- (b) The housing unit is formally dedicated to provide affordable dwelling units in accordance with a locally recognized program.
- (c) The applicant provides documentation that the requirements of this section will be met and maintained for a minimum of ten years.”

Deleted: fifty-five (55)

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

SECTION 5. This Ordinance shall be published once in the Tri Valley Times, a newspaper of general circulation, within 15 days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the _____ day of _____, 2012, and finally adopted on the _____ day of _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 2-C

REQUEST

PUBLIC HEARING TO CONSIDER A 60-UNIT RESIDENTIAL APARTMENT PROJECT (MACDONALD APARTMENTS), INCLUDING PARKING AND RELATED ON-SITE IMPROVEMENTS ON APPROXIMATELY 2.87 ACRES LOCATED ON THE NORTH SIDE OF VALPICO ROAD NORTHWEST OF THE INTERSECTION OF VALPICO ROAD AND GLENBRIAR DRIVE, 2605 S. MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 246-140-12. THE PROJECT INCLUDES REZONING THE SITE FROM MEDIUM DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL (R12-0002), ZONING REGULATIONS AMENDMENT REGARDING THE MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES (TRACY MUNICIPAL CODE SECTION 10.08.3470) (ZA12-0005), AND DEVELOPMENT REVIEW APPROVAL FOR THE APARTMENT PROJECT (D12-0006). THE APPLICANT IS PETER MACDONALD.

DISCUSSION

Project Description

The proposal is to construct a 60-unit, multi-family residential project on approximately 2.87 acres (Attachment A). The existing single-family home on the site (Attachment B) will be removed as part of the Project. The Project consists of three, three-story apartment buildings: two buildings containing 24 units each and one building containing 12 units (Attachment C). No subdivision is proposed at this time; all units will be rental apartments.

Attachments D, E, F, and G contain the Project's exterior building elevations, floor plans, conceptual landscape plan, and site cross sections, respectively.

Two different exterior building elevations are proposed. Both versions include tile roofs, decorative window trim and shutters, building articulation, mass variations and are integrated with landscaping to create a high-quality architectural design. The developer is seeking approval of both versions so he can choose one version or the other at the time of construction. Both versions meet City standards, are of equally high quality for this site. Staff is recommending that both versions be approved so the developer may retain flexibility to decide which version to construct at the time of building permit application.

The grade of the site is significantly lower than the adjacent Valpico Road grade. And although fill will be brought on to the site to raise its grade several feet, the finished grade at Building 1 (the Building closest to Valpico Road) will be approximately 15 feet below the Valpico Road grade. The site will slope generally downhill from south to north. The site cross sections (Attachment G) illustrate the proposed grades and slopes of the Project site.

A masonry wall is proposed (on private property) along the Valpico Road property line directly south of Building 1. The wall's height on the Valpico Road side will be six feet, and stepping down to four feet as it gets closer to Glenbriar Drive. The wall will not be constructed within approximately 60 feet from the Glenbriar Drive/Valpico Road

intersection. The wall is designed by the applicant to help mitigate traffic noise from Valpico Road and for privacy for the private, outdoor decks of the Building 1 ground floor units. The wall will have the opportunity for vines or ivy planted on the Valpico Road side to grow onto the wall.

Thirty of the Project's 60 units will have two bedrooms and two bathrooms each, and the other 30 units will contain one bedroom and one bathroom each. The units range in size from approximately 900 square feet to over 1200 square feet.

Adjacent to the east of the Project site is a vacant, 8.75-acre site on which the Valpico Apartments project is proposed. Glenbriar Drive will be extended north from Valpico Road to provide access to both sites and to potential future development to the north of the Project site. Attachment H contains a composite site plan which includes both the proposed MacDonald Apartments Project and the proposed Valpico Apartments project. The Valpico Apartments project is also scheduled for Planning Commission consideration on this Planning Commission agenda.

Parking – Tracy Municipal Code Amendment

City parking standards require 1.5 off-street parking spaces per one-bedroom unit, 2.0 spaces per unit with two or more bedrooms, and one guest space for every five units. This 60-unit project, therefore, would require 117 off-street parking spaces. The Project, by contrast, proposes 99 off-street parking spaces – 15 percent fewer than is required by City parking standards. City staff's recommended solution is to amend City parking standards to allow the project to be constructed as proposed.

The number of off-street parking spaces required for multi-family projects by the City of Tracy is higher than many other jurisdictions. Recognizing this, the City Council has adopted policies directing the City to evaluate and amend off-street parking requirements. For example, two related General Plan Housing Element policies relate to this topic:

Policy 3.5: "Promote flexible development standards to provide for a variety of housing types."

Policy 4.1: "Review and adjust, as appropriate, residential development standards, regulations, ordinances, and processing procedures that are determined to constrain housing development."

Measure T-2 of the City's Sustainability Action Plan addresses off-street parking requirements more directly:

Sustainability Action Plan Measure T-2, in relevant part: Reduced Parking Requirement.

Amend the Zoning Ordinance to allow a reduction in parking requirements under the following circumstances:

- Actual demand lower than as required in code as demonstrated by a parking study.
- Proximity to bus stop/transit.

Following is a proposed addition to the City's off-street parking ordinance 10.08.3470(e):

Off-Street Parking Space Reduction. The number of off-street parking spaces required in Section 10.08.3480 may be reduced by up to 20 percent if the owner of the property submits a parking study documenting that such off-street parking spaces will not be necessary to mitigate parking demands for a use or project. The parking study shall contain surveys or documented parking demand for similar uses or other written documentation to the satisfaction of the Development Services Director. The determination regarding an off-street parking space reduction shall be made by the Development Services Director, unless the permit or approval for the project or use must otherwise receive Planning Commission or City Council approval, in which case the off-street parking space reduction determination shall be made by the Planning Commission or City Council, whichever has review authority for the project or use. In making a determination regarding an off-street parking space reduction, the Director, Commission, or Council shall take into account the following: the parking study; the availability of nearby on- or off-street parking; accessibility to nearby public transit; the City site planning design goals; and other relevant information.

This new section would allow the City to consider reductions to the number of required off-street parking spaces on a case-by-case basis. This proposed section presumes the City's existing standards are reasonable, but allows a property owner to submit a project specific parking study to seek permission to reduce the number of spaces required for a specific project.

For this Project, the applicant prepared a parking study (Attachment I) to evaluate the number of parking spaces appropriate for this project. The parking study includes a survey of parking demand for five existing apartment complexes in Tracy, a comparison of parking requirements by other cities, and an analysis of projected parking demand for the proposed Project.

The parking study demonstrates that 99 off-street parking spaces for this project (particularly given the number of bedrooms in each unit and the availability of on-street parking) will adequately mitigate the parking demand.

Staff is recommending approval of both the addition to the Tracy Municipal Code and to the determination that 99 parking spaces is adequate for this Project.

Rezoning to High Density Residential

In 2006, the subject property's General Plan designation was changed to Residential High. The 2011 General Plan update confirmed the Residential High General Plan designation.

General Plan Action LU-1.1 A1 of the Land Use Element directs the City to, "Amend the zoning code and map for overall consistency with the General Plan." Part of this Project is a request to rezone the site to High Density Residential to make it consistent with the

General Plan. This request is a follow up item to the General Plan update, one that would have been initiated by the City, eventually, if it were not requested as part of this Project.

Public Schools

The Project site is located within the Tracy Unified School District related to K through 12th grade education. School age children who reside within the Project would be in the attendance boundary areas for Bohn Elementary School, Williams Middle School, and Tracy High School.

The Project plans, notices, and other outreach has been extended to Tracy Unified School District staff. Their only comments on the Project are that they do not anticipate any issues in being able to accommodate students from this Project.

Public Meeting and Notices

On September 12, 2012, the developer conducted a neighborhood meeting to introduce the project and answer questions. The developer sent approximately 170 notices to nearby property owners and the Hidden Lake property owners association. Approximately one dozen nearby property owners and residents attended, plus developer representatives and City staff.

The City published notices regarding this project and tonight's public hearing to a similar number of nearby property owners in addition to the newspaper and other normal notices.

Most inquiries as a result of Project outreach have been fact finding clarifications regarding Project design, timing, and nearby planned roadway or other City improvements.

CEQA DOCUMENTATION

The Project is consistent with the Residential High designation and the density requirements of the City's General Plan. The proposal does not change the development density established by the General Plan for which an Environmental Impact Report was certified on February 1, 2011 (State Clearinghouse Number 2008092006). Therefore, in accordance with California Environmental Quality Act Guidelines Section 15183, no further environmental assessment is required.

RECOMMENDATION

Staff recommends that the Planning Commission recommends that the City Council take the following action:

1. Approve the rezoning of the site from Medium Density Residential to High Density Residential.
2. Approve the Tracy Municipal Code Amendment regarding off-street parking space reduction.

3. Determine that 99 off-street parking spaces is sufficient to mitigate parking demands of the project.
4. Approve the Development Review application for the 60-unit residential apartment project.

MOTION

Move that the Planning Commission recommends that the City Council take the following action, as documented in the November 14, 2012 Planning Commission Resolution:

1. Approve the rezoning of the site from Medium Density Residential to High Density Residential.
2. Approve the Tracy Municipal Code Amendment regarding off-street parking space reduction.
3. Determine that 99 off-street parking spaces is sufficient to mitigate parking demands of the project.
5. Approve the Development Review application for the 60-unit residential apartment project.

Prepared by Alan Bell, Senior Planner
Reviewed by Bill Dean, Assistant Development Services Director
Approved by Andrew Malik, Development Services Director

ATTACHMENTS

Attachment A – Location Map
Attachment B – Aerial Photograph of the Site
Attachment C – Site Plan
Attachment D – Exterior Building Elevations
Attachment E – Floor Plans
Attachment F – Conceptual Landscape Plan
Attachment G – Site Cross Sections
Attachment H – Composite Site Plan Including the Proposed MacDonald and Valpico Apartment Projects
Attachment I – MacDonald Apartments Parking Study
Attachment J – General Plan Map of Site Area
Attachment K – Zoning of Site Area
Attachment L – Planning Commission Resolution with Project Conditions of Approval

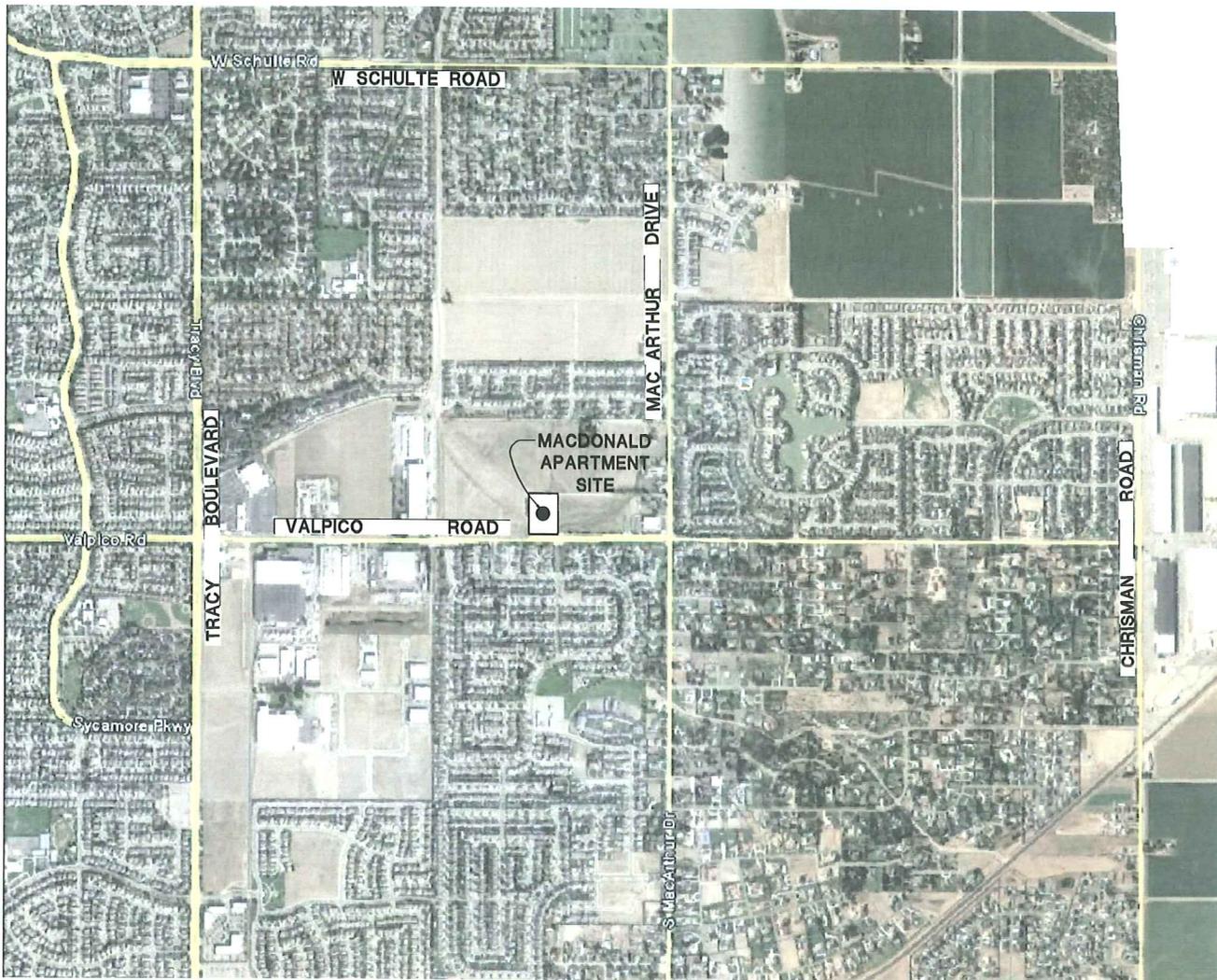
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LOCATION MAP

Mackay & Somps

ENGINEERS
PLEASANTON, CA

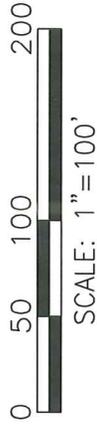
PLANNERS

SURVEYORS
(925)225-0690

MACDONALD APARTMENTS

TRACY, CALIFORNIA

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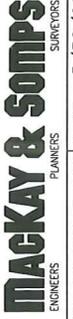
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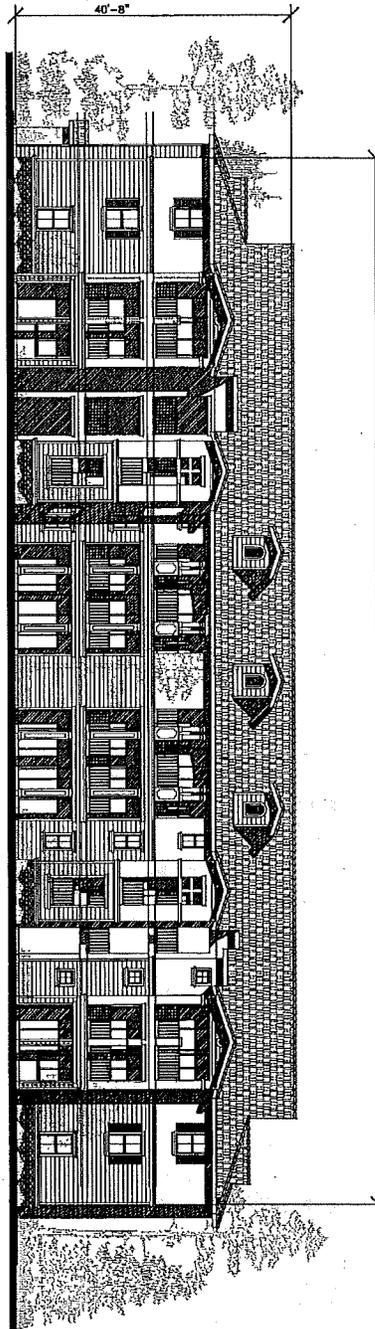
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MACDONALD APARTMENTS

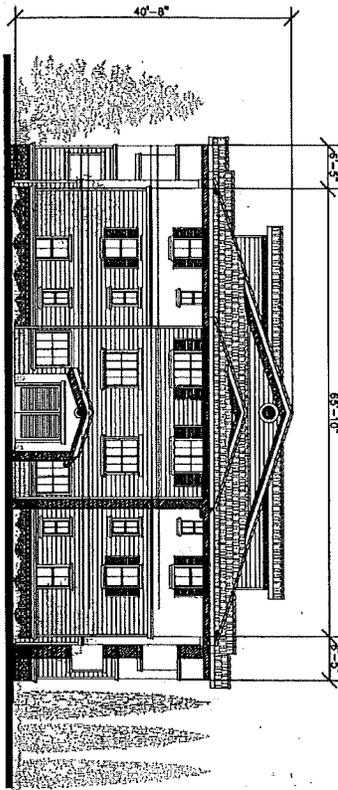
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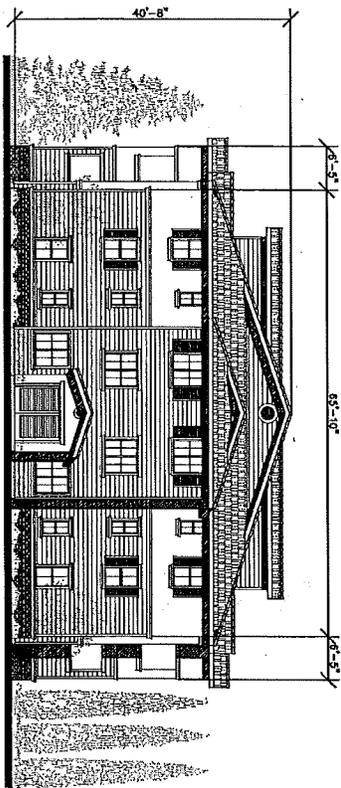
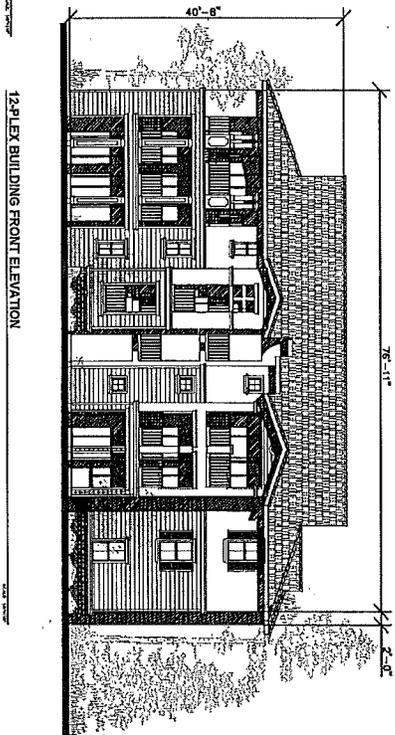
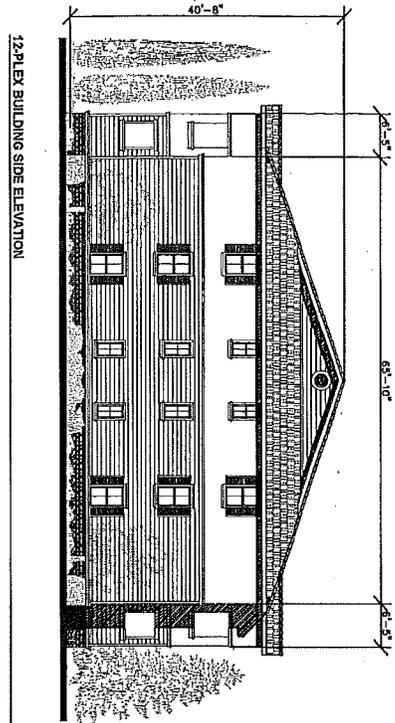
24-PLEX BUILDING FRONT ELEVATION



24-PLEX BUILDING TYPICAL SIDE ELEVATION

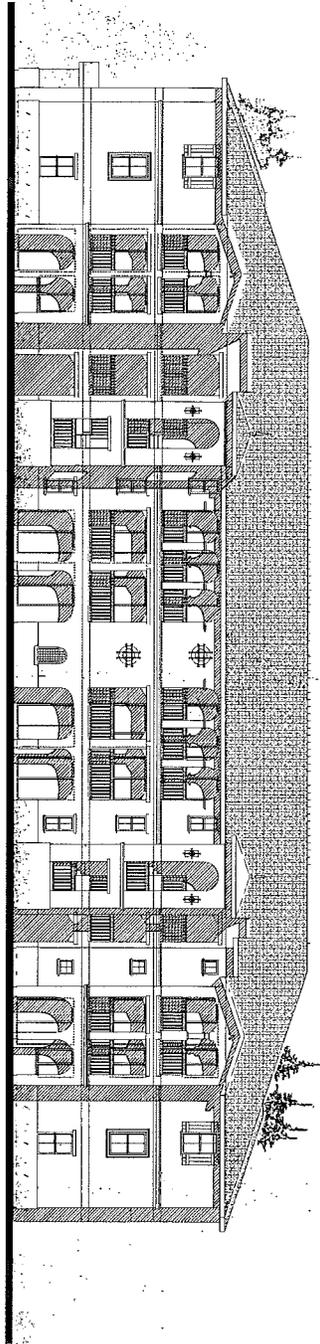
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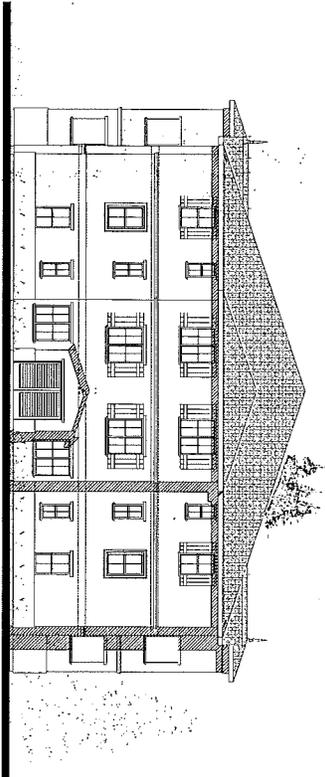


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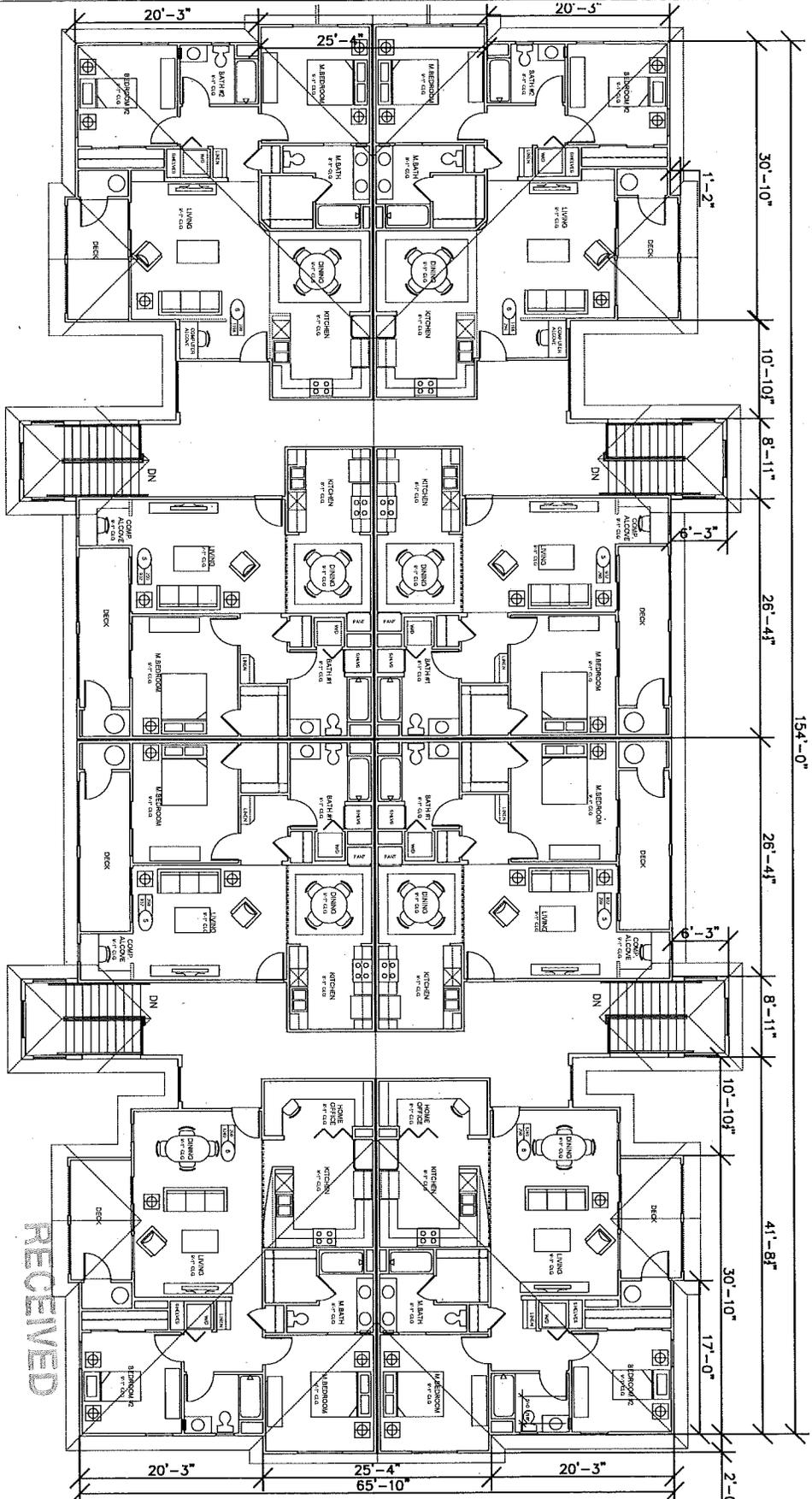


24-PLEX BUILDING TYPICAL SIDE ELEVATION

Various Agreements

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24-PLEX BUILDING PLAN



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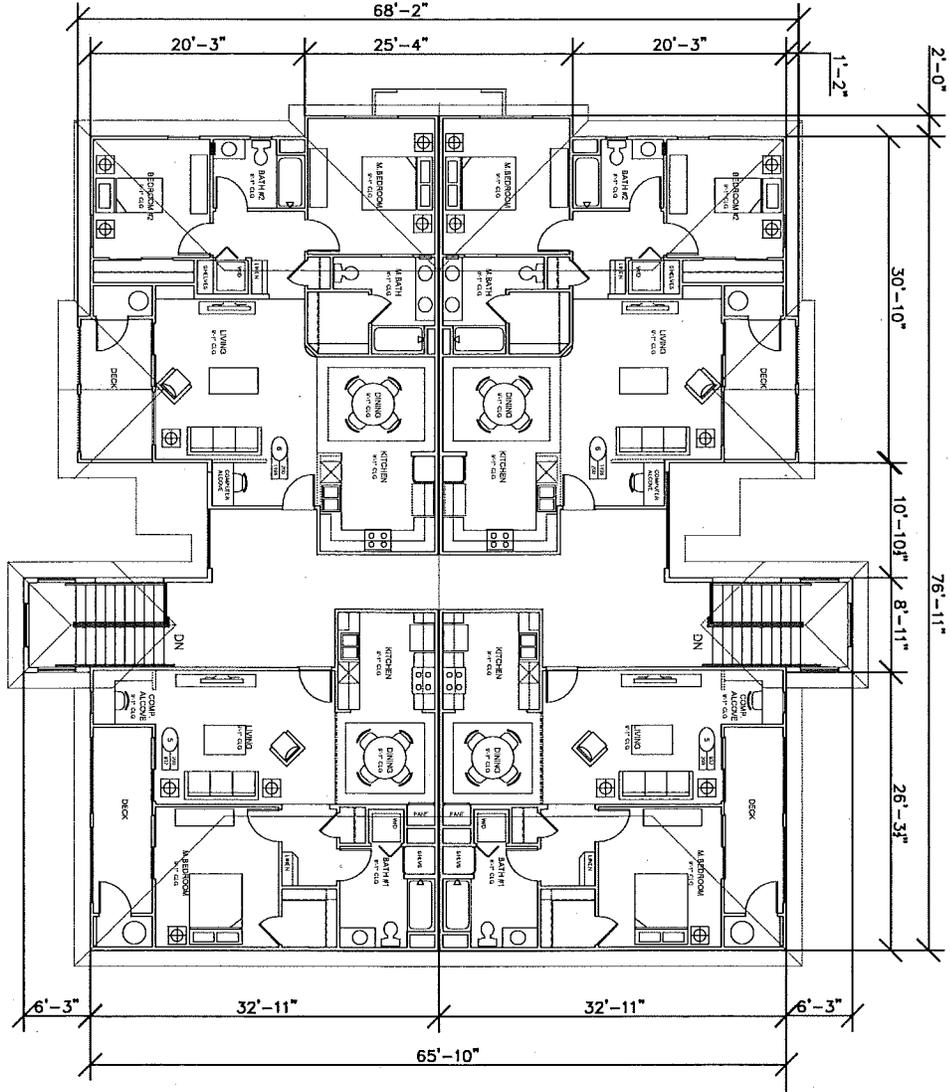
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Tablet Green Architects
77 Main Street
Tracy, CA 95376
Tel: 209.944.1111
www.tabletgreen.com

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12-PLEX BUILDING PLAN



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OF 10 SHEETS
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PLANS FOR THE IMPROVEMENT OF
MACDONALD APARTMENTS
DEVELOPMENT REVIEW
BUILDING FLOOR PLANS
12 - PLEX BUILDING
TRACY CALIFORNIA

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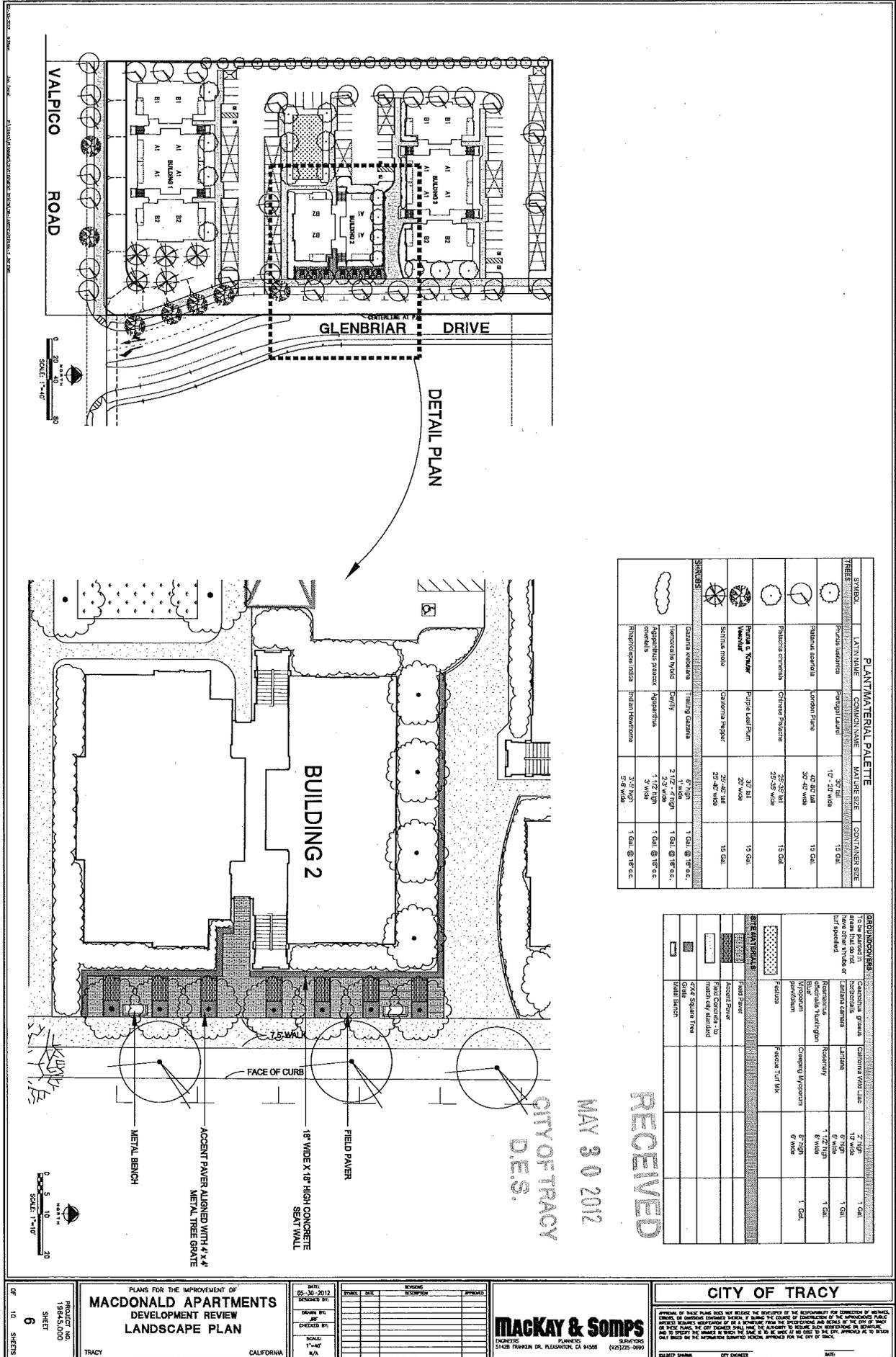
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Toblesky Green Architects
Architects
1700 Main Street
Tracy, CA 95376
TEL: 920.260.0000
WWW.TGA-ARCHITECTS.COM

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PLANS FOR THE IMPROVEMENT OF
MACDONALD APARTMENTS
DEVELOPMENT REVIEW
LANDSCAPE PLAN

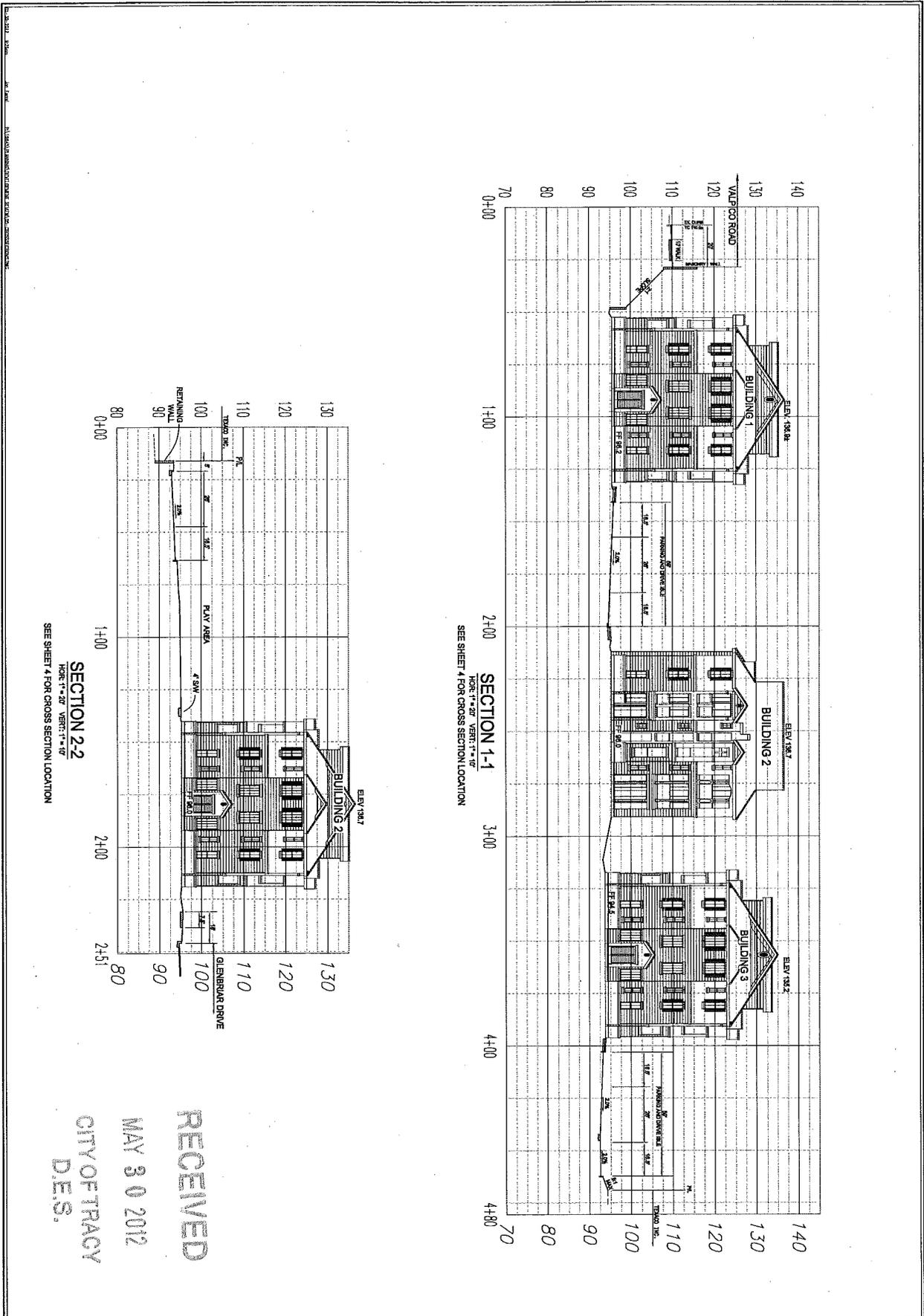
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PROJECT NO: 13645.000
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Mackay & Somp
51428 Franklin Dr., Pleasanton, CA 94568
(925) 225-0600

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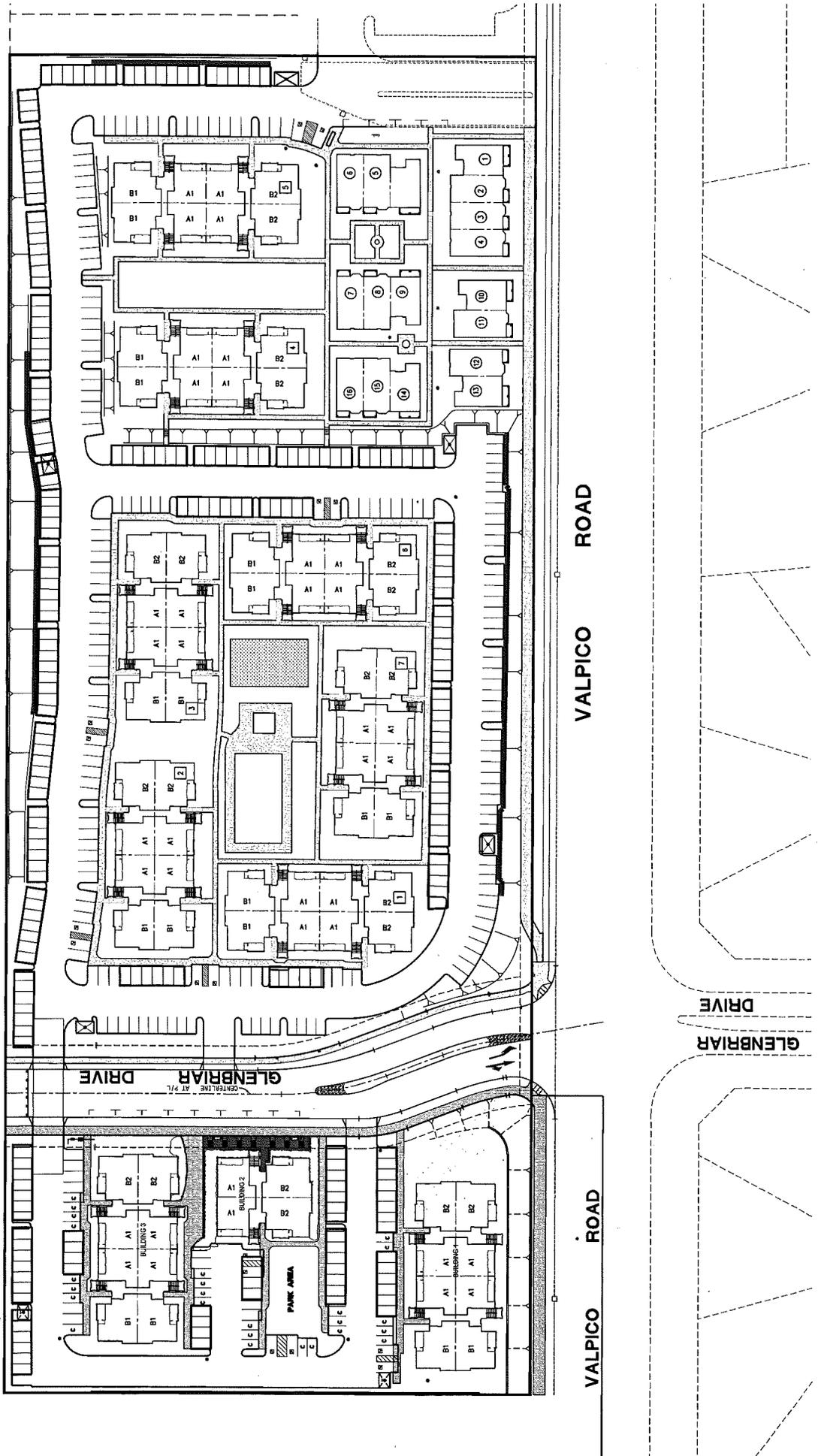


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SECTION 1-1
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VALPICO ROAD

GLENBRIAR DRIVE

VALPICO ROAD

A complete copy of this study can be obtained at the City of Tracy Development Services Department, City Hall.

Tracy Parking Study

June 2012

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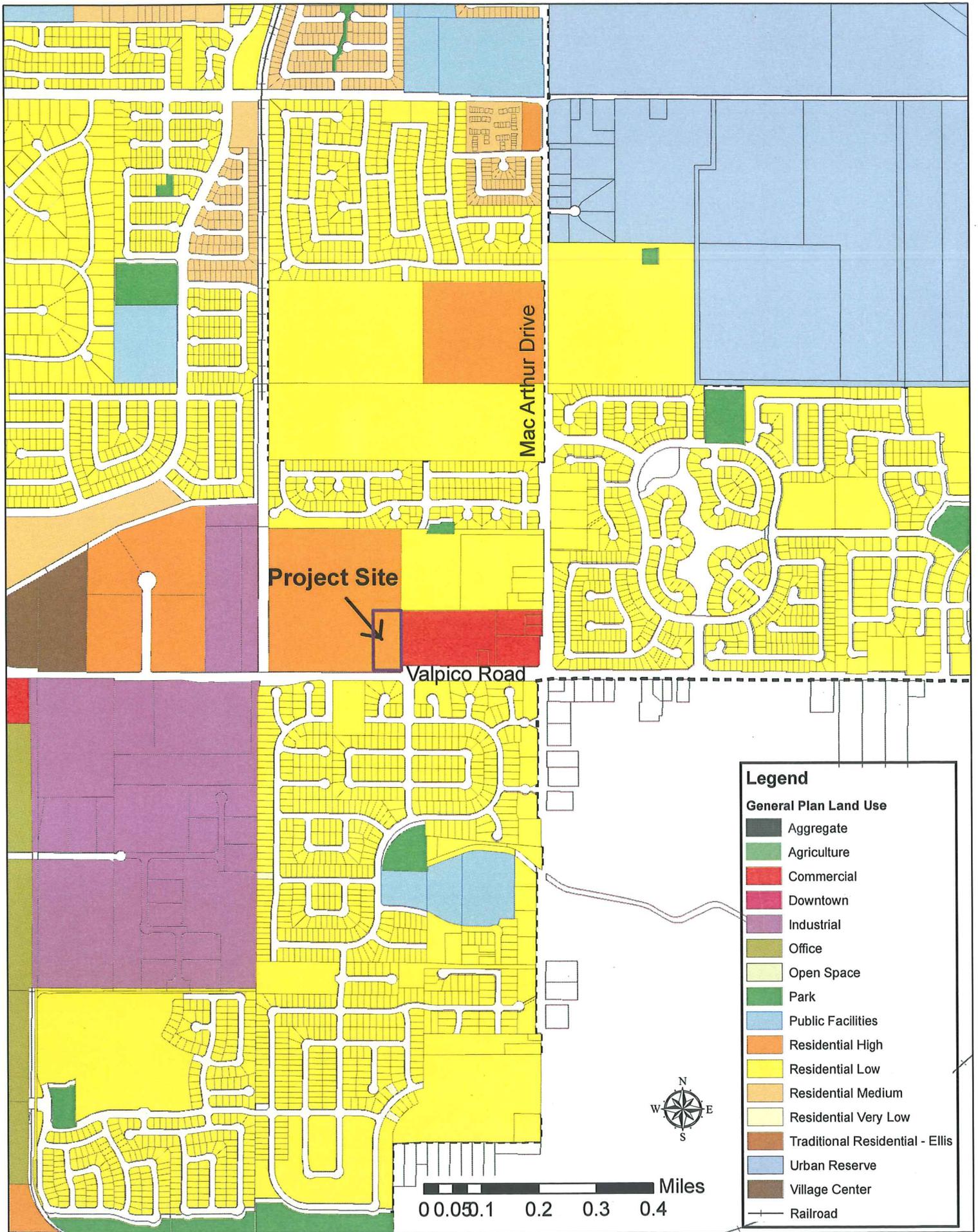
CITY OF TRACY
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**Prepared by:
Peter MacDonald
M.S. Urban Planning**

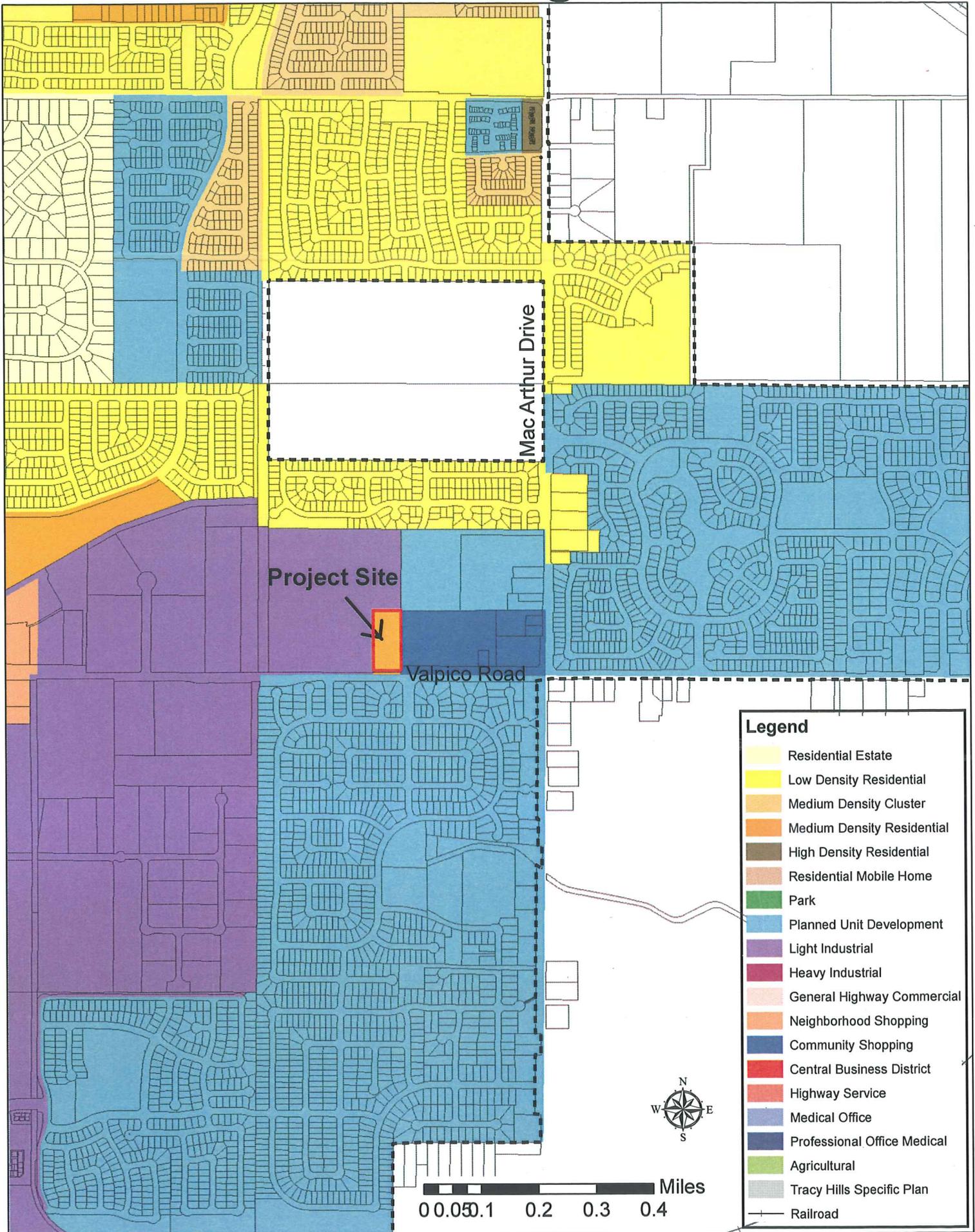
**400 Main Street, Ste. 210
Pleasanton, CA 94566**

**Phone: 925-462-0191
Email: pmacdonald@macdonaldlaw.net**

General Plan



Zoning



- Legend**
- Residential Estate
 - Low Density Residential
 - Medium Density Cluster
 - Medium Density Residential
 - High Density Residential
 - Residential Mobile Home
 - Park
 - Planned Unit Development
 - Light Industrial
 - Heavy Industrial
 - General Highway Commercial
 - Neighborhood Shopping
 - Community Shopping
 - Central Business District
 - Highway Service
 - Medical Office
 - Professional Office Medical
 - Agricultural
 - Tracy Hills Specific Plan
 - Railroad

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RESOLUTION 2012-_____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TRACY
RECOMMENDING
APPROVAL OF A REZONING (R12-0002),
APPROVAL OF ZONING REGULATION CHANGE TO TRACY MUNICIPAL CODE SECTION
10.08.3470(e) REGARDING OFF-STREET PARKING REQUIREMENTS FOR (ZA12-0005),
APPROVAL OF AN OFF-STREET PARKING SPACE REDUCTION, AND
APPROVAL OF A DEVELOPMENT REVIEW APPLICATION (D12-0006),
FOR THE MACDONALD APARTMENTS PROJECT

WHEREAS, Applications have been filed or initiated to amend the zone district from Medium Density Residential to High Density Residential on an approximately 2.87-acre site, approve a Development Review application for a 60-unit residential multi-family project, and add Tracy Municipal Code Section 10.08.3470(e) regarding the number of off-street parking spaces required for a project, collectively, the "Project", and

WHEREAS, The subject property is located on the north side of Valpico Road, northwest of the intersection of Valpico Road and Glenbriar Drive, 2605 S. MacArthur Drive), Assessor's Parcel Number 246-140-12, and

WHEREAS, The site's General Plan designation was amended to Residential High by the City Council with the 2006 General Plan Update and remained Residential High with the 2011 General Plan Update, and

WHEREAS, The City Council certified an Environmental Impact Report for the General Plan Update (SCH #: 2008092006) on February 11, 2011 (Resolution Number 2011-028), and

WHEREAS, The proposal to rezone the site from Medium Density Residential to High Density Residential is a cleanup item to bring the zoning into consistency with the General Plan, and

WHEREAS, The Project is consistent with the General Plan Environmental Impact Report and therefore, in accordance with CEQA Guidelines Section 15183, no additional environmental review is required, and

WHEREAS, The Project represents an infill site in the City, promotes a compact development pattern, minimizes consumption of open space lands and resources, and provides for high-density housing opportunities which assist the City in achieving housing goals established in the City's General Plan Housing Element, and

WHEREAS, The Project is consistent with General Plan Housing Element Goals and Policies, including Policy 3.1 ("Provide for a range of residential densities and products, including ... higher-density apartments.") and Policy 4.1 ("Review and adjust as appropriate residential development standard, regulations, [and] ordinances....").

WHEREAS, The public necessity, convenience, and general welfare require the rezoning of the subject property and the Tracy Municipal Code amendment for the reasons stated herein, and

WHEREAS, The Planning Commission conducted a public hearing to receive public input and review the Project on November 14, 2012;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission as follows:

1. Rezoning (R12-0002)

The Planning Commission recommends that the City Council rezone the site from Medium Density Residential to High Density Residential.

2. Tracy Municipal Code Amendment (ZA12-0005)

The Planning Commission recommends that the City Council add Tracy Municipal Code Section 10.08.3470(e) as follows:

Off-Street Parking Space Reduction. The number of off-street parking spaces required in Section 10.08.3480 may be reduced by up to 20 percent if the owner of the property submits a parking study documenting that such off-street parking spaces will not be necessary to mitigate parking demands for a use or project. The parking study shall contain surveys or documented parking demand for similar uses or other written documentation to the satisfaction of the Development Services Director. The determination regarding an off-street parking space reduction shall be made by the Development Services Director, unless the permit or approval for the project or use must otherwise receive Planning Commission or City Council approval, in which case the off-street parking space reduction determination shall be made by the Planning Commission or City Council, whichever has review authority for the project or use. In making a determination regarding an off-street parking space reduction, the Director, Commission, or Council shall take into account the following: the parking study; the availability of nearby on- or off-street parking; accessibility to nearby public transit; the City site planning design goals; and other relevant information.

3. Off-Street Parking Space Reduction

a. The Planning Commission finds as follows:

i. The property owner submitted a parking study documenting that 18 of the project's 117 off-street parking spaces will not be necessary to mitigate the potential parking demands of the project.

ii. The parking study contains surveys of existing multi-family projects in Tracy, surveys of other jurisdictions' parking requirements, published parking information from industry standards such as the Institute of Transportation Engineers, and other written documentation.

iii. The Project will have direct frontage on a public street (Glenbriar Drive) which will have opportunity on both sides of the street for on-street parallel

parking, the project is contributing to the construction of a City bus shelter along Valpico Road (in front of the adjacent Valpico Apartment project) and no other off-street parking space reductions are approved or anticipated within the vicinity of this project.

b. The Planning Commission recommends that the City Council approve an Off-Street Parking Space Reduction of 18 parking spaces for this project.

4. Development Review (D12-0006)

a. The Planning Commission finds as follows:

i. The Project includes appropriate buildings and site design in that the site is adjacent to the west to a vacant site, also designated Residential High by the City's General Plan which will help ensure land use compatibility; although a commercial shopping center has been approved for the vacant site adjacent to the east, a multi-family project is now proposed on that site, either of which provides for land use compatibility with the Project; the grade of the site is significantly lower than the Valpico Road and nearby residential neighborhood grades which will reduce visual effects of the Project; the site is located less than one mile from two existing consumer-oriented commercial sites which will provide shopping and retail services for the Project; the existing nearby commercial establishments will benefit from new, nearby, additional residences which will provide potential customers of the existing businesses.

ii. The project will have direct access onto Valpico Road and onto the newly extended Glenbriar Drive so that the Project's automobile traffic is not required to travel through any existing residential neighborhoods for access.

iii. The Project is consistent with the City's Design Goals and Standards, including its variety of housing types, compared with nearby single-family detached housing, to provide increased diversity and visual interest in the City's residential development.

b. The Planning Commission recommends that the City Council approve the Development Review Application for the Project subject to the Conditions of Approval contained in Exhibit 1.

* * * * *

The foregoing Resolution 2012-_____ was adopted by the Planning Commission on the 14th day of September, 2012, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

**Conditions of Approval for MacDonald Apartments
Application Number D12-0006
November 14, 2012**

These Conditions of Approval shall apply to the real property described as the MacDonald Apartments Project; proposed 60 multi-family residential units on approximately 2.87 acres located on the north side of Valpico Road, adjacent to and west of Glenbriar Drive, 2605 S. MacArthur Drive, Assessor's Parcel Number 246-140-12; Application Number D12-0006.

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

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
3. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
4. "Conditions of Approval" shall mean the conditions of approval applicable to the MacDonald Apartments Project, proposed 60 multi-family residential units on approximately 2.87 acres located on the north side of Valpico Road, adjacent to and west of Glenbriar Drive, 2605 S. MacArthur Drive, Assessor's Parcel Number 246-140-12, Application Number D12-0006. The Conditions of Approval shall specifically include all Development Services Department conditions, including Planning Division and Engineering Division conditions set forth herein.
5. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
6. "Project" means the real property consisting of approximately 2.87 acres located on the north side of Valpico Road, adjacent to and west of Glenbriar Drive, 2605 S. MacArthur Drive, Assessor's Parcel Number 246-140-12, Application Number D12-0006.
7. "Property" means the real property generally located on the north side of Valpico Road, adjacent to and west of Glenbriar Drive, 2605 S. MacArthur Drive, Assessor's Parcel Number 246-140-12.
8. "Subdivider" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. "Subdivider" also means Developer. The term "Developer" shall include all successors in interest.

9. Adjacent HDR Project means the 189-unit apartment project to be located at the northeast corner of Valpico Road and Glenbriar Drive.

B. Planning Division Conditions of Approval:

1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, et seq.), the Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 15000, et seq., "CEQA Guidelines").
2. Unless specifically modified by these Conditions of Approval, the Project shall comply with all City Regulations.
3. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all mitigation measures identified in the General Plan Environmental Impact Report, dated February 1, 2011.
4. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
5. Except as otherwise modified herein, all construction shall be consistent with the plans received by the Development and Engineering Services Department on May 30, 2012 and as modified by plans submitted on September 5, 2012.
6. Prior to the issuance of a building permit, the applicant shall provide a detailed landscape and irrigation plan consistent with City landscape and irrigation standards, including, but not limited to Tracy Municipal Code Section 10.08.3560, the City's Design Goals and Standards, and the applicable Department of Water Resources Model Efficient Landscape Ordinance on private property, and the Parks and Parkways Design Manual for public property, to the satisfaction of the Development Services Director. Said landscape plans shall include documentation which demonstrates there is no less than 20 percent of the parking area in landscaping, and 40 percent canopy tree coverage at tree maturity in accordance with City Regulations. Newly planted, on-site trees shall be a minimum size of 24-inch box and shrubs shall be a minimum size of five gallons.
7. Where landscape planters are parallel and adjacent to vehicular parking spaces, the planter areas shall incorporate a 12-inch wide concrete curb along their perimeter that is

adjacent to the parking space in order to allow access to vehicles without stepping into landscape planters.

8. Prior to the issuance of a building permit, an Agreement for Maintenance of Landscape and Irrigation Improvements shall be executed and financial security submitted to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements, or \$2.50 per square foot of on-site landscape area.
9. No roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from Valpico Road, Glenbriar Drive, or any other public right-of-way. All roof-mounted equipment shall be contained within the roof well or screened from view from the public rights-of-way by the roof of the building, to the satisfaction of the Development Services Director.
10. All vents, gutters, downspouts, flashing, electrical conduit, and other wall-mounted or building-attached utilities shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.
11. Prior to final inspection or certificate of occupancy, on-site circulation signs shall be installed to the satisfaction of the Development Services Director.
12. Prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way or nearby residential property, to the satisfaction of the Development Services Director.
13. Prior to the issuance of a building permit, bicycle parking spaces shall be provided in accordance with Tracy Municipal Code Section 10.08.3510 to the satisfaction of the Development Services Director.
14. All PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Development Services Director.
15. No signs are approved as a part of this development application. Prior to the installation of any signs, the applicant shall submit a sign permit application and receive approval from the Development Services Director in accordance with City Regulations.
16. Prior to the issuance of a building permit, the Developer shall submit detailed trash and recycling enclosure plans which include the following, to the satisfaction of the Development Services Director: the walls shall be of masonry construction, at least eight feet in height, include solid metal doors, a solid roof, and an interior perimeter concrete

curb. The enclosures shall include exterior color and material consistent with the adjacent building exterior.

17. Prior to the issuance of a building permit, the developer shall design a recycling program consistent with State Assembly Bill 341, to the satisfaction of the Public Works Director. The program shall include enclosures with adequate space for both refuse and recycling and shall be incorporated with the trash and recycling enclosures described in Planning Division Condition of Approval Number 17, above. Each enclosure shall have signs that clearly indicate refuse and recycling locations as well as prohibition of scavenging. The program shall include recycling options or elements at the pool area and other common areas for the tenants.
18. Because the project is located within Tracy Municipal Airports' Airport Influence Area, prior to the issuance of a building permit, and thereafter as applicable, the developer shall comply with the following San Joaquin County Council of Government's (COG) 2009 Airport Land Use Compatibility Plan conditions, to the satisfaction of San Joaquin County COG:
 - a. New land uses that may cause visual, electronic, or increased bird strike hazards to aircraft in flight shall not be permitted within any airport's influence area. Specific characteristics to be avoided include the following:
 - i. Glare or distracting lights which could be mistaken for airport lights. Reflective materials are not permitted to be used in structures or signs (excluding traffic directing signs).
 - ii. Sources of dust, steam, or smoke which may impair pilot visibility.
 - iii. Sources of electrical interference with aircraft communications or navigation. No transmissions which would interfere with aircraft radio communications or navigational signals are permitted.
 - iv. Any proposed use that creates an increased attraction for large flocks of birds.
19. Occupied structures must be soundproofed to reduce interior noise to 45dB according to State Guidelines.
20. A deed notice shall be recorded with the San Joaquin County Recorder regarding potential noise inconvenience, annoyance, or discomfort resulting from the nearby Tracy Municipal Airport.
21. Prior to the issuance of a building permit, the developer shall document compliance with the City of Tracy Manual of Stormwater Quality Control Standards for New Development and Redevelopment (Manual) to the satisfaction of the Public Works Director, which includes the requirement for Site Design Control Measures, Source Control Measures and Treatment Control Measures under the guidelines in a project Stormwater Quality Control Plan (SWQCP). Compliance with the Manual includes, but is not limited to,

addressing outdoor storage areas, loading and unloading areas, trash enclosures, parking areas, any wash areas and maintenance areas. The SWQCP must conform to the content and format requirements indicated in Appendix D of the Manual and must be approved by the Public Works Director prior to issuance of grading or building permits.

22. The project shall comply with all applicable provisions of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, including Incidental Take Minimization Measures applicable at the time of permit and a pre-construction survey prior to ground disturbance, to the satisfaction of San Joaquin Council of Governments.
23. The developer shall design the carports in substantial conformance with the "Accessory Buildings" design received by the Development and Engineering Services Department on September 27, 2012.
24. The developer shall design and construct all buildings with fire sprinklers in accordance with City Regulations.
25. Prior to the issuance of a building permit, the developer shall annex the property to the Tracy Consolidated Landscape Maintenance District to the satisfaction of the Public Works Director, deposit a first year's assessment equivalent to the Maintenance District's first 12 months of estimated costs as determined by the Public Works Director, and shall pay all processing fees associated with annexation to the District.
26. Prior to the issuance of a building permit, the developer shall specify the design of the "Park Area" located adjacent to and west of Building 2, including its landscaping, furniture, recreational equipment, or other improvements consistent with City standards to the satisfaction of the Development Services Director.
27. Prior to issuance of a building permit, the developer shall demonstrate to the Development Services Director, compliance with San Joaquin Valley Air Pollution Control District Rule 9510 (Indirect Source Review), including payment of all applicable fees, to the satisfaction of the Air Pollution Control District.

C. Engineering Division Conditions of Approval

1. Conditions of Approval Prior to Approval of Grading and Encroachment Permit Applications: No application for grading permit and encroachment permit within the Project boundaries will be accepted by the City as complete until the Developer provides all documents required by City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:
 - a. The Developer has completed all requirements set forth in this section.
 - b. The Developer has obtained the approval of all other public agencies with jurisdiction over the required public facilities.
 - c. Execution of all agreements, posting of all improvement security, and providing documentation of insurance, as required by these Conditions of Approval.

- d. The Grading and Improvement Plans prepared in accordance with the Subdivision Ordinance and the City Design Documents. The improvement plans for all improvements (on-site and off-site) required to serve the development project in accordance with the Subdivision Ordinance, the City Design Documents, and these Conditions of Approval. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:
 - i. All existing and proposed utilities.
 - ii. All supporting calculations, specifications, cost estimate, and reports related to the design of streets and utilities improvements.
 - iii. Method of disposing storm water in the interim and ultimate conditions, the Project's on-site drainage connections to City's storm drainage system as approved by the City Engineer. Improvement Plans of the temporary off-site storm drainage retention basin or other means as approved by the City Engineer, percolation report and storm drainage calculations for the sizing of the basin.
 - iv. Improvement Plans prepared on 24" x 36" size polyester film (mylar) with the City Engineer and Fire Marshall approval and signature blocks. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.
 - v. Grading and Drainage Plan in accordance with the requirements of Tracy Municipal Code, Subdivision Ordinance and City Regulations. Grading and Drainage Plans to be submitted in 24" x 36" size polyester film (mylar).
 - vi. Documentation or letter from respective owner(s) of private utilities, as required in Condition C-4(a), below.
 - vii. Joint Trench Plans and Composite Utility Plans for the installation of dry utilities such as electric, gas, TV cable and others that will be located within the 10 feet wide Public Utility Easement or to be installed to serve the Project or for the conversion of aerial lines to underground facilities, as required Condition C-4(b), below.
- e. Two (2) copies of the Project's Geo-technical /Soils Report prepared by Geo-technical Engineer and a copy of recorded slope easements (if applicable), as required in Condition C-5(a), below.
- f. Three (3) sets of the Project's Storm Water Pollution Prevention Plan (SWPPP), Best Management Practices (BMPs) and a copy of the Notice of Intent (NOI) with the State-issued Wastewater Discharge Identification number, as required in Condition C-5(c), below.

- g. Copy of the improvement plans and structural calculations for all on-site retaining walls, signed and stamped by the Design Engineer and approved by the City's Building Division, as required in Condition C-5(d), below.
- h. A construction cost estimate for all required public facilities, prepared in accordance with City Regulations. In calculating the total cost of public improvements, add 15% construction contingencies.
- i. Payment of applicable fees required by these Conditions of Approval and City Regulation including plan checking, grading and encroachment permit processing, construction inspection, testing, and agreement processing fees.
- j. Signed and notarized Deferred Improvement Agreement including improvement security(s) in the amounts approved by the City Engineer and form approved by the City Attorney including all the necessary attachments to the agreement, as required in Condition C-7(b), below.
- k. Memorandum issued by the City's storm drainage consultant confirming the invert elevation of the outlet pipe at the Project's permanent storm drainage connection point, as required in Condition C-7(d), below.
- l. Tracy's Fire Marshall's signature on the Improvement Plans indicating their approval of the location and construction detail of the fire service connection and the location and spacing of fire hydrants that are required to be installed to serve the Project, as required in Condition C-9(d), below.
- m. Signed and notarized Offsite Improvement Agreement with the fully executed improvement security for faithful performance, labor and materials, and warranty, for the construction of Glenbriar Drive Improvements and Valpico Road Frontage Improvements, as required in Condition C-6(a), below.
- n. Signed and notarized Grant Deed with the legal description and plat map that describes the area to be dedicated to the City, for the construction of Glenbriar Drive Improvements, as required in Condition C-6(d), below.
- o. Signed and notarized Grant of Public Access Easement with the legal description and plat map that describes the portion of the Property to be used for vehicle turn-around maneuvering or access through the Property, as required in Condition C-6(f), below.
- p. Signed and notarized Sanitary Sewer Maintenance Agreement (SSMA), for the private sewer line crossing on Glenbriar Drive, as required in Condition C-8(b), below. The City will prepare and complete the final agreement, before the completion of the plan review process. The SSMA and the Grant of Permanent Sanitary Sewer Easement will require City Council approval.

- q. Signed and notarized Grant of Easement with the legal description and plat map that describes the location of the 10-foot wide PUE on Valpico Road and Glenbriar Drive, for the installation, use, repair, and maintenance of public utilities such as electric, gas, TV cable, telephone and other utilities and for the conversion of the existing aerial utilities into underground facility, as required in Condition C--4(b &c), below.
2. Conditions of Approval Prior to Approval of Building Permit. No building permit within the Project boundaries will be approved by the City until the Developer demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:
 - a. The Developer has completed all requirements set forth in Condition C-1, above.
 - b. Payment of all applicable and adopted Infill development impact fees required by these Conditions of Approval and City Regulations, that are in effect at the time of issuance of the building permit. The Infill development impact fees described above will include the storm drainage impact fee update discussed in Condition C-7(e), below
 - c. Documentation evidencing that the Property has been annexed to an existing Landscape Maintenance District (LMD), as required in Condition C-10(c), below.
 - d. In-lieu payment in the amount of \$7,000.00, for the Project's estimated share of cost of the re-striping on Valpico Road as required in the Tiburon Village Traffic Impact Study, Final Report dated February 6, 2004 (Traffic Study). Refer to Table I of the recommended Mitigation Measures in the Traffic Study.
 3. Conditions of Approval Prior to Certificate of Occupancy or Final Building Inspection. No certificate of occupancy within the Project boundaries will be approved by the City or final building inspection will be performed until the Developer provides documentation which demonstrates, to the satisfaction of the City Engineer, that:
 - a. The Developer has completed all requirements set forth in Condition C-2, above and this section.
 - b. The Developer has completed construction of all public facilities required to serve the building for which a certificate of occupancy is requested. Unless specifically provided in these Conditions of Approval, or some other City Regulation, the Developer shall take all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
 4. Undergrounding of Overhead Utilities:

- a. Prior to starting work, the Developer shall obtain written permission from the respective owner(s) of private utilities, for the installation of permanent surface improvements and structure over their underground facilities located within the 10-foot wide Public Utility Easement along Valpico Road. Prior to the issuance of the Grading Permit, the Developer must submit documentation evidencing that required permission has been granted to the Developer by the respective owner(s) of the private utilities.
- b. All private utility services such as electric, telephone and cable TV to the building must be installed underground, and to be installed at the location approved by the respective owner(s) of the utilities. The Developer shall submit improvement plans for the installation of electric, gas, telephone and TV cable lines that are necessary to serve the Project.
- c. The Developer shall dedicate a 10 feet wide Public Utility Easement along the Property frontages on Valpico Road and Glenbriar Drive, for the installation of private utilities described in Condition C-4(b), above. The Grant of Easement shall be filed for recording with the Office of the San Joaquin County Recorder prior to the issuance of the Grading Permit. The Developer is responsible for the cost of preparing the easement document and legal description and plat map.

5. Grading:

- a. A Grading Plan prepared by a Registered Civil Engineer and accompanied by Soils Engineering report shall be submitted to the City with the Grading and Storm Drainage Plans. The report shall provide recommendations regarding adequacy of sites to be developed by the proposed grading and also information relative to the stability of soils such as soil classification, percolation rate, soil bearing capacity and others. Slope easements shall be dedicated to the City where cuts or fills do not match existing ground or final grade adjacent to public right of way (up to a maximum grade differential of two feet only). Slope easements shall be recorded per City's requirements, prior to the issuance of the Grading Permit. The Developer shall be responsible to obtain and record slope easement(s) on private properties, where it is needed to protect private improvements constructed within and outside the Project, and a copy of the recorded easement document must be provided to the City prior to the issuance of the Grading Permit.
- b. All grading work (on-site and off-site) shall require a Grading Permit. Erosion control measures shall be implemented in accordance with Grading Plans approved by the City Engineer for all grading work not completed before October 15. Improvement Plans shall specify all erosion control methods to be employed and materials to be used.
- c. Prior to the issuance of the Grading Permit, the Developer shall submit three (3) sets of the Storm Water Pollution Prevention Plan (SWPPP) submitted to the State Water Quality Control Board (SWQCB) and any documentation or written approvals from the SWQCB including a copy of the Notice of Intent (NOI) with

the state-issued Wastewater Discharge Identification number (WDID). After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Developer. The Developer shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the Storm Water Regulations adopted by the City in 2008.

- d. The Developer shall design and construct the on-site retaining wall along the north side of Valpico Road such that the top of the retaining wall is 6 inches higher than the top of existing curb on Valpico Road, at any section of the retaining wall. The Developer agreed to install a 4-foot high painted wrought iron guard rail on top and along the retaining wall. The Developer shall submit improvement plans which include the design, construction detail, materials specifications (including paint color), and the method of installing the wrought iron guard rail for City's review and approval. The retaining wall and the wrought iron guard rail are private improvements. The Developer is responsible for the repair and maintenance of all on-site retaining walls, berms and slopes and shall obtain permission(s) from property owner(s) when performing construction, repair and maintenance work on the retaining walls, berms and slopes that require encroachment into or access through their property(s).

6. Street Improvements:

- a. The extension of Glenbriar Drive from Valpico Road to the Project's projected northern boundary will provide an opportunity for full vehicular access for the Project to and from Valpico Road. The streets and utilities improvements on this roadway extension will include but not limited to, installation of concrete curb, gutter, sidewalk, asphalt concrete pavement, handicap ramp, storm drain, catch basin or drop-inlet, landscaping and street tress with automatic irrigation system (Motorola), median curb, hand-placed grouted cobblestones, pavement signing and striping, barricade and guardrail, and intersection improvements on Glenbriar Drive /Valpico Road such as traffic signal pole and light, traffic detecting loops, traffic loops pull boxes, conduits and wires, audible pedestrian warning, electronic sign, and other improvements as determined by the City Engineer that are deemed to be necessary to have a safe and functional street improvements (Glenbriar Drive Improvements).

Glenbriar Drive Improvements shall include the installation of a 6 feet high chain link fence with plastic slats on the entire right-of-way width and along the northern terminus of Glenbriar Drive. The space between the barricade and guardrail and the chain link fence shall be paved. The final location and construction detail of the chain link fence and additional asphalt concrete paving shall be included on the improvement plans for City's review and approval. Cost of installing the chain link fence and additional asphalt concrete paving shall be the responsibility of the Developer.

The Developer is also required to construct certain street and utilities improvements on Valpico Road which include but not limited to, concrete bike path, concrete sidewalk, handicap ramp, offsite water main upgrade and all the improvements described in Condition J-2, concrete curb and gutter, replacement of pavement marking and striping, traffic signs, landscaping improvements with automatic irrigation system (Motorola) and other improvements on Valpico Road as determined by the City Engineer (Valpico Road Frontage Improvements). The Developer shall contribute the Project's proportional share towards the design and installation of a bus shelter on Valpico Road at the location approved by the City, and the installation of associated improvements such as water service with hose bibb, garbage receptacle, additional concrete paving, and removal and replacement of disturbed irrigation and landscaping improvements.

Completion of the Glenbriar Drive Improvements and Valpico Road Frontage Improvements are required, prior to final building inspection of the first building to be constructed on the Property. To guarantee completion of Glenbriar Drive Improvements and Valpico Road Frontage Improvements within the time described above, the Developer will be required to execute an Offsite Improvement Agreement (OIA) with the City and post improvement security in the amounts approved by the City Engineer and form acceptable to the City Attorney, prior to the issuance of the Grading Permit. The OIA requires approval from the City Council.

The Developer shall dedicate right-of-way estimated to be 60 feet from the existing right-of-way line of Valpico Road towards the Property along the entire frontage of the Property on Valpico Road, for the construction of Valpico Road Frontage Improvements. The Developer shall execute a Grant Deed to convey the land in fee title and submit legal description and plat map that describes the area to be dedicated, prior to the issuance of the Grading Permit. The cost of roadway dedication including the cost of preparing the legal description and plat map will be the sole responsibility of the Developer.

- b. Prior to the approval of the OIA, the Developer is required to submit Improvement Plans, Technical Specifications and Cost Estimates, prepared in a 24" x 36" size polyester film or known as mylar, signed and stamped by the Design Engineer, for City's approval and signature. All engineering calculations for the design of the improvements must be submitted. The Developer will be required to pay Engineering Review Fees which include plan checking, agreement and permit processing, testing, engineering inspection, and program management fees, estimated to be 11 to 13% of the cost of public improvements, prior to the approval of the OIA.
- c. All work to be performed and improvements to be constructed within City's right-of-way will require an Encroachment Permit from the City, prior to starting the work. The Developer or its authorized representative shall submit all documents that are required to process the Encroachment Permit including but not limited to, approved Improvement Plans, Traffic Control Plan that is prepared by and signed and stamped by a Civil Engineer or Traffic Engineer registered to practice

in the State of California, payment of Engineering Review Fees, copy of the Contractor's license, Contractor's Tracy business license, and certificate of insurance with the insurance coverage specified in the OIA and naming the City of Tracy as additional insured or as a certificate holder.

- d. The Developer will be required to offer to the City for dedication all lands that are required for extending Glenbriar Drive from Valpico Road to its northern terminus and the right-of-way for the proposed pedestrian and bike path improvements on Valpico Road. The Developer shall convey the lands described above to the City in fee title. The offer of dedication for roadway right-of-way described above has to be made, filed at the Office of the San Joaquin County Recorder, prior to the issuance of the Encroachment Permit. The City will assume responsibility to maintain the public improvements and will accept the offer of dedication after the City Council accepts the improvements. It is the responsibility of the Developer to acquire the land for the portion of Glenbriar Drive Improvements that will be constructed within the land owned by the developer or owner of the Adjacent High Density Residential (HDR) Project. The City will assist the Developer in the acquisition of the land necessary to construct Glenbriar Drive Improvements with its eminent domain power, if the Developer fails to acquire the land that is needed for the street extension. The Developer shall pay the City all costs associated in the condemnation proceedings including administrative, court, and attorney's fees.
- e. The Developer shall install all surface and underground improvements such as concrete driveway approach, ramp and sidewalk, sewer connection, domestic water service, fire service, sewer pipeline, and storm drainage line(s) that are intended to serve the Adjacent HDR Project which would be located within the right-of-way of Glenbriar Drive, prior to placing of the final lift of asphalt concrete pavement, in order to avoid cutting newly paved streets.
- f. The Developer shall provide a paved or all-weather turn-around area for fire truck and emergency vehicles that is acceptable to the Chief Building Official and the City's Fire Marshall, all at the Developer's sole cost and expense. The location, configuration, design, and construction details of the turn-around area shall be reviewed and approved by the Chief Building Official and Fire Marshall, and must be shown on the Improvement Plans. Portion of the turn-around improvements that are within the Property will be maintained by the Developer.

The Developer shall grant a public access easement, for the benefit of the public, for rights to enter a portion of the Property for vehicle maneuvering or for turn-around access through the Property to Glenbriar Drive. The Grant of Public Access Easement must be filed at the Office of the San Joaquin County Recorder, prior to City's acceptance of Glenbriar Drive Improvements. The Developer is responsible for all costs associated in dedicating the necessary public access easement to the City including the cost of preliminary title report, and preparing the easement document, legal description and plat map.

- g. Glenbriar Drive Improvements will be considered public improvements after the City accepts the offer of right-of-way dedication and the responsibility of maintaining the public improvements. The Adjacent HDR Project and other undeveloped properties north of the Project will benefit from the Glenbriar Drive Improvements and will be required to pay their proportional share of cost of constructing Glenbriar Drive Improvements when their property develops. The Developer may request formation of a benefit district for recovering cost of public improvements beyond the Developer's responsibility or for constructing oversized public improvements. The City will collect administrative fee, formation cost, and program management fees for forming, administering, and managing the benefit district. The Developer is responsible for submitting all documents such as materials receipt, payroll, equipment rental and others to show actual construction cost or expenses incurred or to support claim for reimbursement.
 - h. The Developer has the option to enter into private reimbursement or cost sharing agreement(s) with the developer of the Adjacent HDR Project and other benefitting properties, for the sharing of the cost of constructing Glenbriar Drive Improvements and for dedicating the land for the extension of Glenbriar Drive. The Developer is required to provide documentation that all the involved party(s) or individual(s) have agreed on the terms and conditions of the cost sharing agreement, prior to the issuance of the Encroachment Permit. The City has no obligation to construct Glenbriar Drive Improvements.
 - i. The design and construction of Glenbriar Drive Improvements and Valpico Road Frontage Improvements shall meet City Regulations and all applicable requirements and recommendations specified in the final traffic report dated August 14, 2012 and titled "Traffic Impact Study for the Proposed 189 units Valpico Apartments and 60 units MacDonald Apartments" prepared by TJKM Transportation Consultants. The final traffic report is on file with the Office of the City Engineer.
7. Storm Drainage:

- a. The on-site storm drainage system and site grading shall be designed such that the Project storm drainage overland release point will be directly to a public street with existing storm drainage system in accordance with City standards. The City may allow overland storm drainage release to private property(s), only if, the Developer enter into an agreement with the fee owners of the affected property(s) and indemnify the City for any liability, damages and costs that may arise as a result of utilizing their property as the Project's storm drainage release point. The Developer shall obtain written permission or agreement and/or easements from fee owner(s) of all affected property(s), for the use of their property(s) as Project's storm drainage release point. The Developer shall indemnify and hold harmless the City for any liability, damages and costs that may arise as a result of the use the storm drainage release on their property. The irrevocable agreement must be signed by fee owner(s) of all affected property(s) and will be reviewed by the City Engineer and will be recorded to the Property and to all affected properties. The Developer shall provide a copy of

the fully executed agreement to the City, prior to the issuance of the Grading Permit. Cost of obtaining permission and/or easement(s) and the agreement from the fee owner(s) of the affected property(s) will be the sole responsibility of the Developer.

- b. The Developer has proposed to use a trench infiltration system as an interim solution for disposing storm water generated from the Project site. The trench infiltration system is described in the technical memorandum titled "Drainage Analysis for the Valpico and MacDonald Apartment" prepared by Mackay & Soms of Pleasanton, California. The City will allow this method of disposing storm water, if the Developer executes a Deferred Improvement Agreement, prior to the issuance of the Grading Permit, to guarantee performance of the Developer's responsibilities and obligations and conditions described below including paying all costs associated in complying with all the requirements described under this section: a) that the Developer will be responsible for repairing, rectifying, and maintaining the trench infiltration system to acceptable standards and to the satisfaction of the City; b) the Developer will provide guarantee acceptable to the City Engineer for performing the responsibilities and obligations as described above; c) the Developer will also install the Project's permanent storm drainage connection as the final method of disposing storm water; and d) the Developer will provide other means of disposing storm water such as a temporary storm drainage retention basin within the time specified by the City, if the trench infiltration system fails to function to the level or condition acceptable to the City, or fails to drain storm water as designed or intended to do as determined by the City Engineer, or if determined by the City that a temporary storm drainage retention basin is necessary to be constructed due to public health and safety reasons.

Draining the storm water to the City's storm drainage system is the required final solution of disposing storm water from the Project site. The Developer shall design and install all the necessary improvements for the final solution of disposing storm water. The Developer is responsible for installing the Project's permanent storm drainage connection from the Project site to the City's future public storm drain line at the location and grade approved by the City Engineer. The future public storm drain line starts from a new storm drain manhole north of the northwest corner of the Project to the City's proposed storm drainage detention basin described as Detention Basin #2B (DB#2B) (Zone 1 Storm Drain Line Improvements as shown on Attachment B1 of South ISP Storm Drainage Analysis - Final Technical Report dated July 2000) and the outfall drain connection from DB#2B to the existing storm drainage channel located south of the existing apartment buildings (Sycamore Village Apartments) south of Central Avenue.

If a temporary storm drainage retention basin is used, the Developer shall design, acquire right-of-way and/or permanent utility easements, including temporary construction easement(s), if necessary, and construct temporary on-site or off-site storm drainage retention facilities meeting City Regulations and such retention facility shall have adequate capacity to retain, store and drain

storm water within the time specified in the City's Design Standards. It is the Developer's responsibility to repair, rectify, and maintain the trench filtration system or the temporary storm drainage retention basin, if constructed, to the satisfaction of the City. These private improvements will be removed by the Developer when the Project's permanent storm drainage connection is installed and the City's public storm drain line described above are installed, and made available for connection. The Developer shall submit engineering calculations for the design and sizing of the trench filtration system or the temporary storm drainage retention basin, including a percolation report prepared, signed and stamped by a registered Geo-technical Engineer, and a copy of the written permission from property owner(s), if off-site retention basin is utilized, as part of the Grading and Drainage Plans.

To assure performance of the Developer's responsibilities to repair, rectify, and maintain the trench infiltration system or temporary storm drainage retention basin, if installed, and also to guarantee completion of the Project's storm drainage connection, the Developer is required to execute a Deferred Improvement Agreement and post necessary improvement security, in the amount(s) approved by the City Engineer and form approved by the City Attorney, prior to the issuance of the Grading Permit. The Deferred Improvement Agreement will require approval from the City Council and will be recorded against the Property. The Developer shall pay all costs associated with the preparation, processing and approval of the agreement, including the cost of preparing the legal description and map, and recording the agreement.

Flow capacity and cost of Zone 1 Storm Drain Line Improvements are determined based on the design criteria that all storm water collected from impervious portion of the Project site will drain to the City's storm drainage system. The use of trench infiltration system shall not reduce the amount of Infill storm drainage development impact fees due from the Project nor will entitle the Developer Infill storm drainage development impact fee credits or reimbursement(s).

- c. In the event an off-site retention basin is required, the Developer shall obtain written permission or agreement and/or easements from fee owner(s) of all affected property(s), for the use of their property(s) as a temporary storm drainage retention basin. The Developer shall indemnify and hold harmless the City for any liability, damages and costs that may arise as a result of the use their property(s) for a storm drainage retention basin. The easement agreement must be signed by fee owner(s) of the property(s) and will be reviewed by the City Engineer and will be recorded to the Property and to all affected properties. The Developer shall provide a copy of the fully executed agreement to the City, prior to starting the grading work on the involved property. Cost of obtaining permission and/or easement(s) and the agreement from the fee owner(s) of the affected property(s) will be the sole responsibility of the Developer.
- d. As part of a complete submittal of the Grading and Drainage Plans, the Developer obtain a technical memorandum from the City's consultant, stating

that the pipe invert elevation of the Project's permanent storm drainage connection is consistent with the design of the Zone 1 Storm Drain Line Improvements. The cost of the technical memorandum and coordination with the City's storm drain consultant shall be paid by the Developer.

- e. The City is in the process of updating the Infill storm drainage development impact fees due to anticipated increase in cost of constructing the Zone 1 Storm Drain Line Improvements and DB#2B. The cost increase on Infill storm drainage development impact fees would be the cost of mitigating soil contamination within and along the alignment of the future storm drain line that will be constructed on the Chevron Property (undeveloped property located northwest of the Property, west of the future Tiburon Village Subdivision and south of the existing Larkspur Estates Subdivision). The City will adopt this additional Infill storm drainage development impact fees, prior to the issuance of the building permit.

8. Sanitary Sewer:

- a. A sanitary sewer lift-station will be used to convey domestic sewage from the Property to the City's existing sewer main on Valpico Road. The sewer lift-station including the sewer force main and the sewer pipeline up to the new sewer manhole on Glenbriar Drive / Valpico Road are private improvements and they will be owned, operated and maintained by the Developer. These private improvements are required to be installed and made functional, prior to the final inspection of the first building to be constructed on the Property. The City has no responsibility of repairing and maintaining these improvements. The sewer lift-station on this Property will also serve the residential development at the northwest corner of Glenbriar Drive / Valpico Road (Adjacent HDR Project). The Developer will be required to provide documentation in the form acceptable to the City's Chief Building Official as a guarantee that the sewer lift-station will be repaired and maintained by the Developer and/or the developer of the Adjacent HDR Project.
- b. The Developer will be required to design and construct the 8-inch diameter sewer pipeline crossing on Glenbriar Drive at the location and grade shown on the improvement plans for the Adjacent HDR Project. The sewer line crossing is a private sewer line. The City will grant a permanent sanitary sewer easement, upon completion of the sewer line crossing, to grant access rights to the Developer or the developer of the Adjacent HDR Project, to enter City's right-of-way on Glenbriar Drive, for the repair and maintenance of the sewer line crossing. The developer of the Adjacent HDR Project will be required to execute a maintenance agreement with the City, to guarantee the responsibilities and obligations of the developer of the Adjacent HDR Project regarding the use, operation, repair, and maintenance of the private sewer crossing on Glenbriar Drive. The Developer shall pay all costs associated with the processing of the grant of easement and maintenance agreement including the cost of preparing the legal description and map. The maintenance agreement will be filed for

recording with the Office of the San Joaquin County Recorder, prior to City's acceptance of public improvements on Glenbriar Drive.

- c. The Developer shall comply with all the recommendations with regards to design, and construction of wastewater conveyance and shall pay sewer development impact fees for wastewater collection, conveyance and treatment as identified in the sewer analysis dated July 2012 titled "Wastewater System Fee for Valpico Apartments and Peter MacDonald Apartments" prepared by CH2MHill of Sacramento, California (the City's sewer consultant). A copy of the technical report is on file with the office of the City Engineer.

9. Water System:

- a. A water pressure and flow analysis was performed by West Yost & Associates of Pleasanton, California (the City's water consultant), to verify adequacy of capacity of the City's existing water distribution lines and treatment plant to serve the Project and to ensure that the Project's permanent water line connection and on-site water system meets the Project's water flow and pressure demand in a scenario when the combined amount of domestic, fire and irrigation water has to be provided to the Project site at the same time. The Developer shall comply with all the recommendations specified in the water pressure and flow analysis report dated July 16, 2012 titled "Hydraulic Evaluation of Valpico and MacDonald Apartments". The Developer is required to install the pipe upgrade of approximately 50 feet of existing 8-inch diameter water main located at the intersection of Valpico Road / Glenbriar Drive to a 12-inch diameter Ductile Iron Pipe (DIP) water main at the location and grades approved by the City Engineer, all at the Developer's sole cost and expense. The Developer shall submit improvement plans that include the design, location, and grade of the offsite water main upgrade including all existing (above or below ground) improvements that will be affected or restored and replaced as a result of installing the offsite water main upgrade. Completion of the offsite water main upgrade will increase the water pressure at each on-site fire hydrant and in turn meet the fire flow requirement at each fire hydrant. The Developer shall obtain an Encroachment Permit, prior to starting the work. The Developer shall pay permit processing fees including plan checking, testing, and inspection fees at the issuance of the Encroachment Permit. The offsite water main upgrade shall be completed by the Developer, prior to final inspection of the first building to be constructed on the Property.
- b. All costs associated with the installation of the offsite water main upgrade including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings, replacing traffic detecting loops, conduits, and wires, relocating existing utilities that may be in conflict with the new water main, and other improvements shall be paid by the Developer. When street cuts are made, the Developer is required to install 2 inches thick asphalt concrete overlay with reinforcing fabric at least 25 feet from all sides of the utility trench. A 2 inches deep grind on the existing asphalt concrete pavement will be required where the asphalt concrete overlay

will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes.

If water main shut down is necessary, the City will allow a maximum of 4 hours water supply shutdown. The Developer shall be responsible for notifying residents or business owner(s), regarding the water main shutdown. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least 72 hours before the water main shutdown. Prior to starting the work described in this section, the Developer shall submit a Traffic Control Plan, to show the method and type of construction signs to be used for regulating traffic during the installation of the offsite water main upgrade. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.

- c. The Developer shall design and install domestic and irrigation water service connection, including a remote-read master water meter (the water meter to be located within City's right-of-way) and an R/P Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection must be completed before the final inspection of the building. Sub-metering will be allowed within private property. The City will not perform water consumption reading on sub-meters. The Developer will be responsible for relocating or reinstalling water sub-meters. The City's responsibility to maintain water lines shall be from the water main on the street to the master water meter (inclusive) only. Maintenance of all on-site water lines, laterals, sub-meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer.
- d. The Developer shall design and install fire hydrants at locations approved by the Building Division and Fire Department. Location and construction details of the fire service line shall be approved by the Building Division and Fire Department. Prior to the approval of the Improvement Plans, the Developer shall obtain written approval from the Building Division and Fire Department for the design, location and construction details of the fire service connection to the Project, and for the location and spacing of fire hydrants that are to be installed to serve the Project.

10. Special Conditions:

- a. All improvements shall be in accordance with all City Regulations, Facilities Master Plan for storm drainage, roadway, wastewater and water adopted by the City, Tracy Design Standards and Specifications, and Parks and Parkways Design Manual, or as otherwise specifically approved by the City.
- b. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Developer shall be responsible for all costs associated with the abandonment or removal of the water well(s) including the cost of permit(s) and inspection. The Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin

County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.

- c. Developer, and/or owner of record, is responsible for assuring the maintenance of the public improvements installed in the right-of-way. The public improvements include, but are not limited to, street landscaping, sidewalk, and improvements as defined in California Streets and Highway Code Sections 22525 et. seq. Developer shall be responsible for all formation costs. To comply with this obligation, Developer, and/or owner of record, shall evidence one of the following prior to City's acceptance of the public landscape improvements: (i) participation in an existing Landscape Maintenance District (LMD), or (ii) formation of a new Landscape Maintenance District. If the Property is not annexed to an existing or new LMD and the collection of assessment have not started prior to City's acceptance of the public landscape improvements, the Developer shall submit a cash deposit, to pay for cost of services and expenses incurred by the City in maintaining the landscape improvements. The amount of cash deposit shall be determined by the City's Public Works Department at the time of review of improvement plans. City will return any unused portion of the cash deposit, after the Developer submits documentation evidencing that assessments have been levied on the Property and that collection of assessments have started. City will not accept the public landscape improvements until all the requirements in this section are satisfied to the satisfaction of Director of Engineering and Development Services. The Developer is still required to contribute towards cost of maintaining public landscaping that are away from the Project, that are located within the Landscape Maintenance District zone for which the Property is responsible to pay for.
- d. The Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.

Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This condition of approval does not preclude the City from requesting additional revisions and requirements to the final parcel map and improvement plans, prior to the City Engineer's signature and approval of the proposed final parcel map and improvement plans, if the City deems it necessary. The Developer shall bear the all cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

Conditions of Approval
MacDonald Apartments
Application Number D12-0006
November 14, 2012

Exhibit "1"
Page 20

D12-0006 PC COAs.doc

AGENDA ITEM 2-D

REQUEST

PUBLIC HEARING TO CONSIDER A 184-UNIT RESIDENTIAL APARTMENT PROJECT (VALPICO APARTMENTS), INCLUDING PARKING AND RELATED ON-SITE IMPROVEMENTS ON APPROXIMATELY 8.75 ACRES LOCATED ON THE NORTH SIDE OF VALPICO ROAD, NORTHEAST OF THE INTERSECTION OF VALPICO ROAD AND GLENBRIAR DRIVE, 501 E. VALPICO ROAD (FORMERLY 2795 S. MACARTHUR DRIVE), ASSESSOR'S PARCEL NUMBERS 246-140-13 AND 14. THE PROJECT INCLUDES A GENERAL PLAN AMENDMENT FROM COMMERCIAL TO RESIDENTIAL HIGH (GPA12-0001), REZONING FROM COMMUNITY SHOPPING CENTER TO HIGH DENSITY RESIDENTIAL (R12-0001), ZONING REGULATIONS AMENDMENT REGARDING THE MINIMUM DISTANCE BETWEEN MAIN BUILDINGS ON A SITE (TRACY MUNICIPAL CODE SECTION 10.08.1610(D)) (ZA12-0004), AND DEVELOPMENT REVIEW APPROVAL FOR THE APARTMENT PROJECT (D12-0004). A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM, PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ARE PROPOSED FOR ADOPTION. THE APPLICANT IS ERIC TAYLOR, SOMIS INVESTMENTS.

DISCUSSION

Background

The subject property (Attachment A) was annexed in 1994 and designated Commercial (and zoned Community Shopping Center – CS) at that time, along with adjacent parcels, in anticipation of providing retail and commercial services to the growing residential neighborhoods in this southeast quadrant of the City. Attachments B and C are excerpts from the current General Plan and Zoning maps of the site. A commercial project was approved for the site in 2005, with approximately 100,000 square feet of commercial space and a 36,000 square foot grocery store. This commercial project was never constructed. The entire CS site includes approximately 13 acres and incorporates the subject property and the four parcels between the subject property and MacArthur Drive. The Rite Aid store, at the northwest corner of Valpico Road and MacArthur Drive was constructed in 2008. The other three parcels of the CS Zone each contain a single-family home, constructed prior to annexation to the City.

Project Description

The proposal is to construct a 184-unit, multi-family residential project on approximately 8.75 acres. The Project consists of seven, three-story apartment buildings with 24 units each, plus 16 townhouse-style units in six building of two stories each (Attachment E). No subdivision is proposed at this time; all units will be rental apartments. The project will also include a leasing office in the tri-plex townhouse building near the mailbox kiosk at the southeast corner of the site.

The townhouse units are located in buildings of two, three, and four units at the southeast corner of the site. The townhouse units will be constructed on the same grade as Valpico Road, with the building fronts oriented toward Valpico Road to establish a

more residential, pedestrian-oriented presence along the Project's Valpico Road frontage.

The remaining buildings, numbered 1 through 7 on Attachment E, will be located on lower grades than the townhouses, following the existing topography of the site. The site slopes from its southeast corner to its northwest corner, experiencing an approximately 15-foot grade difference from the highest spot (nearly level with Valpico Road) to its lowest point. The developer intends to retain much of the existing grade (unless engineered fill becomes available at an economically available price) resulting in a significant grade difference between Valpico Road and the apartment buildings in the center and west portions of the site. Ground floor level buildings 1 and 7 will be approximately ten feet below the Valpico Road grade. Cross section drawings of the site illustrating the on-site grade changes are contained in Attachment F. The result will be that pedestrians and motorists along Valpico Road will effectively see the apartments as two-story buildings, as the ground floor will be below the grade of Valpico Road. The parking spaces and drive aisle between Valpico Road and the apartment buildings will also be lower than the Valpico Road grade, resulting in a view of the buildings' architecture and site landscaping less obstructed by parked vehicles and carports.

The seven apartment buildings will consist of one and two bedrooms units, and the townhouse units will contain one-bedroom and three bedroom units (Attachment G). Altogether, there will be 89, one-bedroom units; 84, two-bedroom units; and 11, three-bedroom units. The apartments range in size from just over 800 square feet to nearly 2,000 square feet for the largest townhouse units.

City zoning regulations require 1.5 off-street parking spaces for each one-bedroom unit and two parking spaces for each unit with two or more bedrooms, plus one guest space for every five units. Therefore, the entire 184-unit project is required to provide 360 off-street parking spaces. The project meets the City's standard by providing 361 spaces. Carports will provide covers for 184 of the parking spaces. Attachment H identifies the proposed design of the carports (as well as the design for the proposed pool building, described below).

The applicant has submitted two different exterior elevations of the buildings (Attachment I). Both versions include tile roofs, decorative window trim and shutters, and vertical and horizontal relief to create a high-quality architectural design. The developer is seeking approval of both versions so he can choose one version or the other at the time of construction. City staff believes both versions meet City standards, are of equally high quality for this site, and is recommending that both versions be approved so the developer may decide which version to construct at the time of building permit application.

Single-family homes constructed prior to annexation to the City exist adjacent to the north and east of the Project site. A tentative subdivision map ("Tiburon Village") for approximately 100 homes was approved several years ago on the approximately 20-acre property adjacent to the north. No grading or other improvements for that project have yet begun.

Adjacent to the west is a 2.87-acre site containing one single-family home. On that site is a proposed 60-unit apartment project called MacDonald Apartments. Attachment J

contains a composite site plan which includes both the proposed Valpico Apartments Project and the proposed MacDonald Apartments project. The MacDonald Apartments project is also scheduled for Planning Commission consideration on this agenda.

General Plan Amendment/Rezoning

As indicated above, the project consists of four separate applications: (1) a General Plan Amendment from Commercial to Residential High, (2) rezoning from Community Shopping Center (CS) to High Density Residential (HDR), (3) Tracy Municipal Code Amendment regarding the required minimum distance between main buildings on a site, and (4) Development Review approval for the project.

The site's current commercial General Plan and zoning (Attachments B and C) were established by the City Council in 1994 when the site was annexed. After that time, as nearby residential neighborhoods grew, the Raley's shopping center site obtained commercial zoning and was constructed at the northeast corner of Valpico Road and Tracy Boulevard, less than one mile west of the subject property. Real Estate professionals and commercial developers have reported to City staff that the proximity of the Raley's center will prevent a similar commercial shopping center from locating at this site because of the limited number of houses (i.e., customers) that could ever be constructed in the vicinity.

The site is viable for high density General Plan and zoning consideration due to a number of factors: the site's depressed grade (which reduces visual impacts of the Project), high density residential General Plan designation to the west (increasing opportunity for land use compatibility), frontage and direct access onto Valpico Road, proximity to the Altamont Commuter Express Station is less than two miles away, and adjacent and nearby shopping opportunities.

Tracy Municipal Code Amendment Regarding Distance Between Buildings

Each zone district establishes standards related to building bulk and intensity on a site, regulated by such measures as setbacks from property lines, building height, floor area ratio, maximum lot coverage, and other items. These regulations are designed to affect or protect the light, air, and open space considerations of development. The California Building Codes and the Uniform Fire Codes, by contrast, are designed to reduce the spread of fire and other safety considerations. Zoning codes, in contrast to Building and Fire codes, are typically not oriented toward safety items and therefore, are established by each City for each of its zone districts.

Tracy's HDR zone requires that the minimum distance between main buildings on a site must equal the average height of the two buildings. Therefore, taller buildings are required to be further apart from each other than shorter buildings.

The three-story apartment buildings of this project are approximately 27 feet tall. The HDR Zone District, therefore, requires all of those buildings to be at least 27 feet apart. Most of the buildings in this project can meet this standard. Building 3 and Building 6, however, are proposed approximately 15 feet apart (Attachment E).

The developer could meet the current code requirement by making the pitch of the roof shallower (which would take away from the architectural appeal) or otherwise reduce the height of a building or rearrange the site plan. Instead, City staff is recommending that the City regulation be changed to be more responsive to creative or successful site planning. In the proposed Project, for example, the close point between Buildings 3 and 6 is adjacent to an open parking area on one side and a very generous, open, recreation area with pool on the other side. This Project, furthermore, mitigates concerns related to building proximity by providing over four times the minimum amount of “usable open space” required by the HDR Zone: 5,725 square feet is required and the Project proposes over 22,000 square feet, including the pool area.

The HDR Zone contains no height limit. As the City encourages more compact development for efficient use of land and other resources, future high density projects containing buildings with four or more stories could experience an increasingly difficult challenge to meet the requirement related to distance between buildings. All buildings and site development in the HDR Zone must receive discretionary approval through Development Review. Staff is recommending that the City create the flexibility to evaluate the appropriate distance between main buildings in the HDR Zone on a project-by-project basis and replace the existing distance-between-buildings requirement from “the average height of the two main buildings” to “six feet”. Tracy Municipal Code Section 10.08.1610(d) would be amended as follows:

Distance between buildings: Six ~~(6)~~ feet between accessory buildings and between an accessory and main building; and the minimum distance between main buildings shall be ~~the average height of the two (2) main buildings~~ six feet.

Six feet (although not proposed for this project) is the recommended replacement for the minimum distance between main buildings. This distance is used in residential zones throughout the City to prevent inaccessible or unusable corridors between buildings.

Roads/Circulation

Glenbriar Drive is proposed to be extended north from its current northern terminus at Valpico Road to the north side of the Project site. The Project will have one driveway access (existing) directly onto Valpico Road at the southeast corner of the site, and two access points to Glenbriar Drive on the northwest side of the site. The Valpico Road Driveway, currently used by the Rite Aid site, will be shared with the Rite Aid site. Easements for this joint use are already in place. Turning movements at the Valpico Road driveway allow right-turns in and out of the site and left-turn in, but no left turns out onto east-bound Valpico Road. The Glenbriar Drive driveway will provide direct access to Valpico Road and full turning movements at that signalized intersection.

The Glenbriar Drive extension for this Project will be designed so that it could eventually be connected to future residential development to the north.

The Project’s Valpico Road frontage includes 15 feet between the curb and the site’s property line. Within this strip is public right-of-way with existing landscaping and a five-foot wide sidewalk. The developer is proposing to construct a ten-foot wide bike/pedestrian path on the Project site adjacent to the right-of-way and dedicate this additional ten-foot strip to the City for public use. This bike/pedestrian path will be an

immediate amenity across the front of the site and will eventually connect to the bike/pedestrian system that will extend east and west of this Project.

Public Schools

The Project site is located within the Tracy Unified School District related to K through 12th grade education. School age children who reside within the Project would be in the attendance boundary areas for Bohn Elementary School, Williams Middle School, and Tracy High School.

The Project plans, notices, and other outreach has been extended to Tracy Unified School District staff. Their only comments on the Project are that they do not anticipate any issues in being able to accommodate students from this Project.

Other Site Improvements

As noted above, a permanent, on-site leasing office will occupy one of the spaces in the tri-plex building near the southeast corner of the site, near the mail box kiosk. Associated with the leasing office is a proposed residence lounge or recreation area for tenants. This area may include a lounge with internet access, an exercise room, or other amenities.

The Project includes a swimming pool centrally located on the site. Attachment H indicates the proposed design for the adjacent pool building (as well as the proposed design for the carports).

One additional improvement to note is a proposed bus shelter within the Valpico Road right-of-way. The City is completing a City-wide project to construct bus turnouts and shelters along the bus routes throughout town. Funding for that project was provided by a Federal grant. One of the City's existing bus routes currently travels in both directions along Valpico Road. With the construction of 184 new apartment units adjacent to the Rite Aid store, a bus shelter could be a meaningful amenity to encourage use of the public transit system. While not shown on the site plan, the new bus shelter will be located at least 60 feet west of the driveway at the southeast corner of the site.

Public Meeting and Notices

On September 12, 2012, the developer conducted a neighborhood meeting to introduce the project and answer questions. The developer sent approximately 170 notices to nearby property owners and the Hidden Lake property owners association. Approximately one dozen nearby property owners and residents attended, plus developer representatives and City staff.

The City published notices regarding this project and tonight's public hearing to a similar number of nearby property owners in addition to the newspaper and other normal notices.

Most inquiries as a result of Project outreach have been fact finding clarifications regarding Project design, timing, and nearby planned roadway or other City improvements.

CEQA DOCUMENTATION

In accordance with the California Environmental Quality Act (CEQA) Guidelines, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared to evaluate potential environmental effects of the project. The IS/MND along with the Mitigation Monitoring and Reporting Program are attached (Attachment K and L). Part of the Project approval includes a recommendation for adoption of the CEQA documentation.

RECOMMENDATION

Staff recommends that the Planning Commission recommends that the City Council take the following action:

1. Adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program.
2. Approve the General Plan amendment from Commercial to Residential High.
3. Approve the rezoning of the site from Community Shopping Center to High-Density Residential.
4. Approve the Tracy Municipal Code Amendment regarding distance between buildings.
5. Approve the Development Review application for the 184-unit residential apartment project.

MOTION

Move that the Planning Commission recommends that the City Council take the following action, as documented in the November 14, 2012 Planning Commission Resolution:

1. Adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program.
2. Approve the General Plan amendment from Commercial to Residential High.
3. Approve the rezoning of the site from Community Shopping Center to High-Density Residential.
4. Approve the Tracy Municipal Code Amendment regarding distance between buildings.
5. Approve the Development Review application for the 184-unit residential apartment project.

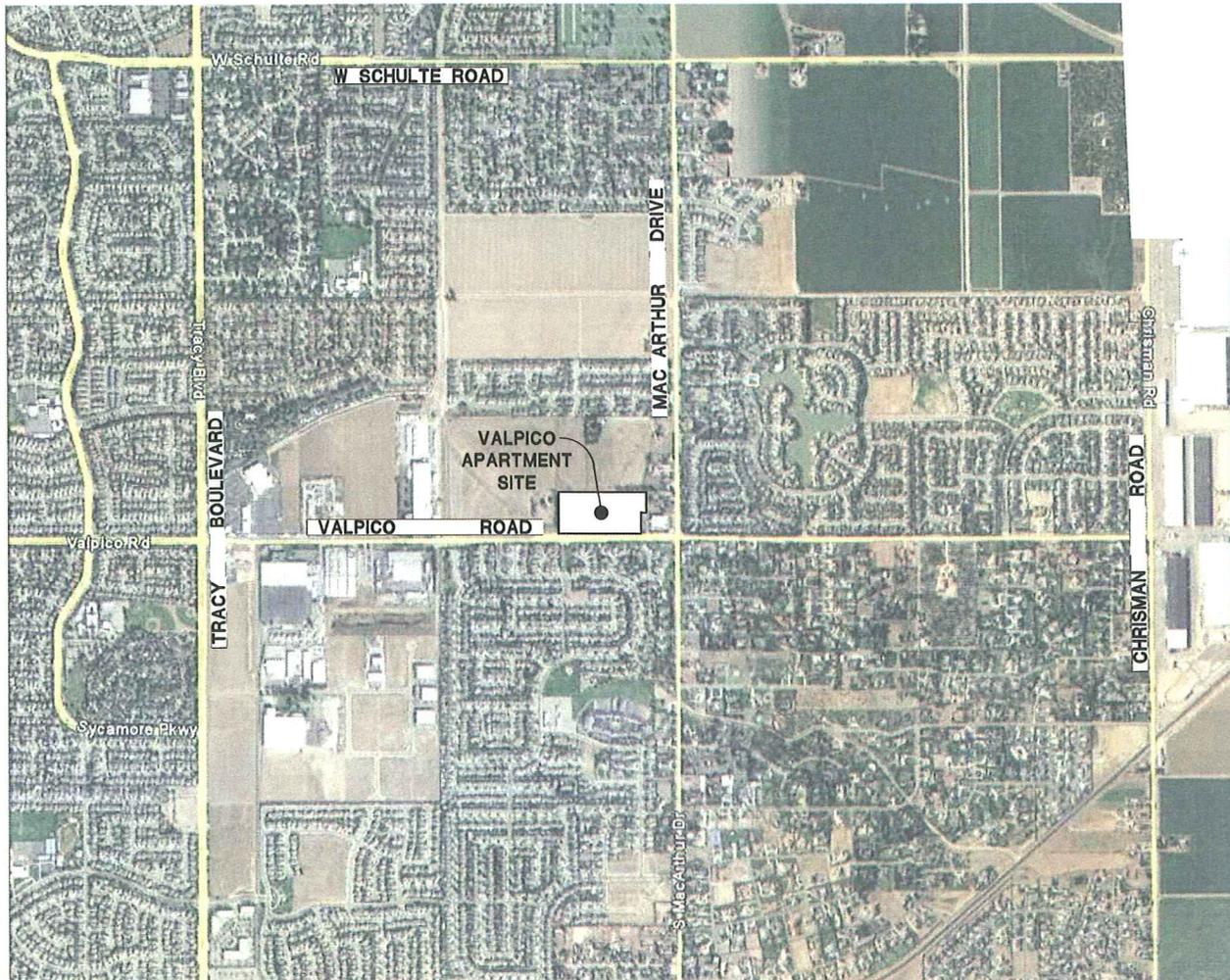
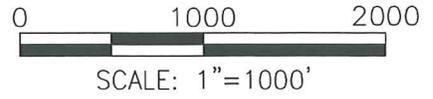
Prepared by Alan Bell, Senior Planner
Reviewed by Bill Dean, Assistant Development Services Director
Approved by Andrew Malik, Development Services Director

ATTACHMENTS

Attachment A – Location Map
Attachment B – General Plan Map of Site Area
Attachment C – Zoning Map of Site Area
Attachment D – Aerial Photograph of Project Site

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Attachment E – Site Plan
Attachment F – Site Cross Sections
Attachment G – Floor Plans
Attachment H – Carports and Pool Buildings
Attachment I – Exterior Building Elevations
Attachment J – Composite Site Plan Including Proposed Valpico and MacDonald Apartment
Projects
Attachment K – Initial Study/Mitigated Negative Declaration
Attachment L – Mitigation Monitoring and Reporting Program
Attachment M – Planning Commission Resolution with Project Conditions of Approval



LOCATION MAP

MAC KAY & SOMPS

ENGINEERS PLANNERS SURVEYORS
PLEASANTON, CA (925)225-0693

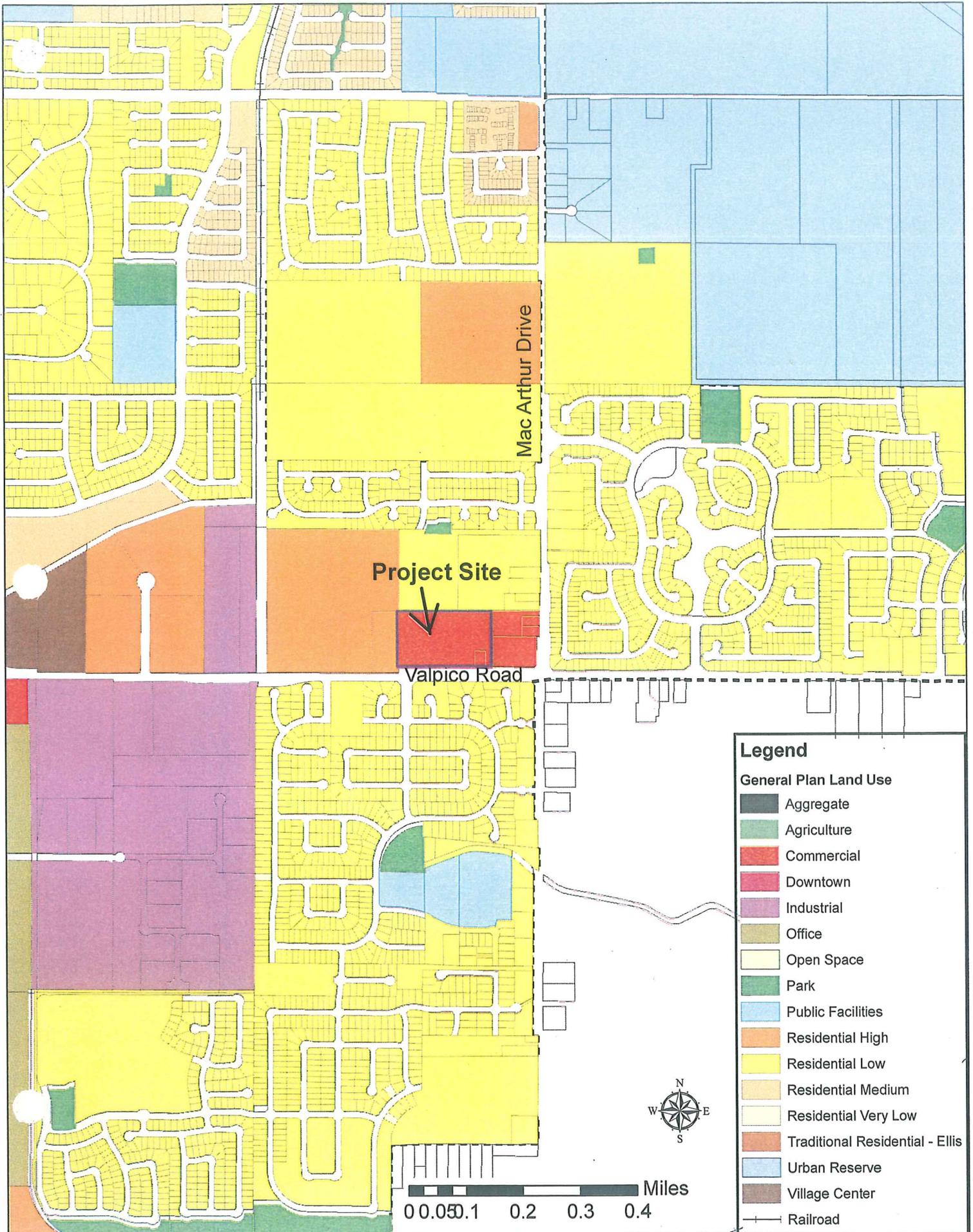
VALPICO APARTMENTS

TRACY, CALIFORNIA

| | | | | |
|---------------|-------------------|-----------------|---------------------|----------|
| DRAWN BY: JRF | JOB NO: 19630.000 | DATE: 5/16/2012 | REV. DATE: MM-DD-YY | PHASE: 1 |
|---------------|-------------------|-----------------|---------------------|----------|

General Plan

Attachment B

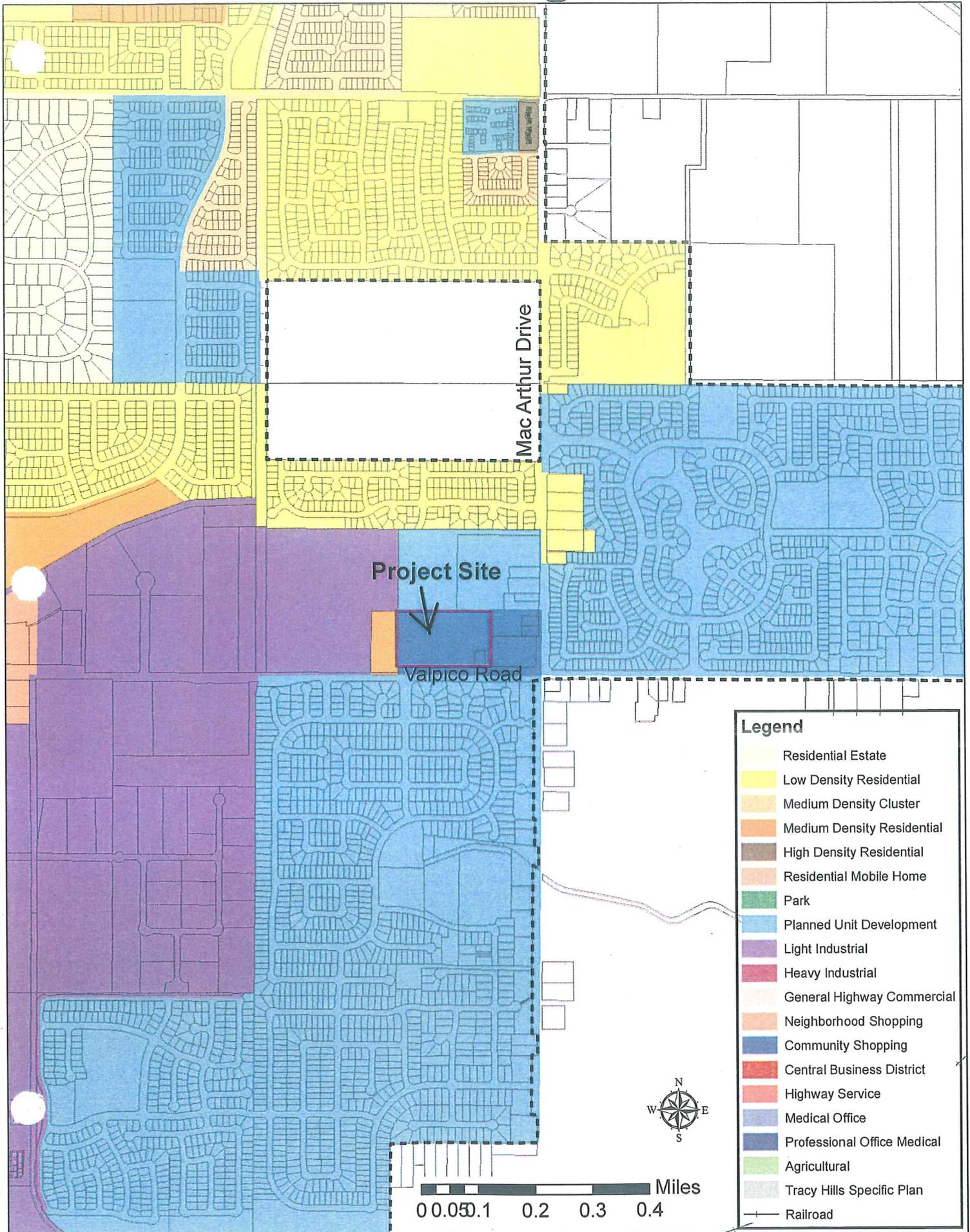


Legend

General Plan Land Use

- Aggregate
- Agriculture
- Commercial
- Downtown
- Industrial
- Office
- Open Space
- Park
- Public Facilities
- Residential High
- Residential Low
- Residential Medium
- Residential Very Low
- Traditional Residential - Ellis
- Urban Reserve
- Village Center
- Railroad

Zoning

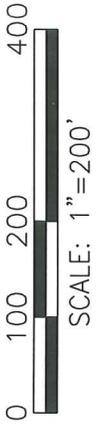


- Legend**
- Residential Estate
 - Low Density Residential
 - Medium Density Cluster
 - Medium Density Residential
 - High Density Residential
 - Residential Mobile Home
 - Park
 - Planned Unit Development
 - Light Industrial
 - Heavy Industrial
 - General Highway Commercial
 - Neighborhood Shopping
 - Community Shopping
 - Central Business District
 - Highway Service
 - Medical Office
 - Professional Office Medical
 - Agricultural
 - Tracy Hills Specific Plan
 - Railroad

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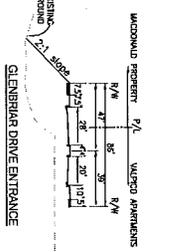
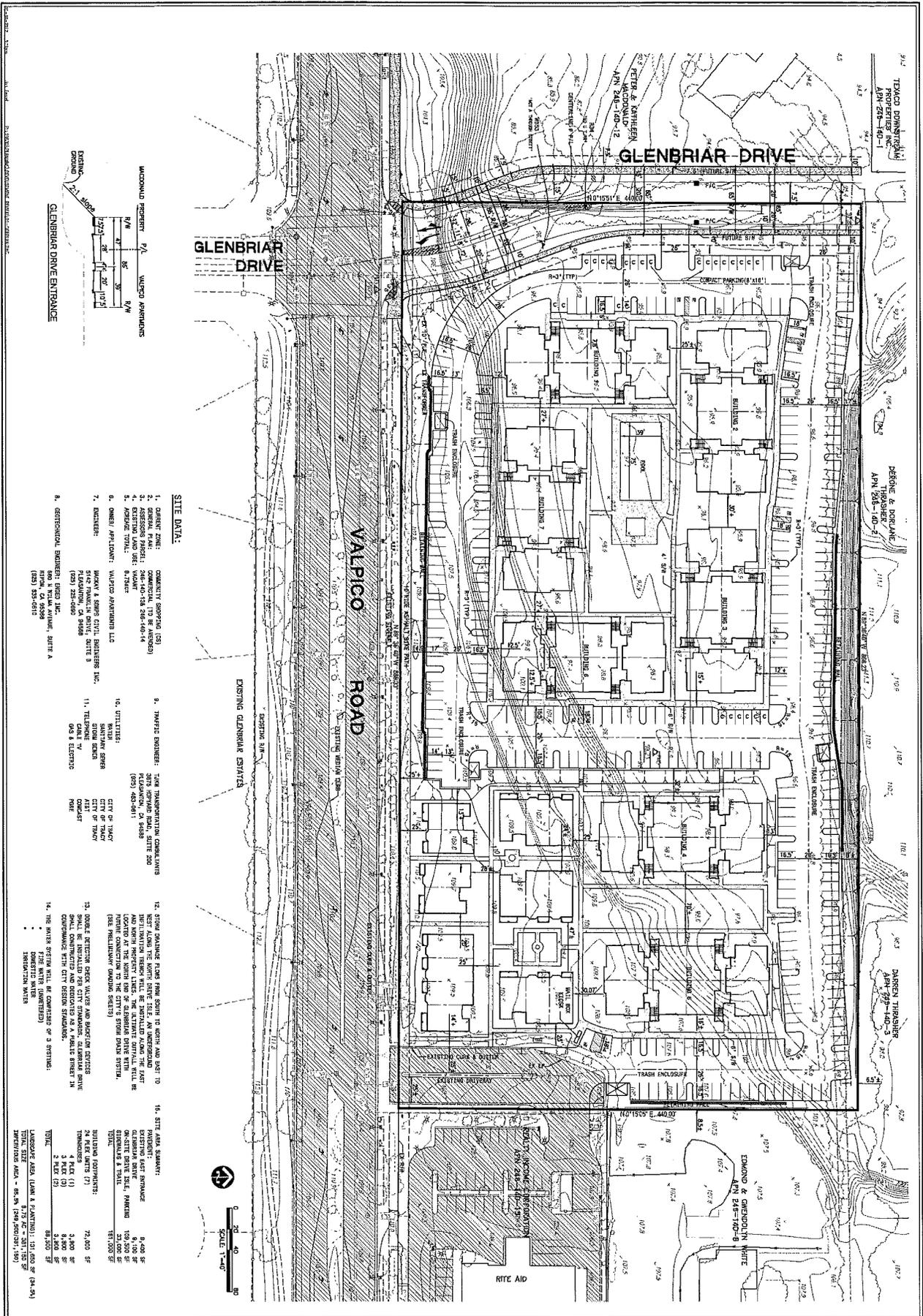
AERIAL PHOTO

VALPICO APARTMENTS

TRACY, CALIFORNIA

MACKAY & SOMPS
ENGINEERS
PLANNERS
SURVEYORS

DRAWN BY: JRF | JOB NO: 19630.000 | DATE: 5/16/2012 | FLIGHT DATE: DEC. 2011 | SCALE: 1"=200'



- SITE DATA:**
1. OWNER: COMMUNITY SHOPPING (CS)
 2. ADDRESS: 208-403-108 (208-403-108)
 3. EXISTING LAND USE: VACANT
 4. EXISTING ZONE: R-1.2
 5. ADJACENT ZONE: R-1.2
 6. OWNER/APPlicant: VALPICO APARTMENTS LLC
 7. DESIGNER: MACKAY & SOMPS CIVIL ENGINEERS, INC. (208) 225-0085
 8. GROUNDWATER ENGINEER: (208) 225-0085
 9. TRAFFIC ENGINEER: TOWN TRANSPORTATION CONSULTING (208) 463-3811
 10. UTILITIES: CITY OF TRACY
 11. FIRE ENGINEER: CITY OF TRACY
 12. STORM DRAINAGE ENGINEER: CITY OF TRACY
 13. SOIL DETECTION ENGINEER: CITY OF TRACY
 14. THE WATER SYSTEM WILL BE COMPOSED OF 2 SYSTEMS: DOMESTIC WATER AND FIRE WATER
 15. SITE AREA SUMMARY:

| | |
|----------------------|------------|
| EXISTING LOT AREA | 8,400 SF |
| EXISTING LOT PERMITS | 14,100 SF |
| EXISTING LOT PERMITS | 120,000 SF |
| EXISTING LOT PERMITS | 181,000 SF |
| EXISTING LOT PERMITS | 72,000 SF |
| EXISTING LOT PERMITS | 3,800 SF |
| EXISTING LOT PERMITS | 8,800 SF |
| EXISTING LOT PERMITS | 3,800 SF |
| EXISTING LOT PERMITS | 8,800 SF |
| EXISTING LOT PERMITS | 3,800 SF |
| EXISTING LOT PERMITS | 8,800 SF |

9. TRAFFIC ENGINEER: TOWN TRANSPORTATION CONSULTING (208) 463-3811
10. UTILITIES: CITY OF TRACY
11. FIRE ENGINEER: CITY OF TRACY
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| EXISTING LOT PERMITS | 8,800 SF |
| EXISTING LOT PERMITS | 3,800 SF |
| EXISTING LOT PERMITS | 8,800 SF |

12. STORM DRAINAGE ENGINEER: CITY OF TRACY
13. SOIL DETECTION ENGINEER: CITY OF TRACY
14. THE WATER SYSTEM WILL BE COMPOSED OF 2 SYSTEMS: DOMESTIC WATER AND FIRE WATER
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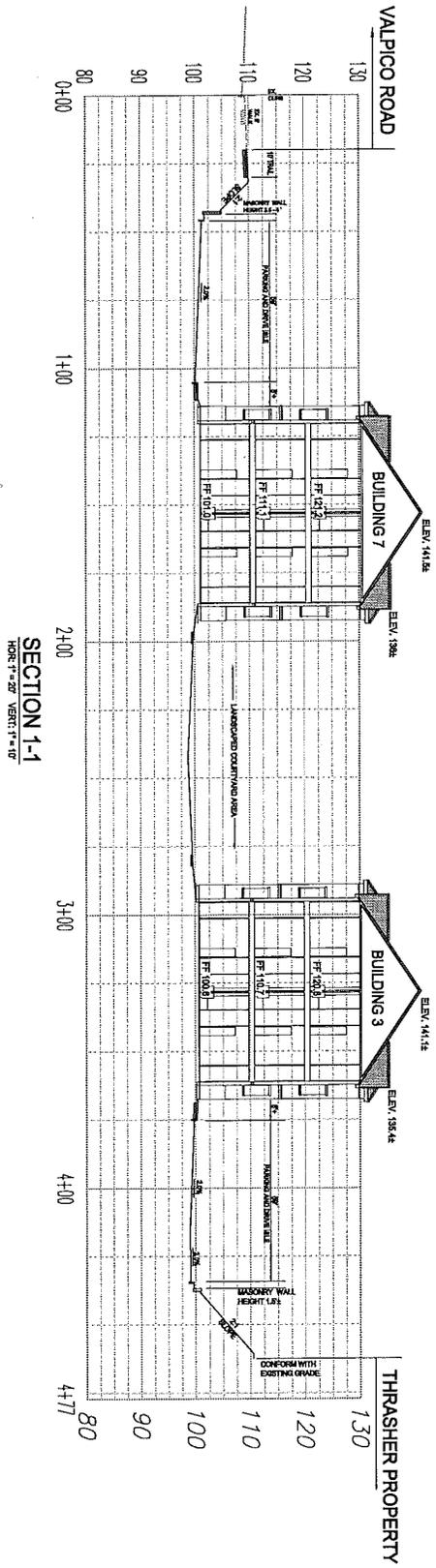
DATE: 08-27-2012
 DRAWN BY: J. BROWN
 CHECKED BY: J. BROWN
 SCALE: 1"=40'
 SHEET: 1

PLANS FOR THE IMPROVEMENT OF
VALPICO APARTMENTS
 DEVELOPMENT REVIEW
SITE PLAN

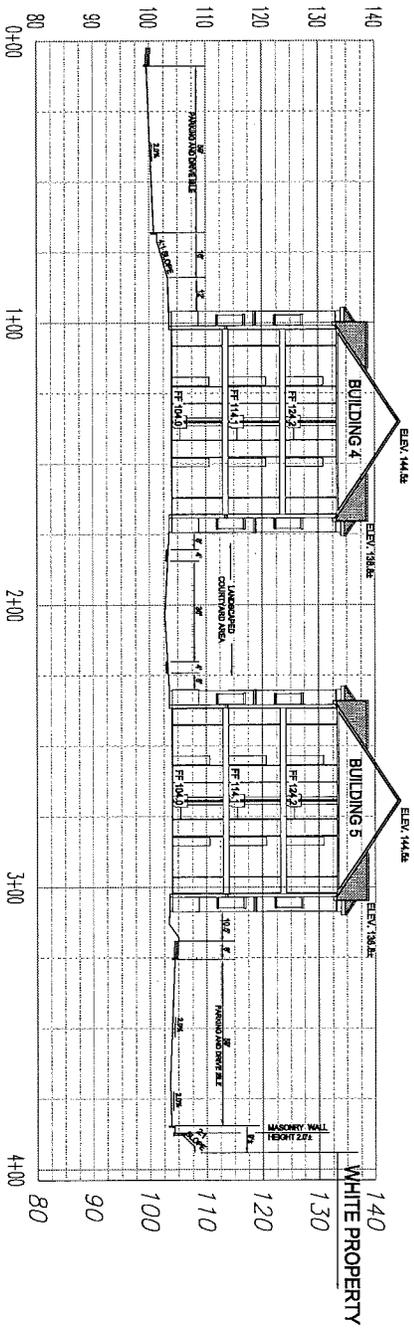
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|------------|------------|
| DATE | 08-27-2012 |
| DRAWN BY | J. BROWN |
| CHECKED BY | J. BROWN |
| SCALE | 1"=40' |
| SHEET | 1 |

MACKAY & SOMPS
 ENGINEERS
 51428 PARKWAY, PLEASANTON, CA 94566
 (925) 225-0085

CITY OF TRACY



SECTION 1-1
HORIZ: 1"=20' VERT: 1"=10'



SECTION 2-2
HORIZ: 1"=20' VERT: 1"=10'

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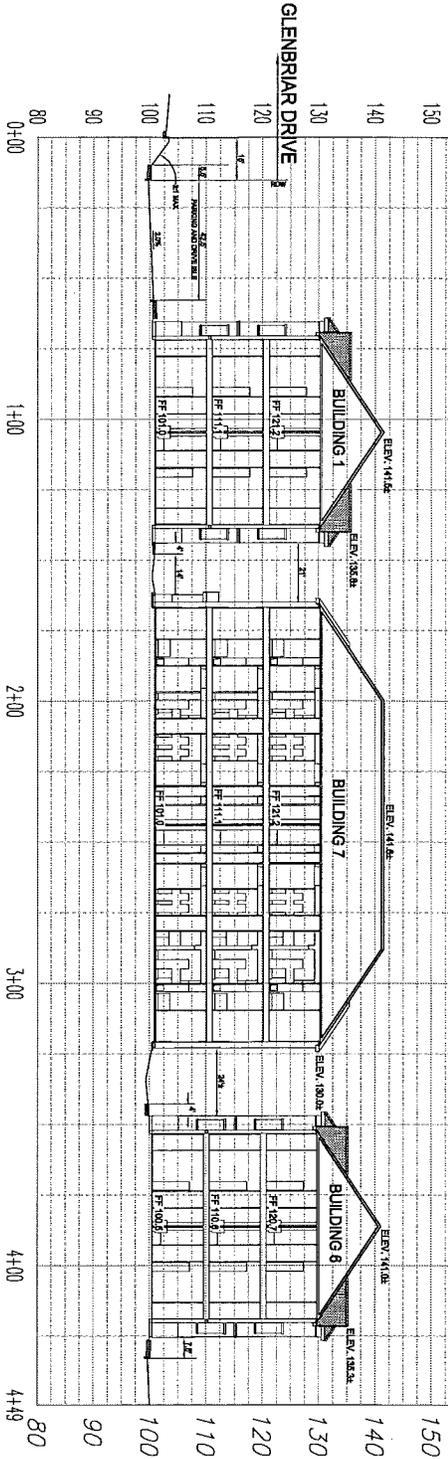
| <p>PLANS FOR THE IMPROVEMENT OF VALPICO APARTMENTS DEVELOPMENT REVIEW CROSS SECTIONS</p> | | <p>DATE: 05-16-2012 DESIGNED BY: [blank] DRAWN BY: [blank] SCALE: [blank] HORIZ: 1"=20' VERT: 1"=10'</p> | <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>REVISIONS</th> <th>APPROVED</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table> | NO. | DATE | REVISIONS | APPROVED | | | | | <p>Mackay & Somp PLANNERS SURVEYORS 51428 FRANKLIN DR., PLEASANTON, CA 94568 (925)225-0960</p> | <p>CITY OF TRACY</p> <p>APPROVAL OF THESE PLANS DOES NOT RELIEVE THE RECIPIENT OF THE RESPONSIBILITY OF THE ACCURACY OF THE INFORMATION PROVIDED, THE CORRECTNESS OF THE DRAWINGS, THE COMPLETION OF THE PROJECT, OR THE CONFORMANCE WITH ALL APPLICABLE LAWS, ORDINANCES, AND REGULATIONS. THE CITY ENGINEER SHALL HAVE THE AUTHORITY TO REQUIRE SUCH INFORMATION OR CORRECTIONS AS NECESSARY TO SAFELY AND ACCURATELY CONDUCT THE WORK TO BE DONE AS SHOWN ON THESE PLANS. APPROVAL IS TO BE OBTAINED FROM THE CITY ENGINEER AND THE CITY ENGINEER'S OFFICE SHALL BE RESPONSIBLE FOR THE INFORMATION SUBMITTED HEREON, APPROVED FOR THE CITY OF TRACY.</p> <p>DESIGNED BY: [blank] CITY ENGINEER: [blank]</p> |
|--|-------------------------|--|---|-----|------|-----------|----------|--|--|--|--|---|--|
| NO. | DATE | REVISIONS | APPROVED | | | | | | | | | | |
| | | | | | | | | | | | | | |
| <p>PROJECT NO: 19530.000 SHEET 5A OF 14 SHEETS</p> | <p>TRACY CALIFORNIA</p> | <p>PROJECT NO: 19530.000 SHEET 5A OF 14 SHEETS</p> | | | | | | | | | | | |

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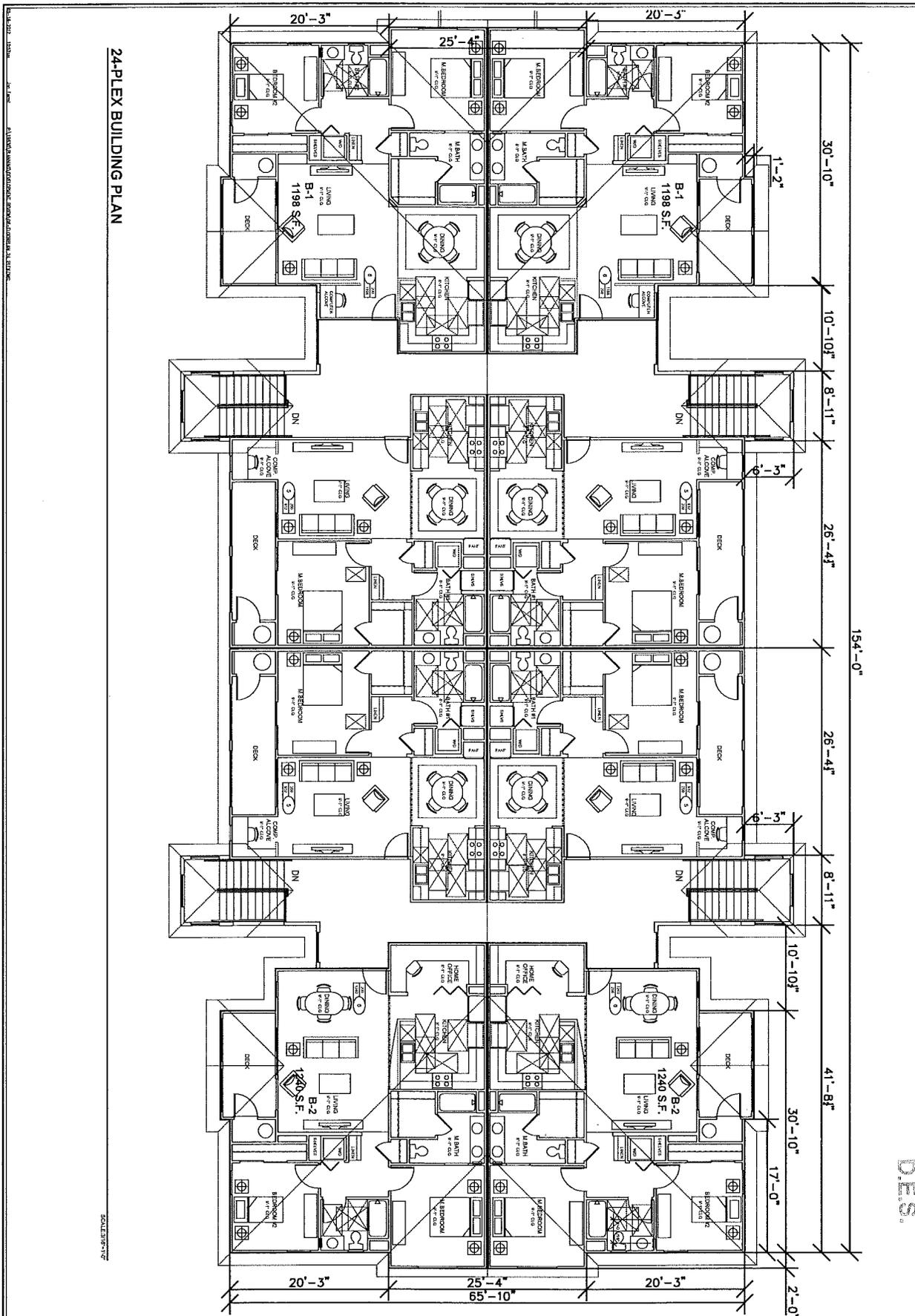
CITY OF TRACY

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SECTION 3-3
TABLE 1 - 22' VERT. 1" = 10'

| PROJECT NO. 18300.000 SHEET 5B OF 14 SHEETS | PLANS FOR THE IMPROVEMENT OF VALPICO APARTMENTS DEVELOPMENT REVIEW CROSS SECTIONS | DATE: 05-16-2012 DESIGNED BY: JF CHECKED BY: JF SCALE: 1/8" = 1'-0" VERT. 1" = 10' | <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>REVISION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> | NO. | DATE | REVISION | | | | Mackay & Somp ENGINEERS PLANNERS SURVEYORS 51428 FRANKLIN DR. PLEASANTON, CA 94568 (925)255-0690 | CITY OF TRACY <small>APPROVAL OF THESE PLANS DOES NOT RELIEVE THE DEVELOPER OF THE RESPONSIBILITY FOR CORRECTION OF MATERIAL ERRORS, OMISSIONS, OR DISCREPANCIES, NOR DOES IT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED ON THESE PLANS. THE CITY ENGINEER SHALL HAVE NO LIABILITY TO INQUIRE INTO THE INFORMATION OR OTHERWISE BE RESPONSIBLE FOR THE SAME OR TO BE HELD AS RESPONSIBLE FOR THE CITY APPROVAL OF THESE PLANS. ONLY THE INFORMATION SUBMITTED HEREON, APPROVED BY THE CITY OF TRACY.</small> MAILED 5/16/12 CITY ENGINEER: _____ SEAL: _____ |
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| TRACY CALIFORNIA | | | | | | | | | | | |



24-PLEX BUILDING PLAN

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

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MAY 16 2012
CITY OF TRACY
DES.

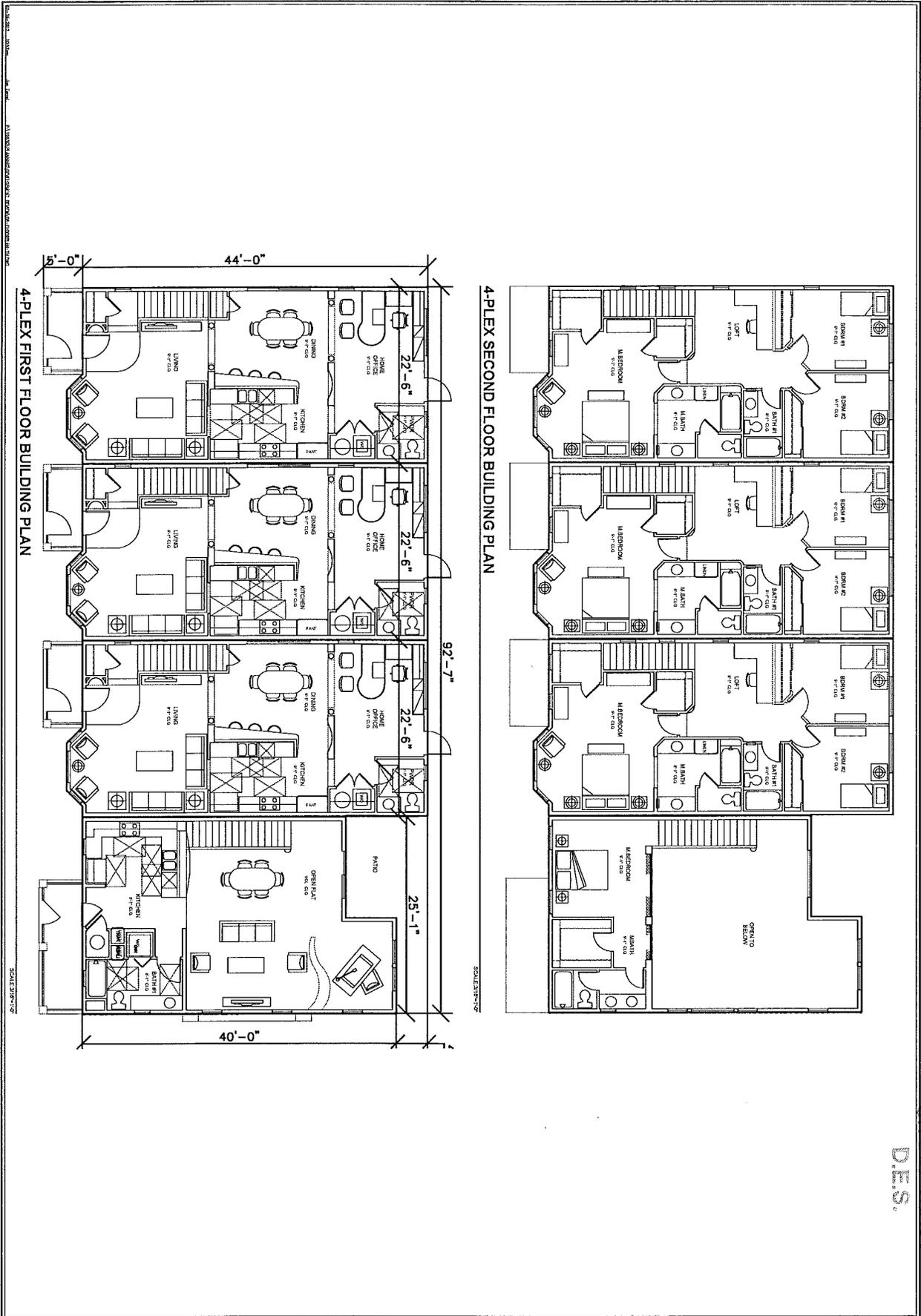
OF 14 SHEETS
6

PLANS FOR THE IMPROVEMENT OF
VALPICO APARTMENTS
DEVELOPMENT REVIEW
BUILDING FLOOR PLANS
24 - PLEX BUILDING
TRACY CALIFORNIA

| | | |
|-----------------------|--------------|-----------|
| DATE: 05-16-2012 | REVISION: | APPROVED: |
| DRAWN BY: JNF | NO.: | |
| CHECKED BY: | DESCRIPTION: | |
| SCALE: 1/8" = 1'-0" | | |
| SHEET: 6 | | |
| PROJECT NO: 19630.000 | | |

Mackay & Somp
ENGINEERS PLANNERS SURVEYORS
3142 TRAVELER DR. PLACENTIA, CA 94608 (925) 225-0600

CITY OF TRACY
CITY ENGINEER: _____ DATE: _____
CITY CLERK: _____



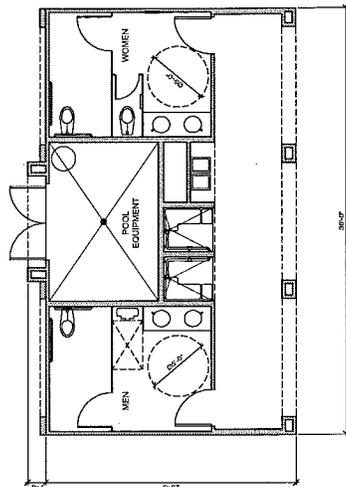
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MAY 16 2012

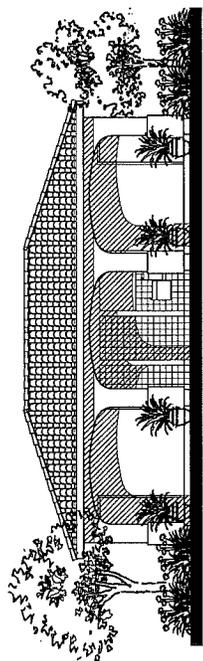
CITY OF TRACY

D.E.S.

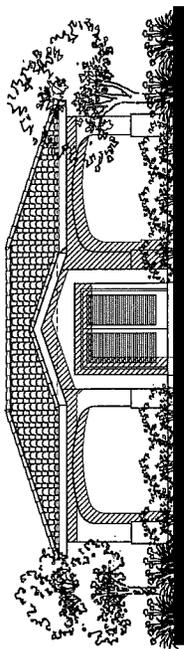
| PROJECT NO. 19630.000 SHEET 8 OF 14 SHEETS | PLANS FOR THE IMPROVEMENT OF VALPICO APARTMENTS DEVELOPMENT REVIEW BUILDING FLOOR PLANS TOWNHOUSES TRACY CALIFORNIA | DATE: 05-15-2012 DESIGNED BY: [] DRAWN BY: [] CHECKED BY: [] SCALE: 3/16"=1'-0" N/A | <table border="1"> <thead> <tr> <th>REVISION</th> <th>DATE</th> <th>DESCRIPTION</th> <th>APPROVED</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> | REVISION | DATE | DESCRIPTION | APPROVED | | | | | | | | | Mackay & Somp ARCHITECTS 51428 FRANKLIN DR., PLEASANTON, CA 94588 (925)222-0990 | CITY OF TRACY <small>APPROVAL OF THESE PLANS DOES NOT RELIEVE THE DEVELOPER OF THE RESPONSIBILITY FOR CORRECTION OF NETWORKS, EXISTING OR CHANGING CONDITIONS, WHETHER BY ORDER OF THE COMMISSIONER OF THE ARCHITECTURE THAT THE ARCHITECT'S RESPONSIBILITY OF A SEPARATE FROM THE SPECIFICATIONS AND DETAILS OF THE CITY OF TRACY IN THESE PLANS. THE CITY ENGINEER SHALL HAVE THE AUTHORITY TO REQUIRE ANY MODIFICATION OF NETWORKS, AND TO SPECIFY THE WORK TO BE DONE IN SUCH CASE AS TO BE DONE AT HIS COST TO THE CITY, APPROVED AS TO DESIGN THAT DESIGN ON THE INFORMATION SUBMITTED HEREON, APPROVED FOR THE CITY OF TRACY.</small> COUNTY DRAWN: CITY CHECKED: |
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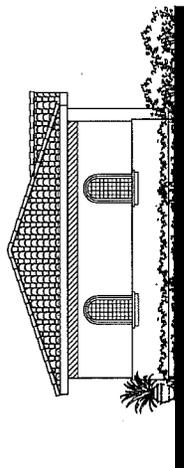
RESTROOM BUILDING
750 S.F.



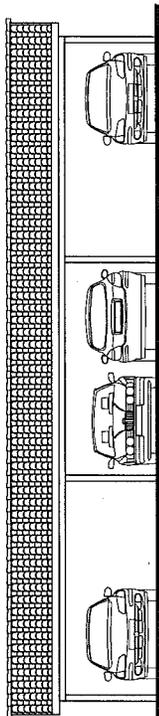
FRONT ELEVATION



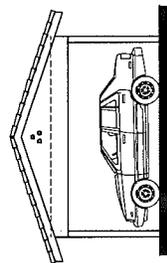
REAR ELEVATION



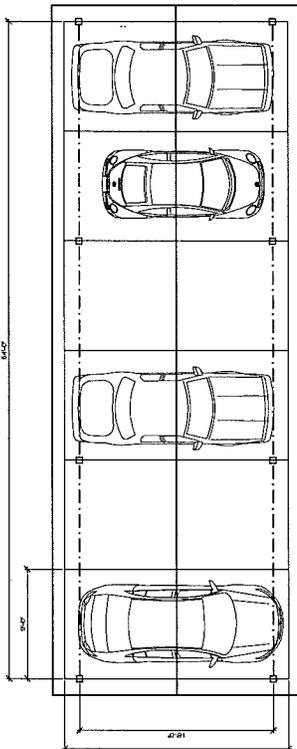
TYP. SIDE ELEVATION



FRONT ELEVATION (REAR SIMILAR)



TYP. SIDE ELEVATION



TYPICAL CARPORT (6 STALL SHOWN)

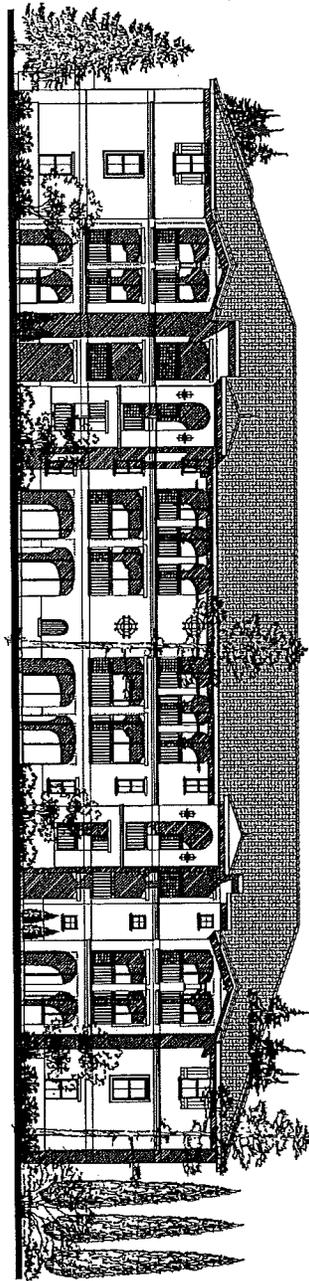
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| DATE | BY | CHKD. |

Toblesky Green Architects
Incorporated
P.O. Box 1761
Clarksburg, CA 95719
(925) 363-2754

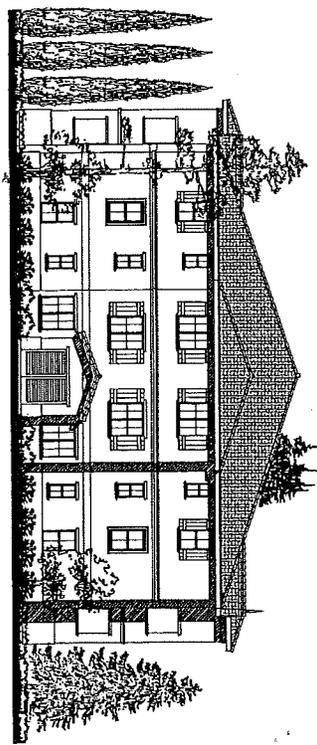
ACCESSORY BUILDINGS

Valpico Apartments, Tracy, CA

Valpico Apartments, LLC



24-PLEX BUILDING FRONT ELEVATION



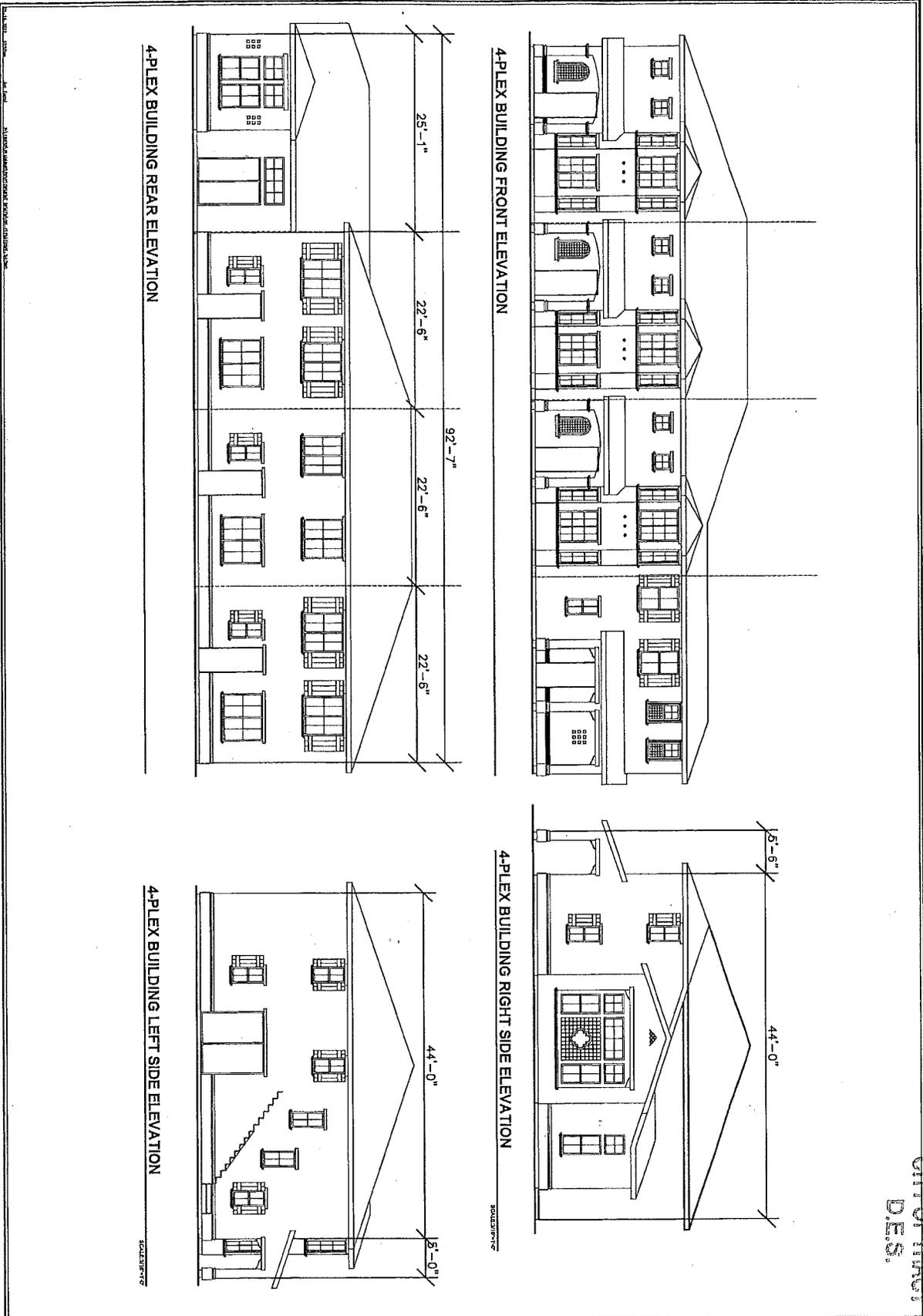
24-PLEX BUILDING TYPICAL SIDE ELEVATION

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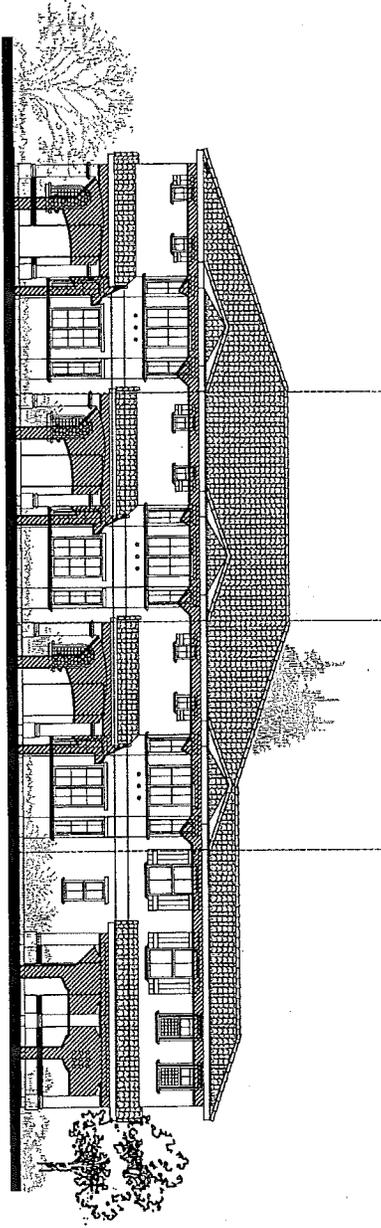
| PROJECT NO. 16830.000 SHEET 7A OF 14 SHEETS | PLANS FOR THE IMPROVEMENT OF VALPICO APARTMENTS DEVELOPMENT REVIEW 24 PLEX APARTMENTS BUILDING ELEVATIONS TRACY CALIFORNIA | DATE: 05-16-2012 DRAWN BY: [] CHECKED BY: [] SCALE: 1/8"=1'-0" BY: [] | <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> <th>CHKD.</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table> | NO. | DATE | DESCRIPTION | BY | CHKD. | | | | | | | | | | | | | | | | | | | | | Mackay & Somp ARCHITECTS PLANNERS 5108 TRAVLER DR. PLEASANTON, CA 94566 (925)265-0600 | CITY OF TRACY <small>APPROVAL OF THESE PLANS DOES NOT CONSTITUTE AN ENDORSEMENT OR GUARANTEE OF ACCURACY OR COMPLETION. THE CITY ENGINEER'S REVIEW IS LIMITED TO TECHNICAL ASPECTS OF THE SUBMITTED PLANS. THE CITY ENGINEER SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETION OF THE PLANS. THE CITY ENGINEER SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETION OF THE PLANS. THE CITY ENGINEER SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETION OF THE PLANS.</small> |
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| | | NO. | DATE | DESCRIPTION | BY | CHKD. | | | | | | | | | | | | | | | | | | | | | | | | |
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| SELECTED SHEETS: [] CITY ENGINEER: [] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |



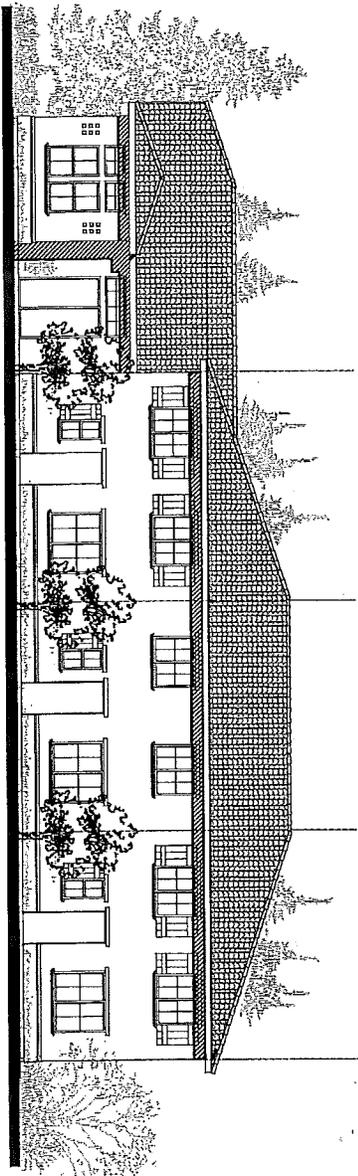
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| PROJECT NO. 1804-000 SHEET 9 | PLANS FOR THE IMPROVEMENT OF VALPICO APARTMENTS DEVELOPMENT REVIEW TOWNHOUSES BUILDING ELEVATIONS CALIFORNIA | DATE: 05-15-2012 DRAWN BY: JAC CHECKED BY: JAC SCALE: 1/8"=1'-0" N/A | REVISIONS <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>APPROVED</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> | NO. | DATE | DESCRIPTION | APPROVED | | | | | Mackay & Somp ENGINEERS PLANNERS ARCHITECTS 31425 FERRIS DR., PLAZAWAY, CA 95308 (925)222-0800 | CITY OF TRACY <small>Approval of these plans does not constitute an endorsement or approval by the City of Tracy, California, of the design or construction of the improvement shown on these plans. The City of Tracy, California, does not assume any liability for the design or construction of the improvement shown on these plans. The City of Tracy, California, does not assume any liability for the design or construction of the improvement shown on these plans. The City of Tracy, California, does not assume any liability for the design or construction of the improvement shown on these plans.</small> |
|--|---|--|--|-------------|----------|-------------|----------|--|--|--|--|---|---|
| | | NO. | DATE | DESCRIPTION | APPROVED | | | | | | | | |
| | | | | | | | | | | | | | |
| TRACY | CITY ENGINEER DATE: | | | | | | | | | | | | |



4-PLEX BUILDING FRONT ELEVATION



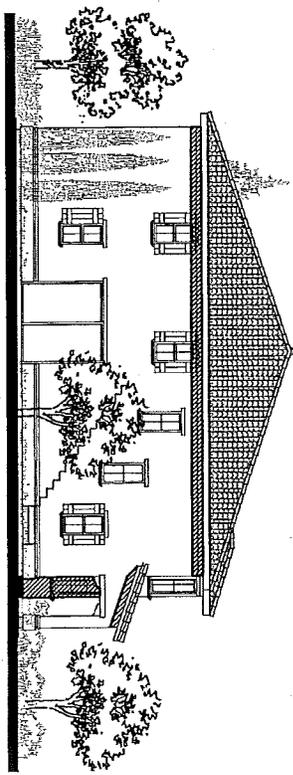
4-PLEX BUILDING REAR ELEVATION

CITY OF TRACY
D.E.S.

MAY 16 2012

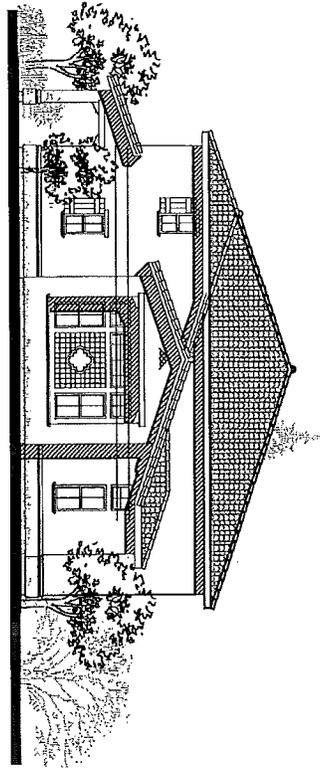
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| PROJECT NO. 19830.000 SHEET 9A OF 14 SHEETS | PLANS FOR THE IMPROVEMENT OF VALPICO APARTMENTS DEVELOPMENT REVIEW TOWNHOUSES BUILDING ELEVATIONS TRACY CALIFORNIA | DATE: 05-11-2012 DRAWN BY: CHECKED BY: SCALE: 3/16" = 1' N/A | REVISION NO. DATE DESCRIPTION APPROVED | MACKAY & SOMPS ARCHITECTS 51428 TRAVLER DR. PLEASANTON, CA 94566 (925)223-0600 | CITY OF TRACY CITY ENGINEER |
| | | CITY OF TRACY D.E.S. | | | |



4-PLEX BUILDING LEFT SIDE ELEVATION

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



4-PLEX BUILDING RIGHT SIDE ELEVATION

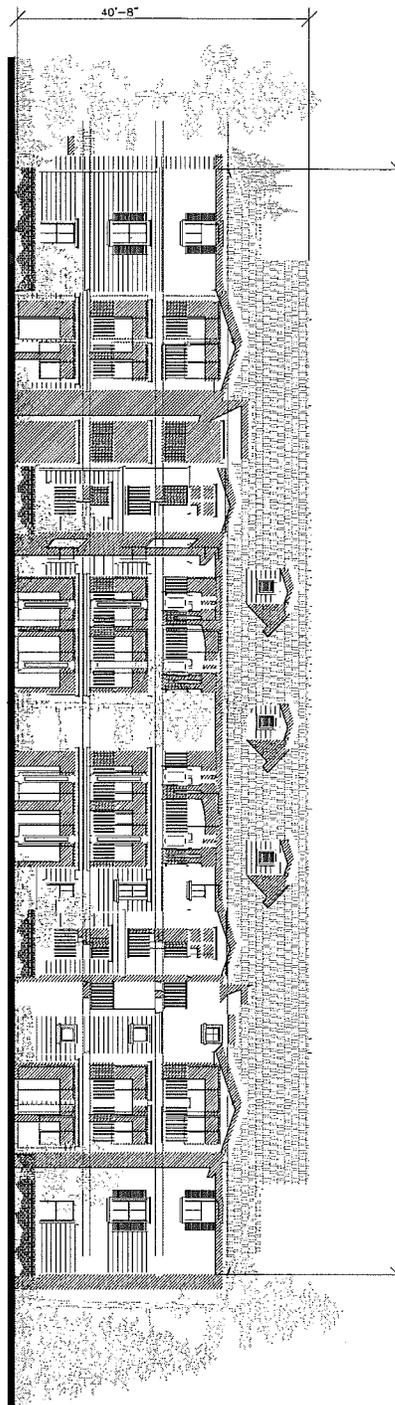
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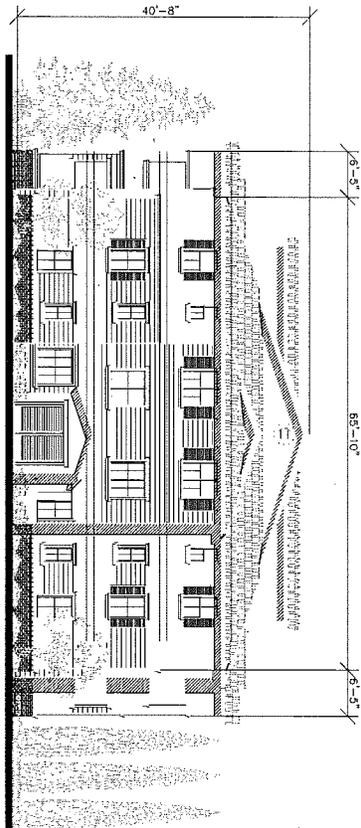
MAY 16 2012

CITY OF TRACY
DES.

| PROJECT NO. 98 SHEET 14 | PLANS FOR THE IMPROVEMENT OF VALPICO APARTMENTS DEVELOPMENT REVIEW TOWNHOUSES BUILDING ELEVATIONS TRACY CALIFORNIA | DATE 05-16-2012 DRAWN BY CHECKED BY INCHES 3/16" = 1' 1/4" | REVISIONS <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> | NO. | DATE | DESCRIPTION | BY | | | | | | | | | | | | | Mackay & Soms PLANNERS ARCHITECTS 51428 FERRIS DR., PLEASANTON, CA 94566 (925)225-0600 | CITY OF TRACY CITY ENGINEER SEAL |
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| <small> APPROVAL OF THESE PLANS DOES NOT CONSTITUTE THE ENDORSEMENT OR THE GUARANTEE OF THE ACCURACY OF THE INFORMATION OR THE QUALITY OF THE WORK. THE CITY ENGINEER'S REVIEW IS LIMITED TO TECHNICAL ASPECTS OF THE PLANS AND DOES NOT CONSTITUTE AN ENDORSEMENT OF THE PROJECT OR A GUARANTEE OF THE ACCURACY OF THE INFORMATION OR THE QUALITY OF THE WORK. THE CITY ENGINEER'S REVIEW IS LIMITED TO TECHNICAL ASPECTS OF THE PLANS AND DOES NOT CONSTITUTE AN ENDORSEMENT OF THE PROJECT OR A GUARANTEE OF THE ACCURACY OF THE INFORMATION OR THE QUALITY OF THE WORK. </small> | | | | | | | | | | | | | | | | | | | | | |



24 PLEX BUILDING FRONT ELEVATION



24 PLEX BUILDING TYPICAL SIDE ELEVATION

Westcoast Apartments

OF 14 SHEETS

7B

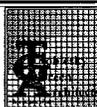
PROJECT NO.
TRACY, CALIFORNIA

PLANS FOR THE IMPROVEMENT OF
VALPICO APARTMENTS
DEVELOPMENT REVIEW
24 PLEX APARTMENTS
BUILDING ELEVATIONS

TRACY CALIFORNIA

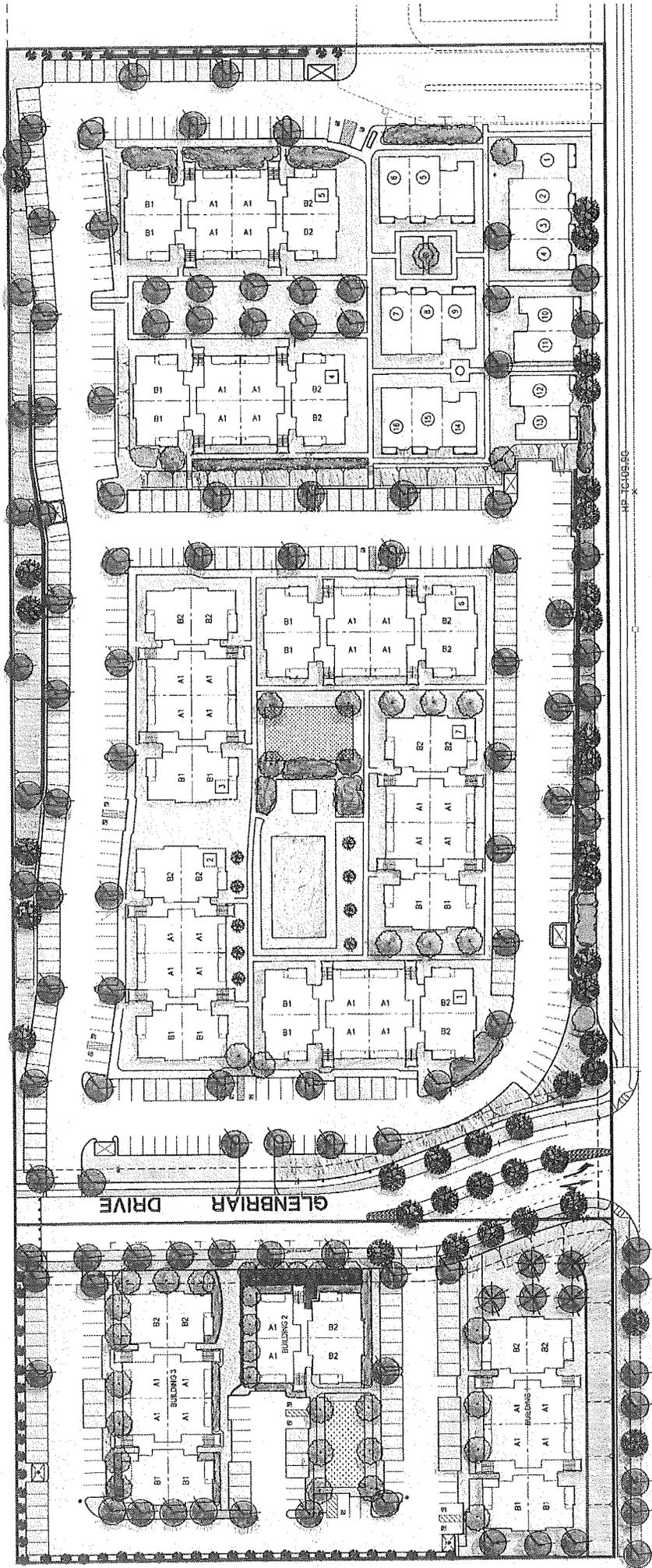
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**Tablesky
Green
Architects**
INCORPORATED
1714 18th STREET
OAKLAND, CA
94612
(415) 763-3354

CITY OF TRACY



HP-TC-05.50

VALPICO ROAD

GLENBRIAR DRIVE



**PUBLIC DRAFT
INITIAL STUDY AND MITIGATED NEGATIVE
DECLARATION**

FOR THE

VALPICO APARTMENTS PROJECT

OCTOBER 15, 2012

Prepared for:

City of Tracy
Department of Development Services
333 Civic Center Plaza
Tracy, CA 95376

Prepared by:

De Novo Planning Group
4630 Brand Way
Sacramento, CA 95819
(916) 949-3231

D e N o v o P l a n n i n g G r o u p

A Land Use Planning, Design, and Environmental Firm



PUBLIC DRAFT
INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION

FOR THE
VALPICO APARTMENTS PROJECT

OCTOBER 15, 2012

Prepared for:

City of Tracy
Department of Development Services
333 Civic Center Plaza
Tracy, CA 95376

Prepared by:

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INITIAL STUDY

PROJECT TITLE

Valpico Apartments Project

LEAD AGENCY NAME AND ADDRESS

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

CONTACT PERSON AND PHONE NUMBER

Alan Bell, Senior Planner
Development Services Department
City of Tracy
(209) 831-6426

PROJECT SPONSOR'S NAME AND ADDRESS

Valpico Apartments, LLC
1601 Carmen Drive, Suite 211
Camarillo, CA 93010
(805) 469-9510

PURPOSE OF THE INITIAL STUDY

An Initial Study (IS) is a preliminary analysis which is prepared to determine the relative environmental impacts associated with a proposed project. It is designed as a measuring mechanism to determine if a project will have a significant adverse effect on the environment, thereby triggering the need to prepare an Environmental Impact Report (EIR). It also functions as an evidentiary document containing information which supports conclusions that the project will not have a significant environmental impact or that the impacts can be mitigated to a "Less Than Significant" or "No Impact" level. If there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, the lead agency shall prepare a Negative Declaration (ND). If the IS identifies potentially significant effects, but: (1) revisions in the project plans or proposals would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (2) there is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment, then a Mitigated Negative Declaration (MND) shall be prepared.

This Initial Study has been prepared consistent with CEQA Guidelines Section 15063, to determine if the proposed Valpico Apartments Project (project) may have a significant effect upon the environment. Based upon the findings and mitigation measures contained within this report, a Mitigated Negative Declaration (MND) will be prepared.

PROJECT LOCATION AND SETTING

PROJECT LOCATION

The project site consists of approximately 8.75 acres located in the northwest quadrant of the intersection of South MacArthur Drive and Valpico Road in the southern portion of the City of Tracy. The project site includes APNs 246-140-013 and 014.

The project's regional location is shown in Figure 1 and the project area and site boundary are shown in Figure 2.

EXISTING SITE USES

The project site is currently vacant. Landscaping trees are located along the southern and western edges of the project site.

SURROUNDING LAND USES

Lands to the south and east of the project site consist of single-family residential uses. There is a Rite Aid store located immediately east of the project site, along the project site's eastern boundary. The parcel immediately west of the project site has a single home, and is otherwise vacant. The parcel adjacent to the west is designated Residential High by the City's General Plan and is currently the subject of a separate development application for the development of a 60-unit residential apartment project. Commercial, industrial, and vacant land uses are located further to the west of the project site. The parcel to the north of the project site is mostly vacant, with the exception of a single residential structure and accessory buildings. Single-family residential land uses are located further north of the project site.

GENERAL PLAN AND ZONING DESIGNATIONS

The project site is currently designated Commercial by the City of Tracy General Plan Land Use Designations Map and is zoned Community Shopping.

PROJECT DESCRIPTION

The proposed project would develop 184 multi-family housing units on the 8.75-acre project site. The project would consist of seven, three-story buildings with 24 apartment units in each building, plus 16 rental townhomes in six buildings of two stories each. Parking would be located throughout the site, adjacent to the apartment buildings. A total of 362 parking spaces would be provided, approximately half of which would be covered.

The project would include a leasing office, swimming pool, sidewalks, a bike path, and landscaping improvements throughout the site.

Glenbriar Drive currently terminates at the south side of Valpico Road, southwest of the project site. The project applicant would construct a new segment of Glenbriar Drive, running north-south, along the western edge of the site. There would be two access points to the western side of the project site from the newly constructed segment of Glenbriar Drive. An additional site

access point would be provided from Valpico Road, near the southeastern corner of the project site. The proposed site plan is shown on Figure 3. The proposed project includes a request for a General Plan Amendment to designate the site Residential High, and a zoning change to zone the site High Density Residential.

REQUESTED ENTITLEMENTS AND OTHER APPROVALS

The City of Tracy is the Lead Agency for the proposed project, pursuant to the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), Section 15050.

This document will be used by the City of Tracy to take the following actions:

- Adoption of the Mitigated Negative Declaration (MND)
- Adoption of the Mitigation Monitoring and Reporting Program (MMRP)
- Approval of a General Plan Amendment from Commercial to the Residential High land use designation (GPA12-0001)
- Approval of site rezoning from Community Shopping Center to High Density Residential (R12-0001)
- Tracy Municipal Code Amendment (Section 10.08.1610(d)) changing the minimum distance between main buildings in the High Density Residential Zone from “the average height of the two main buildings” to a distance as close as six feet. (ZA12-0004)
- Development Review (D12-0004)

The following agencies may be required to issue permits or approve certain aspects of the proposed project:

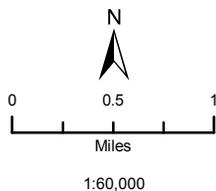
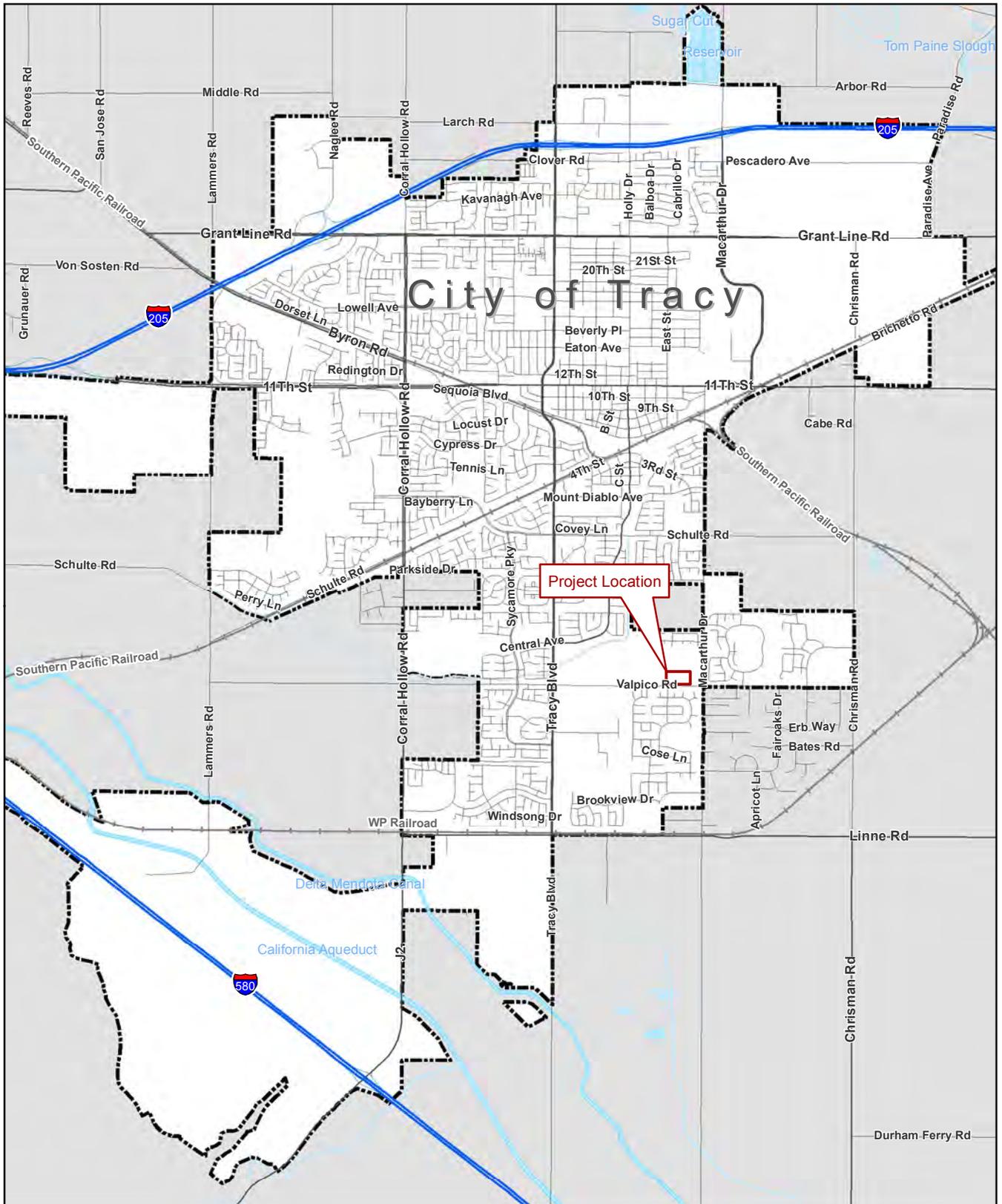
- Central Valley Regional Water Quality Control Board (CVRWQCB) - Storm Water Pollution Prevention Plan (SWPPP) approval prior to construction activities.
- San Joaquin Valley Air Pollution Control District (SJVAPCD) - Approval of construction-related air quality permits.
- San Joaquin Council of Governments (SJCOG)- Review of project application to determine consistency with the San Joaquin County Multi-Species Habitat, Conservation, and Open Space Plan (SJMSCP).

PROJECT GOALS AND OBJECTIVES

The City of Tracy and the project applicant have identified the following goals and objectives for the proposed project:

1. Expand the available supply of high density residential housing options in the City of Tracy, consistent with City Housing Element goals of providing a range of residential densities and products, including high-density apartments
2. Develop a project that is consistent and compatible with the surrounding land uses.
3. Increase the supply of market-rate rental housing units that may be affordable to moderate income households within the City of Tracy.

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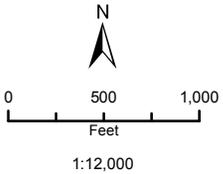
Data sources: California Spatial Information Library;
 ESRI StreetMap North America. Map date: August 25, 2012

Valpico Apartments Development
 Figure 1 - Regional Location Map

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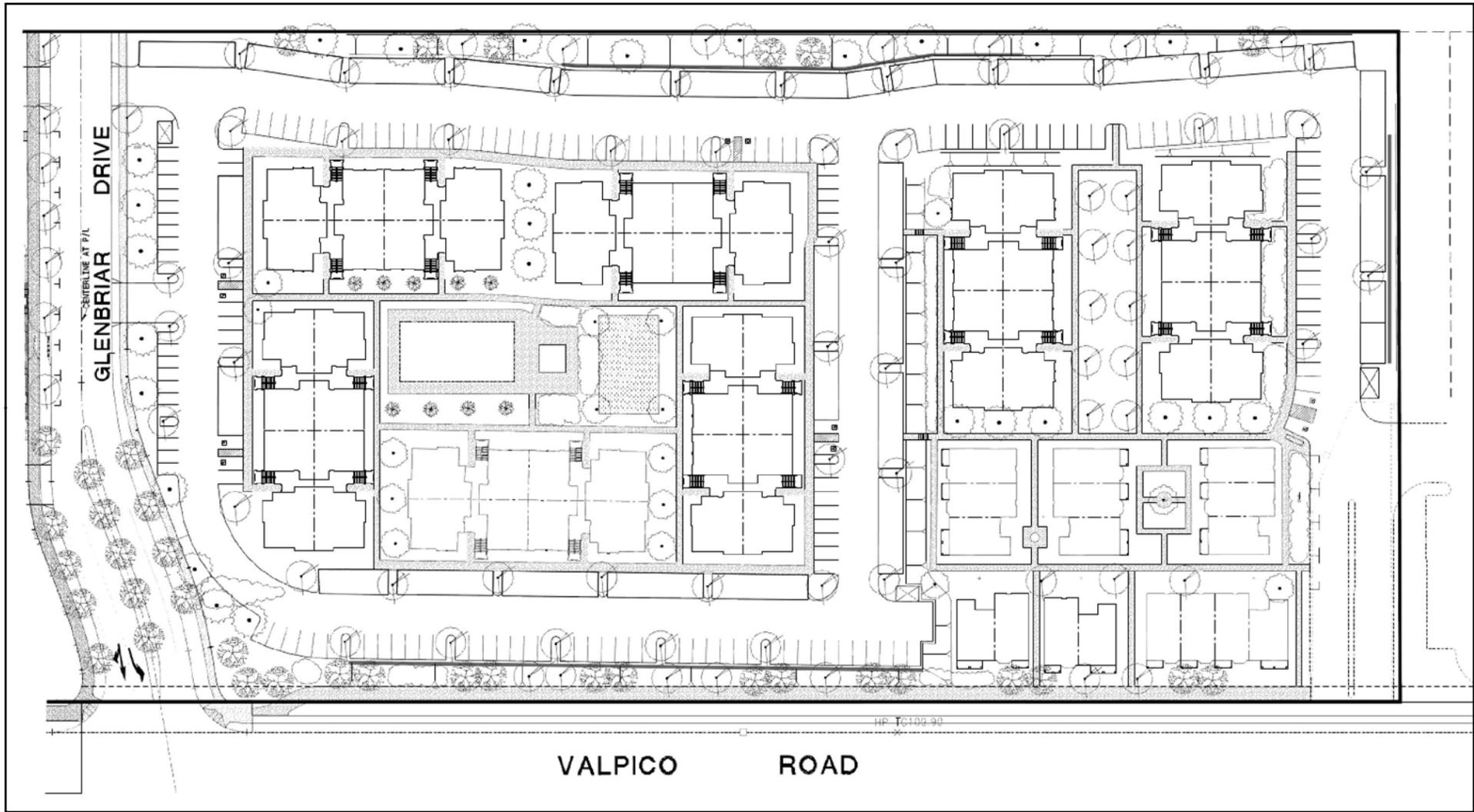
Project Location



Valpico Apartments Development
 Figure 2 - Project Vicinity Map

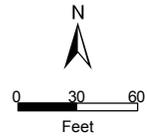
Data sources: ArcGIS Online BING aeriels; ESRI StreetMap North America. Map date: August 25, 2012

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Valpico Apartments Development

Figure 3 - Site Plan



Data source: MacKay & Soms, Pleasanton, California
 Map date: August 25, 2012

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

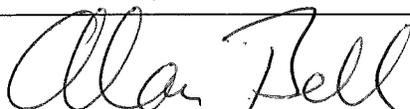
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|--|------------------------|--|----------------------------------|--|------------------------------------|
| | Aesthetics | | Agriculture and Forest Resources | | Air Quality |
| | Biological Resources | | Cultural Resources | | Geology/Soils |
| | Greenhouse Gasses | | Hazards and Hazardous Materials | | Hydrology/Water Quality |
| | Land Use/Planning | | Mineral Resources | | Noise |
| | Population/Housing | | Public Services | | Recreation |
| | Transportation/Traffic | | Utilities/Service Systems | | Mandatory Findings of Significance |

DETERMINATION:

On the basis of this initial evaluation:

| | |
|---|--|
| | I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. |
| X | I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared. |
| | I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. |
| | I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed. |
| | I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required. |

Signature



Date

10/12/12

City of Tracy

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EVALUATION INSTRUCTIONS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances).

- Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
 - 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
 - 9) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance

EVALUATION OF ENVIRONMENTAL IMPACTS:

In each area of potential impact listed in this section, there are one or more questions which assess the degree of potential environmental effect. A response is provided to each question using one of the four impact evaluation criteria described below. A discussion of the response is also included.

- Potentially Significant Impact. This response is appropriate when there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries, upon completion of the Initial Study, an EIR is required.
- Less than Significant With Mitigation Incorporated. This response applies when the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact". The Lead Agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level.
- Less than Significant Impact. A less than significant impact is one which is deemed to have little or no adverse effect on the environment. Mitigation measures are, therefore, not necessary, although they may be recommended to further reduce a minor impact.
- No Impact. These issues were either identified as having no impact on the environment, or they are not relevant to the Project.

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ENVIRONMENTAL CHECKLIST

This section of the Initial Study incorporates the most current Appendix "G" Environmental Checklist Form, contained in the CEQA Guidelines. Impact questions and responses are included in both tabular and narrative formats for each of the 18 environmental topic areas.

I. AESTHETICS -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|--|---------------------------------------|--|-------------------------------------|------------------|
| a) Have a substantial adverse effect on a scenic vista? | | | X | |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | | | | X |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | | | X | |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | | X | | |

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less Than Significant. There are no scenic vistas located on or adjacent to the project site. The proposed project is considered an infill project, and the proposed uses on the site are consistent and compatible with the surrounding land uses. Lands to the south and east of the project site consist of single-family residential uses. There is a Rite Aid store located immediately east of the project site, along the project site’s eastern boundary. The parcel immediately west of the project site has a single home, and is otherwise vacant. Commercial, industrial, and vacant land uses are located further to the west of the project site. The parcel to the north of the project site is mostly vacant, with the exception of a single structure. Single-family residential land uses are located further north of the project site.

Implementation of the proposed project would provide for additional residential development in an area of the City that is largely developed. The project site is not topographically elevated from the surrounding lands, and is not highly visible from areas beyond the immediate vicinity of the site. There are no prominent features on the site, such as trees, rock outcroppings, or other visually distinctive features that contribute to the scenic quality of the site. The project site is not designated as a scenic vista by the City of Tracy General Plan.

Implementation of the proposed project would not significantly change the existing visual character of the project area, as much of the areas immediately adjacent to the site are used for residential and commercial purposes.

Implementation of the proposed project would introduce a high-density residential development to the project area, and would be generally consistent with the surrounding residential and commercial development. Therefore, this impact is considered **less than significant**.

Response b): No Impact. As described in the Tracy General Plan EIR, there are two Officially Dedicated California Scenic Highway segments in the Tracy Planning Area, which extend a total length of 16 miles. The first designated scenic highway is the portion of I-580 between I-205 and I-5, which offers views of the Coast Range to the west and the Central Valley’s urban and agricultural lands to the east. The second scenic highway is the portion of I-5 that starts at I-205 and continues south to Stanislaus County, which allows for views of the surrounding agricultural lands and the Delta-Mendota Canal and California Aqueduct.

The project site is not visible from any of the above-referenced scenic highways. Development of the proposed project would not result in the removal of any trees, rock outcroppings, or buildings of historical significance, and would not result in changes to any of the viewsheds from the designated scenic highways in the vicinity of the City of Tracy. There is **no impact**.

Response c): Less than Significant. As described under Response a), above, the proposed project would add additional residential uses to an area that currently contains numerous residential and commercial uses. The proposed project would be visually compatible with the surrounding land uses and would not significantly degrade the existing visual quality of the site or the surrounding area. Additionally, the project is subject to the City of Tracy’s development and design review criteria, which would ensure that the exterior facades of the proposed residential structures, landscaping, streetscape improvements and exterior lighting improvements are compatible with the surrounding land uses. This is a **less than significant** impact.

Response d): Less than Significant with Mitigation. Daytime glare can occur when the sunlight strikes reflective surfaces such as windows, vehicle windshields and shiny reflective building materials. The proposed project would introduce new residential structures and parking areas into the project site, however, reflective building materials are not proposed for use in the project, and as such, the project would not result in increases in daytime glare.

The proposed project would include exterior lighting around the proposed apartment buildings, parking areas, and common areas within the site. The City of Tracy Standard Plan #154 establishes minimum requirements for light illumination. Exterior lighting on new projects is also regulated by the Tracy Municipal Code, Off-Street Parking Requirements, Section 10.08.3530(h). The City addresses light and glare issues on a case-by-case basis during project approval and typically adds requirements as a condition of project approval to shield and protect against light spillover from one property to the next. The Tracy Municipal Code requires that the site plan and architectural package include the exterior lighting standards and devices, and be reviewed by the Development and Engineering Services Department.

The implementation of Mitigation Measure 1 requires the preparation of a lighting plan, which must demonstrate that exterior project lighting has been designed to minimize light spillage onto adjacent properties to the greatest extent feasible. The implementation of Mitigation Measure 1 would reduce this impact to a **less than significant** level.

Mitigation Measures

Mitigation Measure 1: *A lighting plan shall be prepared prior to the issuance of a building permit and installation of the project's exterior lighting. The lighting plan shall demonstrate that the exterior lighting systems have been designed to minimize light spillage onto adjacent properties to the greatest extent feasible. The lighting plan shall include the following:*

- *Design of site lighting and exterior building light fixtures to reduce the effects of light pollution and glare off of glass and metal surfaces;*
- *Lighting shall be directed downward and light fixtures shall be shielded to reduce upward and spillover lighting;*

II. AGRICULTURE AND FOREST RESOURCES: WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|--|---------------------------------------|--|-------------------------------------|------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | | | | X |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | | | | X |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 1222(g)) or timberland (as defined in Public Resources Code section 4526)? | | | | X |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | | | | X |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | | | | X |

RESPONSES TO CHECKLIST QUESTIONS

Response a): No Impact. The project site is underlain by soils that are considered prime farmland soils by the California Department of Conservation, Farmland Mapping and Monitoring Program and the USDA Soil Conservation Service. The agricultural value of the project site is compromised by a variety of factors that render the site unsuitable for agricultural production or agricultural operations. The project site was historically used as a sand and gravel extraction area, which has resulted in soil disturbances and the removal of topsoil that renders the site unviable for agricultural uses. Additionally, the project site is designated for urban land uses (commercial) by the Tracy General Plan Land Use Designations Map. The project site is surrounded by urban land uses, and there are no agricultural land uses or agricultural operations adjacent to the site. The project site is not irrigated for agricultural use.

Development of the site for urban uses and the subsequent removal of prime farmland soil for agricultural use was taken into consideration in the City of Tracy General Plan and Final EIR. On February 1, 2011 the Tracy City Council adopted a Statement of Overriding Considerations (Resolution 2011-028) for the loss of prime agricultural land resulting from adoption of the Plan and EIR, and provided mitigation measures for the agricultural land lost to development in the City of Tracy's urbanized areas. Mitigation measures included the implementation of a "Right to Farm" ordinance by the City (Ord. 10.24 et seq.), intended to preserve and protect existing agricultural operations within the incorporated City.

The proposed project is identified for urban land uses in the Tracy General Plan. The proposed project is consistent with the overriding considerations that were adopted for the General Plan and the established mitigation measures under that Plan. As such, implementation of the proposed project would not create new impacts over and above those identified in the General Plan Final EIR, nor significantly change previously identified impacts.

There is **no impact** related to this environmental topic, and no additional mitigation is required.

Response b): No Impact. The project site is not under a Williamson Act Contract, nor are any of the parcels immediately adjacent to the project site under a Williamson Act Contract. Therefore, implementation of the proposed project would not conflict with a Williamson Act Contract. The project site is currently zoned Community Shopping by the City's Zoning Map. As such, the proposed project would not conflict with any agricultural zoning or Williamson Act Contract. There is **no impact**.

Responses c) and d): No Impact. The project site is located in an area predominantly consisting of commercial and residential development. There are no forest resources on the project site or in the vicinity of the project site. Therefore, there is **no impact**.

Response e): No Impact. As described under Responses (a) and (b) above, the proposed project is not currently used for agricultural purposes, nor is it designated or zoned for agricultural uses. There are no agricultural lands or operations adjacent to the project site. There is **no impact** related to this environmental topic.

III. AIR QUALITY -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | | X | | |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | | X | | |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | | X | | |
| d) Expose sensitive receptors to substantial pollutant concentrations? | | | X | |
| e) Create objectionable odors affecting a substantial number of people? | | | X | |

EXISTING SETTING

The project site is located within the boundaries of the San Joaquin Valley Air Pollution Control District (SJVAPCD). This agency is responsible for monitoring air pollution levels and ensuring compliance with federal and state air quality regulations within the San Joaquin Valley Air Basin (SJVAB) and has jurisdiction over most air quality matters within its borders.

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b), c): Less than Significant with Mitigation. Air quality emissions would be generated during construction of the proposed project and during operation of the proposed project. Operational emissions would come primarily from vehicle emissions from vehicle trips generated by the proposed project. Construction-related air quality impacts and operational air quality impacts are addressed separately below.

Construction-Related Emissions

The SJVAPCD's approach to analysis of construction impacts is to require implementation of effective and comprehensive control measures, rather than to require detailed quantification of emission concentrations for modeling of direct impacts. PM10 emitted during construction can vary greatly depending on the level of activity, the specific operations taking place, the equipment being operated, local soils, weather conditions, and other factors, making quantification difficult. Despite this variability in emissions, experience has shown that there are a number of feasible control measures that can be reasonably implemented to significantly reduce PM10 emissions from construction activities. The SJVAPCD has determined that compliance with Regulation VIII for all sites and implementation of all other control measures

indicated in Tables 6-2 and 6-3 of the *Guide for Assessing and Mitigating Air Quality Impacts* (as appropriate) would constitute sufficient mitigation to reduce PM10 impacts to a level considered less than significant.

Construction would result in numerous activities that would generate dust. The fine, silty soils in the project area and often strong afternoon winds exacerbate the potential for dust, particularly in the summer months. Grading, leveling, earthmoving and excavation are the activities that generate the most particulate emissions. Impacts would be localized and variable. Construction impacts would last for a period of several months. The initial phase of project construction would involve grading and leveling the project site and associated improvements such as parking area improvements and supporting underground infrastructure, such as water, sewer, and electrical lines.

Construction activities that could generate dust and vehicle emissions are primarily related to grading and other ground-preparation activities in order to prepare the project site for the construction of the apartment units and parking areas.

Control measures are required and enforced by the SJVAPCD under Regulation VIII. The SJVAPCD considers construction-related emissions from all projects in this region to be mitigated to a less than significant level if SJVAPCD-recommended PM10 fugitive dust rules and equipment exhaust emissions controls are implemented.

Implementation of Mitigation Measures 2 and 3, in addition to compliance with all applicable measures from SJVAPCD Rule VIII would reduce construction-related impacts associated with dust and construction vehicle emissions to a **less than significant** level.

Mitigation Measures

Mitigation Measure 2: *Prior to the commencement of grading activities, the City shall require the contractor hired to complete the grading activities to prepare a construction emissions reduction plan that meets the requirements of SJVAPCD Rule VIII. The construction emissions reductions plan shall be submitted to the SJVAPCD for review and approval. The City of Tracy shall ensure that all required permits from the SJVAPCD have been issued prior to commencement of grading activities. The construction emissions reduction plan should include the following requirements and measures:*

- *Properly and routinely maintain all construction equipment, as recommended by manufacturer's manuals, to control exhaust emissions.*
- *Shut down equipment when not in use for extended periods of time, to reduce exhaust emissions associated with idling engines.*
- *Encourage ride-sharing and of use transit transportation for construction employees commuting to the project site.*
- *Use electric equipment for construction whenever possible in lieu of fossil fuel-powered equipment.*
- *Curtail construction during periods of high ambient pollutant concentrations.*
- *Construction equipment shall operate no longer than eight cumulative hours per day.*

- *All construction vehicles shall be equipped with proper emission control equipment and kept in good and proper running order to reduce NOx emissions.*
- *On-road and off-road diesel equipment shall use aqueous diesel fuel if permitted under manufacturer's guidelines.*
- *On-road and off-road diesel equipment shall use diesel particulate filters if permitted under manufacturer's guidelines.*
- *On-road and off-road diesel equipment shall use cooled exhaust gas recirculation (EGR) if permitted under manufacturer's guidelines.*
- *Use of Caterpillar pre-chamber diesel engines or equivalent shall be utilized if economic and available to reduce NOx emissions.*
- *All construction activities within the project site shall be discontinued during the first stage smog alerts.*
- *Construction and grading activities shall not be allowed during first stage ozone alerts. (First stage ozone alerts are declared when ozone levels exceed 0.20 ppm for the 1-hour average.)*

Implementation of this mitigation shall occur during all grading or site clearing activities. The SJVAPCD shall be responsible for monitoring.

Mitigation Measure 3: *The following mitigation measures, in addition to those required under Regulation VIII of the SJVAPCD, shall be implemented by the Project's contractor during all phases of project grading and construction to reduce fugitive dust emissions:*

- *Water previously disturbed exposed surfaces (soil) a minimum of three-times/day or whenever visible dust is capable of drifting from the site or approaches 20 percent opacity.*
- *Water all haul roads (unpaved) a minimum of three-times/day or whenever visible dust is capable of drifting from the site or approaches 20 percent opacity.*
- *All access roads and parking areas shall be covered with asphalt-concrete paving or water sprayed regularly.*
- *Dust from all on-site and off-site unpaved access roads shall be effectively stabilized by applying water or using a chemical stabilizer or suppressant.*
- *Reduce speed on unpaved roads to less than 15 miles per hour.*
- *Install and maintain a trackout control device that meets the specifications of SJVAPCD Rule 8041 if the site exceeds 150 vehicle trips per day or more than 20 vehicle trips per day by vehicles with three or more axles.*
- *Stabilize all disturbed areas, including storage piles, which are not being actively utilized for construction purposes using water, chemical stabilizers or by covering with a tarp, other suitable cover or vegetative ground cover.*
- *Control fugitive dust emissions during land clearing, grubbing, scraping, excavation, leveling, grading or cut and fill operations with application of water or by presoaking.*
- *When transporting materials offsite, maintain a freeboard limit of at least six inches and over or effectively wet to limit visible dust emissions.*
- *Limit and remove the accumulation of mud and/or dirt from adjacent public roadways at the end of each workday. (Use of dry rotary brushes is prohibited except when preceded or*

accompanied by sufficient wetting to limit visible dust emissions and the use of blowers is expressly forbidden.)

- *Remove visible track-out from the site at the end of each workday.*
- *Cease grading activities during periods of high winds (greater than 20 mph over a one-hour period).*
- *Asphalt-concrete paving shall comply with SJVAPCD Rule 4641 and restrict use of cutback, slow-sure, and emulsified asphalt paving materials.*

Implementation of this mitigation shall occur during all grading or site clearing activities. The SJVAPCD shall be responsible for monitoring.

Operational Emissions

For the purposes of this operational air quality analysis, actions that violate Federal standards for criteria pollutants (i.e., primary standards designed to safeguard the health of people considered to be sensitive receptors while outdoors and secondary standards designed to safeguard human welfare) are considered significant impacts. Additionally, actions that violate State standards developed by the CARB or criteria developed by the SJVAPCD, including thresholds for criteria pollutants, are considered significant impacts. Projects that would generate 10 tons per year of either ROG or NO_x are considered to have a potentially significant air quality impact. The SJVAPCD has also established a threshold of 15 tons per year for PM₁₀. As previously mentioned, the Basin is classified as a nonattainment area for ozone. In order to achieve the Federal and State standards of ozone, it is necessary to regulate ROG and NO_x, which contribute to the formation of ozone. This includes both direct and indirect emissions.

In addition to the tons/year thresholds cited above, the SJVAPCD has thresholds applicable to CO emissions that require projects to perform localized CO modeling. These thresholds include the following:

- Project traffic would impact signalized intersections operating at level of service (LOS) D, E or F or would cause LOS to decline to D, E or F.
- Project traffic would increase traffic volumes on nearby roadways by 10 percent or more.
- The project would contribute to CO concentrations exceeding CAAQS of 9 parts per million (ppm) averaged over 8 hours and 20 ppm for one hour.

Emissions were estimated using the approach included in the 2007 URBEMIS model combined with emissions factors developed by CARB and the SJVAPCD. The URBEMIS model is used to calculate construction and operational emissions associated with land development projects, and includes EPA, SJVAPCD, and CARB emissions factors embedded within it.

As described in greater detail under the traffic impact analysis section in this document, the proposed project would not cause an intersection to decline to LOS D, E, or F. Additionally, the proposed project would not increase traffic volumes on nearby roadways by 10 percent or more. Therefore, localized CO modeling is not warranted for this project.

Rule 9510 Indirect Source Review

District Rule 9510 requires developers of large residential, commercial and industrial projects to reduce smog-forming (NO_x) and particulate (PM₁₀ and PM_{2.5}) emissions generated by their projects. The Rule applies to projects which, upon full build-out, will include 50 or more residential units. Project developers are required to reduce:

- 20 percent of construction-exhaust nitrogen oxides;
- 45 percent of construction-exhaust PM₁₀;
- 33 percent of operational nitrogen oxides over 10 years; and
- 50 percent of operational PM₁₀ over 10 years.

Developers are encouraged to meet these reduction requirements through the implementation of on-site mitigation; however, if the on-site mitigation does not achieve the required baseline emission reductions, the developer will mitigate the difference by paying an off-site fee to the District. Fees reduce emissions by helping to fund clean-air projects in the District.

The project would be an indirect source of air pollutants, in that it would attract and cause an increase in vehicle trips in the region. Table 1 shows the new auto emissions from vehicle trips that would result from the proposed project. The San Joaquin Valley Air Pollution Control District has established a threshold of significance for ozone precursors of 10 tons per year, and 15 tons per year has been assumed to represent a significant impact for PM₁₀.

Table 1: Total Project Generated Emissions at Full Buildout

| | EMISSIONS (TONS/YEAR) | | | | | | |
|---------------------------------|-----------------------|------|-------|-----------------|------------------|-------------------|-----------------|
| | ROG | NOX | CO | SO ₂ | PM ₁₀ | PM _{2.5} | CO ₂ |
| Mobile Source Project Emissions | 1.53 | 2.11 | 17.55 | 0.02 | 3.41 | 0.66 | 1,912.81 |
| SJVAPCD Threshold | 10 | 10 | -- | -- | 15 | -- | -- |
| Above SJCAPCD Threshold? | No | No | NA | NA | No | NA | NA |

EMISSIONS WERE CALCULATED USING THE URBEMIS2007 (v.9.24) COMPUTER PROGRAM. ASSUMES TOTAL BUILDOUT OF THE PROPOSED PROJECT. MOBILE SOURCE EMISSIONS WERE BASED ON THE AVERAGE ANNUAL ADT PRESENTED IN THE TRAFFIC STUDY PREPARED FOR THE PROJECT AND DEFAULT VEHICLE TRIP DISTANCES AND FLEET CHARACTERISTICS CONTAINED IN THE MODEL.

As shown in the table above, project generated emissions are below the SJVAPCD thresholds for ROG, NO_x and PM₁₀. As such, the project would result in **less than significant** air quality impacts. However, regardless of the emissions totals presented above, the project is still subject to the requirements of SJVAPCD Rule 9510, which requires developers of large residential, commercial and industrial projects to reduce smog-forming (NO_x) and particulate (PM₁₀ and PM_{2.5}) emissions generated by their projects. The Rule applies to projects which

upon full build-out will include 50 or more residential units. Project developers are required to reduce:

- 20 percent of construction-exhaust nitrogen oxides;
- 45 percent of construction-exhaust PM10;
- 33 percent of operational nitrogen oxides over 10 years; and
- 50 percent of operational PM10 over 10 years.

Developers are encouraged to meet these reduction requirements through the implementations of on-site mitigation; however, if the on-site mitigation does not achieve the required baseline emission reductions, the developer will mitigate the difference by paying an off-site fee to the District.

Mitigation Measures

Mitigation Measure 4: *Prior to the issuance of the first building permit, the project applicant shall coordinate with the SJVAPCD to verify that the project meets the requirements of District Rule 9510, which is aimed at the following reductions:*

- *20 percent of construction-exhaust nitrogen oxides;*
- *45 percent of construction-exhaust PM10;*
- *33 percent of operational nitrogen oxides over 10 years; and*
- *50 percent of operational PM10 over 10 years.*

The project applicant shall coordinate with SJVAPCD to develop measures and strategies to reduce operational emissions from the proposed project. If feasible measures are not available to meet the emissions reductions targets outlined above, then the project applicant may be required to pay an in-lieu mitigation fee to the SJVAPCD to off-set project-related emissions impacts. If in-lieu fees are required, the project applicant shall coordinate with the SJVAPCD to calculate the amount of the fees required to off-set project impacts.

Response d): Less than Significant. Sensitive receptors are those parts of the population that can be severely impacted by air pollution. Sensitive receptors include children, the elderly, and the infirm. In addition to the existing residences located adjacent to the project site, there are two elementary schools located in proximity to the project site. Tom Hawkins Elementary is located approximately 0.3 miles south of the project site, and Gladys Poet-Christian Elementary School is located approximately 0.6 miles to the northwest of the project site.

Implementation of the proposed project would not expose these sensitive receptors to substantial pollutant concentrations. Air emissions would be generated during the construction phase of the project. The construction phase of the project would be temporary and short-term, and the implementation of Mitigation Measures 2 and 3 would greatly reduce pollution concentrations generated during construction activities.

Operation of the proposed project would result in emissions primarily from vehicle trips. As described under Response a) – c) above, the proposed project would not generate significant concentrations of air emissions. Impacts to sensitive receptors would be negligible and this is a **less than significant** impact.

Response e): Less than Significant. Operation of the proposed project would not generate notable odors. The proposed project is an apartment complex, which is compatible with the surrounding land uses. Occasional mild odors may be generated during landscaping maintenance (equipment exhaust), but the project would not otherwise generate odors. This is a **less than significant** impact and no mitigation is required.

IV. BIOLOGICAL RESOURCES -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|--|---------------------------------------|--|-------------------------------------|------------------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | | X | | |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? | | | | X |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | | | X | |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | | | X | |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | | | X | |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | | | X | |

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less than Significant with Mitigation. The project applicant submitted the proposed project plans to the San Joaquin Council of Governments (SJCOG) for review for consistency with the San Joaquin County Multi-Species Habitat and Open Space Plan (SJMSCP). The project site was visited by SJCOG staff to assess the habitat conditions on the project site, and an advisory statement was issued to the applicant by SJCOG on June 13, 2012.

Special-status invertebrates that occur within the San Joaquin County region include: longhorn fairy shrimp, vernal pool fairy shrimp, and midvalley fairy shrimp, which requires vernal pools and swale areas within grasslands; and the valley elderberry longhorn beetle, which is an insect that is only associated with blue elderberry plants, oftentimes in riparian areas and sometimes on land in the vicinity of riparian areas. The project site does not contain essential habitat for

these special status invertebrates. Implementation of the proposed project would have a **less than significant** impact on these species. No mitigation is necessary.

Special-status reptiles and amphibians that occur within the region include: the western pond turtle, which requires aquatic environments located along ponds, marshes, rivers, and ditches; the California tiger salamander, which is found in grassland habitats where there are nearby seasonal wetlands for breeding; the silvery legless lizard, which is found in sandy or loose loamy soils under sparse vegetation with high moisture content; San Joaquin whipsnake, which requires open, dry habitats with little or no tree cover with mammal burrows for refuge; the Alameda whipsnake, which is restricted to valley-foothill hardwood habitat on south-facing slopes; the California horned lizard, which occurs in a variety of habitats including, woodland, forest, riparian, and annual grasslands, usually in open sandy areas; the foothill yellow-legged frog, which occurs in partly shaded and shallow streams with rocky soils; the California red legged frog, which occurs in stream pools and ponds with riparian or emergent marsh vegetation; and the western spadefoot toad, which requires grassland habitats associated with vernal pools. The project site does not contain essential habitat for these special status reptiles and amphibians. Implementation of the proposed project would have a **less than significant** impact on these species. No mitigation is necessary.

Numerous special-status plant species are known to occur in the region. Many of these special status plant species require specialized habitats such as serpentine soils, rocky outcrops, slopes, vernal pools, marshes, swamps, riparian habitat, alkali soils, and chaparral, which are not present on the project site. The project site is located in an area that was likely valley grassland prior to human settlement, and there are several plant species that are found in valley and foothills grasslands areas. These species include large-flowered fiddleneck, bent-flowered fiddleneck, big-balsamroot, big tarplant, round-leaved filaree, Lemmon's jewelflower, and showy golden madia. Human settlement has involved a high frequency of ground disturbance associated with the historical farming activities in the region, including the project site. The project site does not contain suitable habitat for special-status plant species, and no special-status plant species were observed by SJCOG during their visit to the project site. Implementation of the proposed project would have a **less than significant** impact on these species. No mitigation is necessary.

Special-status birds that occur within the region include: tricolored blackbird, Swainson's hawk, northern harrier, and bald eagle, which are associated with streams, rivers, lakes, wetlands, marshes, and other wet environments; loggerhead shrike, and burrowing owl, which lives in open areas, usually grasslands, with scattered trees and brush; and raptors that are present in varying habitats throughout the region.

Swainson's Hawk. The Swainson's hawk is threatened in California and is protected by the California Department of Fish and Game (CDFG) and the Migratory Bird Treaty Act (MBTA). Additionally, Swainson's hawk foraging habitat is protected by the CDFG. Swainson's hawks forage in open grasslands and agricultural fields and commonly nest in solitary trees and riparian areas in close proximity to foraging habitat. The foraging range for Swainson's hawk is ten miles from its nesting location. There are numerous documented occurrences of Swainson's

hawk within ten miles of the project site. Although no nesting habitat for this species occur onsite. As described in the SJCOG advisory statement letter, Swainson's hawks are present within the vicinity of the project site. One adult hawk was observed traversing across the border of the site. The site and the surrounding open non-native grassland habitat will provide medium quality foraging opportunities for local Swainson's hawks. There is a row of 30 eucalyptus trees on the adjacent property bordering the site. These trees are large enough to harbor raptor nests, but do not currently contain any active nests. Incidental take minimization measures are not required for this species due to the fact that there is no suitable nesting habitat on the project site. As such, impacts to Swainson's hawk are **less than significant** and no mitigation is required.

Burrowing Owls. Burrowing owls are a California Species of Special Concern and are protected by the CDFG and the MBTA. Burrowing owls forage in open grasslands and shrublands and typically nest in old ground squirrel burrows. The project site contains suitable, but not high-quality habitat for burrowing owls. The project site is adjacent to other lands that are currently undeveloped that offer foraging and roosting habitat for wintering or breeding owls. However, the burrows that are present on-site are inactive due to the absence of ground squirrels (as indicated by the presence of cobwebs across the burrows' entrances). During the pre-construction surveys completed by SJCOG, no burrowing owls nor evidence of their presence was detected within the project site. No incidental take minimization measures are required for this species because burrowing owls were not detected and California ground squirrels are currently absent on the project site. However, due to the time lapse between the June site surveys conducted by SJCOG and when construction activities are likely to occur if the project is approved, there is the potential for burrowing owls to occupy the site in the interim. While considered unlikely, due to the presence of urban development surrounding the site, this is considered potentially significant impact. The implementation of Mitigation Measure 5 would ensure that burrowing owls are not impacted during construction activities. The implementation of Mitigation Measure 5 would ensure a **less than significant** impact to burrowing owls.

Mitigation Measures

Mitigation Measure 5: *Prior to the commencement of grading activities or other ground disturbing activities on the project site, the project applicant shall arrange for a qualified biologist to conduct a follow-up preconstruction survey for western burrowing owls. If no owls or owl nests are detected, then construction activities may commence. If burrowing owls or occupied nests are discovered, then the following shall be implemented:*

- *During the breeding season (February 1 through September 1) occupied burrows shall not be disturbed and shall be provided with a 75 meter protective buffer until and unless the SJCOG Technical Advisory Committee (TAC), with the concurrence of the Permitting Agencies' representatives on the TAC; or unless a qualified biologist approved by the Permitting Agencies verifies through non-invasive means that either: 1) the birds have not begun egg laying, or 2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. Once the fledglings are capable of independent*

survival, the burrow can be destroyed. They should only be destroyed by a qualified biologist using passive one-way eviction doors to ensure that owls are not harmed during burrow destruction. Methods for removal of burrows are described in the California Department of Fish and Game's Staff Report on Burrowing Owls (October, 1995)

- *During the non-breeding season (September 1 through January 31) burrowing owls occupying the project site should be evicted from the project site by passive relocation as described in the California Department of Fish and Game's Staff Report on Burrowing Owls (Oct., 1995)*

Implementation of this mitigation shall occur prior to grading or site clearing activities. SJCOG shall be responsible for monitoring and a qualified biologist shall conduct surveys and relocate owls as required.

Responses b): No Impact. Riparian natural communities support woody vegetation found along rivers, creeks and streams. Riparian habitat can range from a dense thicket of shrubs to a closed canopy of large mature trees covered by vines. Riparian systems are considered one of the most important natural resources. While small in total area when compared to the state's size, they provide a special value for wildlife habitat.

Over 135 California bird species either completely depend upon riparian habitats or use them preferentially at some stage of their life history. Riparian habitat provides food, nesting habitat, cover, and migration corridors. Another 90 species of mammals, reptiles, invertebrates and amphibians depend on riparian habitat. Riparian habitat also provides riverbank protection, erosion control and improved water quality, as well as numerous recreational and aesthetic values.

There is no riparian habitat or other sensitive natural communities located on the project site. As such, the proposed project would have **no impact** on these resources, and no mitigation is required.

Response c): Less than Significant. A wetland is an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wetlands are defined by regulatory agencies as having special vegetation, soil, and hydrology characteristics. Hydrology, or water inundation, is a catalyst for the formation of wetlands. Frequent inundation and low oxygen causes chemical changes to the soil properties resulting in what is known as hydric soils. The prevalent vegetation in wetland communities consists of hydrophytic plants, which are adapted to areas that are frequently inundated with water. Hydrophytic plant species have the ability to grow, effectively compete, reproduce, and persist in low oxygen soil conditions.

Below is a list of wetlands that are found in the Tracy planning area:

- **Farmed Wetlands:** This category of wetlands includes areas that are currently in agricultural uses. This type of area occurs in the northern portion of the Tracy Planning Area.
- **Lakes, Ponds and Open Water:** This category of wetlands includes both natural and human-made water bodies such as that associated with working landscapes, municipal water facilities and canals, creeks and rivers.
- **Seasonal Wetlands:** This category of wetlands includes areas that typically fill with water during the wet winter months and then drain enough to become ideal plant habitats throughout the spring and summer. There are numerous seasonal wetlands throughout the Tracy Planning Area.
- **Tidal Salt Ponds and Brackish Marsh:** This category of wetlands includes areas affected by irregular tidal flooding with generally poor drainage and standing water. There are minimal occurrences along some of the larger river channels in the northern portion of the Tracy Planning Area.

There are no wetlands located on the project site. Therefore, this is a **less than significant** impact and no mitigation is required.

Response d): Less than Significant. The CNDDDB record search did not reveal any documented wildlife corridors or wildlife nursery sites on or adjacent to the project site. Furthermore, the field survey did not reveal any wildlife corridors or wildlife nursery sites on or adjacent to the project site. Implementation of the proposed project would have a **less than significant** impact. No mitigation is necessary.

Responses e), f): Less than Significant. The project site is located within the jurisdiction of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (“Plan” or “SJMSCP”) and is located within the Central/Southwest Transition Zone of the SJMSCP. The San Joaquin Council of Governments (SJCOG) prepared the Plan pursuant to a Memorandum of Understanding adopted by SJCOG, San Joaquin County, the United States Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), Caltrans, and the cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy in October 1994. On February 27, 2001, the Plan was unanimously adopted in its entirety by SJCOG. The City of Tracy adopted the Plan on November 6, 2001.

According to Chapter 1 of the SJMSCP, its key purpose is to “provide a strategy for balancing the need to conserve open space and the need to convert open space to non-open space uses, while protecting the region’s agricultural economy; preserving landowner property rights; providing for the long-term management of plant, fish and wildlife species, especially those that are currently listed, or may be listed in the future, under the Federal Endangered Species Act (ESA) or the California Endangered Species Act (CESA); providing and maintaining multiple use Open Spaces which contribute to the quality of life of the residents of San Joaquin County; and, accommodating a growing population while minimizing costs to project proponents and society at large.”

In addition, the goals and principles of the SJMSCP include the following:

- Provide a County-wide strategy for balancing the need to conserve open space and the need to convert open space to non-open space uses, while protecting the region's agricultural economy.
- Preserve landowner property rights.
- Provide for the long-term management of plant, fish, and wildlife species, especially those that are currently listed, or may be listed in the future, under the ESA or the CESA.
- Provide and maintain multiple-use open spaces, which contribute to the quality of life of the residents of San Joaquin County.
- Accommodate a growing population while minimizing costs to project proponents and society at large.

In addition to providing compensation for conversion of open space to non open space uses, which affect plant and animal species covered by the SJMSCP, the SJMSCP also provides some compensation to offset impacts of open space conversions on non-wildlife related resources such as recreation, agriculture, scenic values and other beneficial open space uses. Specifically, the SJMSCP compensates for conversions of open space to urban development and the expansion of existing urban boundaries, among other activities, for public and private activities throughout the County and within Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy.

Participation in the SJMSCP is voluntary for both local jurisdictions and project applicants. Only agencies adopting the SJMSCP would be covered by the SJMSCP. Individual project applicants have two options if their project is located in a jurisdiction participating in the SJMSCP: mitigating under the SJMSCP or negotiating directly with the state and/or federal permitting agencies. If a project applicant opts for SJMSCP coverage in a jurisdiction that is participating under the SJMSCP, the following options are available, unless their activities are otherwise exempted: pay the appropriate fee; dedicate, as conservation easements or fee title, habitat lands; purchase approved mitigation bank credits; or, propose an alternative mitigation plan.

Responsibilities of permittees covered by the SJMSCP include collection of fees, maintenance of implementing ordinances/resolutions, conditioning permits (if applicable), and coordinating with the Joint Powers Authority (JPA) for Annual Report accounting. Funds collected for the SJMSCP are to be used for the following: acquiring Preserve lands, enhancing Preserve lands, monitoring and management of Preserve lands in perpetuity, and the administration of the SJMSCP. Because the primary goal of SJMSCP to preserve productive agricultural use that is compatible with SJMSCP's biological goals, most of the SJMSCP's Preserve lands would be acquired through the purchase of easements in which landowners retain ownership of the land and continue to farm the land. These functions are managed by San Joaquin Council of Governments.

The proposed project is classified as Urban Habitat under the SJMSCP. The City of Tracy and the project applicant have consulted with SJCOG and agreed to allow coverage of the project pursuant to the SJMSCP. SJCOG staff has determined that the proposed project is consistent with the SJMSCP and coverage under the plan has been obtained. Therefore, this is a **less than significant** impact and no additional mitigation is required.

V. CULTURAL RESOURCES -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5? | | X | | |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5? | | X | | |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | | X | | |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | | X | | |

RESPONSES TO CHECKLIST QUESTIONS

Response a), b), c), d): Less than Significant with Mitigation. A review of literature maintained by the Central California Information Center of the California Historical Resources Information System at California State University, Stanislaus identified that no previously identified prehistoric period cultural resources are known within, or within a 1/4 mile radius of the project site. Additionally, there are no known unique paleontological or archeological resources known to occur on, or within the immediate vicinity of the project site. Therefore, it is not anticipated that site grading and preparation activities would result in impacts to cultural, historical, archaeological or paleontological resources. There are no known human remains located on the project site, nor is there evidence to suggest that human remains may be present on the project site

However, as with most projects in California that involve ground-disturbing activities, there is the potential for discovery of a previously unknown cultural and historical resource or human remains. This is considered a **potentially significant** impact.

The implementation of Mitigation Measure 6 would require appropriate steps to preserve and/or document any previously undiscovered resources that may be encountered during construction activities, including human remains. Implementation of this measure would reduce this impact to a **less than significant** level.

Mitigation Measures

Mitigation Measure 6: *If any prehistoric or historic artifacts, human remains or other indications of archaeological resources are found during grading and construction activities, an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, shall be consulted to evaluate the finds and recommend appropriate mitigation measures.*

- *If cultural resources or Native American resources are identified, every effort shall be made to avoid significant cultural resources, with preservation an important goal. If significant sites cannot feasibly be avoided, appropriate mitigation measures, such as data recovery excavations or photographic documentation of buildings, shall be undertaken consistent with applicable state and federal regulations.*
 - *If human remains are discovered, all work shall be halted immediately within 50 meters (165 feet) of the discovery, the County Coroner must be notified, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California’s Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed.*
 - *If any fossils are encountered, there shall be no further disturbance of the area surrounding this find until the materials have been evaluated by a qualified paleontologist, and appropriate treatment measures have been identified.*

VI. GEOLOGY AND SOILS -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|--|---------------------------------------|--|-------------------------------------|------------------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | | | X | |
| ii) Strong seismic ground shaking? | | | X | |
| iii) Seismic-related ground failure, including liquefaction? | | | X | |
| iv) Landslides? | | | X | |
| b) Result in substantial soil erosion or the loss of topsoil? | | X | | |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | | | X | |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | | | X | |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | | | | X |

RESPONSES TO CHECKLIST QUESTIONS

Responses a.i), a.ii): Less than Significant. The project site is located in an area of moderate to high seismicity. As described in the Geotechnical Exploration report prepared for the project (Engeo, 2012), no known active faults cross the project site, and the site is not located within an Alquist-Priolo Earthquake Fault Zone, however, relatively large earthquakes have historically occurred in the Bay Area and along the margins of the Central Valley. Many earthquakes of low magnitude occur every year in California. The two nearest earthquake faults zoned as active by the State of California Geological Survey are the Great Valley Fault, located approximately five miles to the west of the site, and the Greenville fault, located approximately 13 miles southwest of the site. The Great Valley fault is a blind thrust fault with no known surface expression; the

postulated fault location has been based on historical regional seismic activity and isolated subsurface information.

Portions of the Great Valley fault are considered seismically active thrust faults; however, since the Great Valley fault segments are not known to extend to the ground surface, the State of California has not defined Earthquake Fault Hazard Zones around the postulated traces. The Great Valley fault is considered capable of causing significant ground shaking at the site, but the recurrence interval is believed longer than for more distant, strike-slip faults. Further seismic activity can be expected to continue along the western margin of the Central Valley, and as with all projects in the area, the project will be designed to accommodate strong earthquake ground shaking, in compliance with the applicable California building code standards.

Other active faults capable of producing significant ground shaking at the site include the Calaveras, 26 miles southwest; the Hayward fault, 28 miles west; the Ortigalita fault, 31 miles southwest; and the San Andreas Fault, 49 miles southwest of the site. Any one of these faults could generate an earthquake capable of causing strong ground shaking at the subject site. Earthquakes of Moment Magnitude (M_w) 7 and larger have historically occurred in the region and numerous small magnitude earthquakes occur every year.

Since there are no known active faults crossing the project site and the site is not located within an Earthquake Fault Special Study Zone, the potential for ground rupture at the site is considered low.

An earthquake of moderate to high magnitude generated within the San Francisco Bay Region and along the margins of the central valley could cause considerable ground shaking at the site, similar to that which has occurred in the past. In order to minimize potential damage to the proposed structures caused by groundshaking, all construction would comply with the latest California Building Code standards, as required by the City of Tracy Municipal Code 9.04.030.

Seismic design provisions of current building codes generally prescribe minimum lateral forces, applied statically to the structure, combined with the gravity forces of dead-and-live loads. The code-prescribed lateral forces are generally considered to be substantially smaller than the comparable forces that would be associated with a major earthquake. Therefore, structures should be able to: (1) resist minor earthquakes without damage, (2) resist moderate earthquakes without structural damage but with some nonstructural damage, and (3) resist major earthquakes without collapse but with some structural as well as nonstructural damage.

Implementation of the California Building Code standards, which include provisions for seismic building designs, would ensure that impacts associated with groundshaking would be **less than significant**. Building new structures for human use would increase the number of people exposed to local and regional seismic hazards. Seismic hazards are a significant risk for most property in California.

The Safety Element of the Tracy General Plan includes several goals, objectives and policies to reduce the risks to the community from earthquakes and other geologic hazards. In particular, the following policies would apply to the project site:

SA-1.1, Policy P1: Underground utilities, particularly water and natural gas mains, shall be designed to withstand seismic forces.

SA-1.1, Policy P2: Geotechnical reports shall be required for development in areas where potentially serious geologic risks exist. These reports should address the degree of hazard, design parameters for the project based on the hazard, and appropriate mitigation measures.

SA-1.2, Policy P1: All construction in Tracy shall conform to the California Building Code and the Tracy Municipal Code including provisions addressing unreinforced masonry buildings.

Implementation of the requirements of the California Building Code and the Tracy General Plan would ensure that impacts on humans associated with seismic hazards would be **less than significant**. No additional mitigation is required.

Responses a.iii), c), d): Less than Significant. Liquefaction normally occurs when sites underlain by saturated, loose to medium dense, granular soils are subjected to relatively high ground shaking. During an earthquake, ground shaking may cause certain types of soil deposits to lose shear strength, resulting in ground settlement, oscillation, loss of bearing capacity, landsliding, and the buoyant rise of buried structures. The majority of liquefaction hazards are associated with sandy soils, silty soils of low plasticity, and some gravelly soils. Cohesive soils are generally not considered to be susceptible to liquefaction. In general, liquefaction hazards are most severe within the upper 50 feet of the surface, except where slope faces or deep foundations are present.

Expansive soils are those that undergo volume changes as moisture content fluctuates; swelling substantially when wet or shrinking when dry. Soil expansion can damage structures by cracking foundations, causing settlement and distorting structural elements. Expansion is a typical characteristic of clay-type soils. Expansive soils shrink and swell in volume during changes in moisture content, such as a result of seasonal rain events, and can cause damage to foundations, concrete slabs, roadway improvements, and pavement sections.

The soils encountered at the site generally consisted of very stiff to hard sandy lean clay, silt, and poorly graded sand with clay and gravel in the upper 3 to 6 feet underlain by interbedded layers of poorly graded gravel with cobbles, clayey gravel, lean clay, silt, and silty sand to the maximum depth explored of 25 feet. One Plasticity Index (PI) test was performed on the near-surface soils at the site and it resulted in a PI of 15. This is an indication that the site soils have a moderate shrink-swell potential and medium plasticity. The subsurface investigations did not encounter any noticeably weak or compressible soil in the exploratory borings.

The potential for liquifaction to occur at the project site is considered low. Additionally, the project site does not contain expansive soils that would pose a significant risk to structures and residents at the project site. As such, this is a **less than significant** impact and no mitigation is required.

Responses a.iv): Less than Significant. The project site is relatively flat and there are no major slopes in the vicinity of the project site. As such, the project site is exposed to little or no risk associated with landslides. This is a **less than significant** impact and no mitigation is required.

Response b): Less than Significant with Mitigation. Construction and site preparation activities associated with development of the project site include grading for the installation for the construction of the proposed apartment buildings, parking areas and landscape areas. During the construction preparation process, existing vegetation would be removed to grade and compact the project site, as necessary. As construction occurs, these exposed surfaces could be susceptible to erosion from wind and water. Effects from erosion include impacts on water quality and air quality. Exposed soils that are not properly contained or capped increase the potential for increased airborne dust and increased discharge of sediment and other pollutants into nearby stormwater drainage facilities. Risks associated with erosive surface soils can be reduced by using appropriate controls during construction and properly revegetating exposed areas. Mitigation Measures 2 and 3 requires the implementation of various dust control measures during site preparation and construction activities that would reduce the potential for soil erosion and the loss of topsoil. Additionally, Mitigation Measure 7 would require the implementation of various best management practices (BMPs) that would reduce the potential for disturbed soils and ground surfaces to result in erosion and sediment discharge into adjacent surface waters during construction activities. The implementation of these required mitigation measures would reduce these impacts to a **less than significant** level and no additional mitigation is required.

Response e): No Impact. The project site would be served by public wastewater facilities and does not require an alternative wastewater system such as septic tanks. Implementation of the proposed project would have **no impact** on this environmental issue.

XII. GREENHOUSE GAS EMISSIONS – WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gasses? | | | X | |

BACKGROUND DISCUSSION

Various gases in the Earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the Earth's surface temperature. Solar radiation enters Earth's atmosphere from space, and a portion of the radiation is absorbed by the Earth's surface. The Earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation.

Naturally occurring greenhouse gases include water vapor (H₂O), carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and ozone (O₃). Several classes of halogenated substances that contain fluorine, chlorine, or bromine are also greenhouse gases, but they are, for the most part, solely a product of industrial activities. Although the direct greenhouse gases CO₂, CH₄, and N₂O occur naturally in the atmosphere, human activities have changed their atmospheric concentrations. From the pre-industrial era (i.e., ending about 1750) to 2005, concentrations of these three greenhouse gases have increased globally by 36, 148, and 18 percent, respectively (IPCC 2007)¹.

Greenhouse gases, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is now retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect are carbon dioxide (CO₂), methane (CH₄), ozone (O₃), water vapor, nitrous oxide (N₂O), and chlorofluorocarbons (CFCs).

Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors (California Energy Commission 2006a) ². In California, the transportation

¹ Intergovernmental Panel on Climate Change. 2007. "Climate Change 2007: The Physical Science Basis, Summary for Policymakers."

http://www.ipcc.ch/publications_and_data/publications_ipcc_fourth_assessment_report_wg1_report_the_physical_science_basis.htm

² California Energy Commission. 2006a. Inventory of California Greenhouse Gas Emissions and Sinks 1990 to

sector is the largest emitter of GHGs, followed by electricity generation (California Energy Commission 2006a).

As the name implies, global climate change is a global problem. GHGs are global pollutants, unlike criteria air pollutants and toxic air contaminants, which are pollutants of regional and local concern, respectively. California produced 492 million gross metric tons of carbon dioxide equivalents (MMTCO_{2e}) in 2004 (California Energy Commission 2006a). By 2020, California is projected to produce 507 MMTCO_{2e} per year.³

Carbon dioxide equivalents are a measurement used to account for the fact that different GHGs have different potential to retain infrared radiation in the atmosphere and contribute to the greenhouse effect. This potential, known as the global warming potential of a GHG, is also dependent on the lifetime, or persistence, of the gas molecule in the atmosphere. Expressing GHG emissions in carbon dioxide equivalents takes the contribution of all GHG emissions to the greenhouse effect and converts them to a single unit equivalent to the effect that would occur if only CO₂ were being emitted.

Consumption of fossil fuels in the transportation sector was the single largest source of California's GHG emissions in 2004, accounting for 40.7% of total GHG emissions in the state (California Energy Commission 2006a). This category was followed by the electric power sector (including both in-state and out-of-state sources) (22.2%) and the industrial sector (20.5%) (California Energy Commission 2006a).

EFFECTS OF GLOBAL CLIMATE CHANGE

The effects of increasing global temperature are far-reaching and extremely difficult to quantify. The scientific community continues to study the effects of global climate change. In general, increases in the ambient global temperature as a result of increased GHGs are anticipated to result in rising sea levels, which could threaten coastal areas through accelerated coastal erosion, threats to levees and inland water systems and disruption to coastal wetlands and habitat.

If the temperature of the ocean warms, it is anticipated that the winter snow season would be shortened. Snowpack in the Sierra Nevada provides both water supply (runoff) and storage (within the snowpack before melting), which is a major source of supply for the state. The snowpack portion of the supply could potentially decline by 70% to 90% by the end of the 21st century (Cal EPA 2006)⁴. This phenomenon could lead to significant challenges securing an

2004. <http://www.arb.ca.gov/cc/inventory/archive/archive.htm>

³ California Air Resources Board. 2010. "Functional Equivalent Document prepared for the California Cap on GHG Emissions and Market-Based Compliance Mechanisms."

⁴ California Environmental Protection Agency, Climate Action Team. 2006. Climate Action Team Report to Governor Schwarzenegger and the Legislature. http://www.climatechange.ca.gov/climate_action_team/reports/

adequate water supply for a growing state population. Further, the increased ocean temperature could result in increased moisture flux into the state; however, since this would likely increasingly come in the form of rain rather than snow in the high elevations, increased precipitation could lead to increased potential and severity of flood events, placing more pressure on California's levee/flood control system.

Sea level has risen approximately seven inches during the last century and it is predicted to rise an additional 22 to 35 inches by 2100, depending on the future GHG emissions levels (Cal EPA 2006). If this occurs, resultant effects could include increased coastal flooding, saltwater intrusion and disruption of wetlands (Cal EPA 2006). As the existing climate throughout California changes over time, mass migration of species, or failure of species to migrate in time to adapt to the perturbations in climate, could also result. Under the emissions scenarios of the Climate Scenarios report (Cal EPA 2006), the impacts of global warming in California are anticipated to include, but are not limited to, the following.

Public Health

Higher temperatures are expected to increase the frequency, duration, and intensity of conditions conducive to air pollution formation. For example, days with weather conducive to ozone formation are projected to increase from 25% to 35% under the lower warming range and to 75% to 85% under the medium warming range. In addition, if global background ozone levels increase as predicted in some scenarios, it may become impossible to meet local air quality standards. Air quality could be further compromised by increases in wildfires, which emit fine particulate matter that can travel long distances depending on wind conditions. The Climate Scenarios report indicates that large wildfires could become up to 55% more frequent if GHG emissions are not significantly reduced.

In addition, under the higher warming scenario, there could be up to 100 more days per year with temperatures above 90°F in Los Angeles and 95°F in Sacramento by 2100. This is a large increase over historical patterns and approximately twice the increase projected if temperatures remain within or below the lower warming range. Rising temperatures will increase the risk of death from dehydration, heat stroke/exhaustion, heart attack, stroke, and respiratory distress caused by extreme heat.

Water Resources

A vast network of man-made reservoirs and aqueducts capture and transport water throughout the state from northern California rivers and the Colorado River. The current distribution system relies on Sierra Nevada snow pack to supply water during the dry spring and summer months. Rising temperatures, potentially compounded by decreases in precipitation, could severely reduce spring snow pack, increasing the risk of summer water shortages.

The state's water supplies are also at risk from rising sea levels. An influx of saltwater would degrade California's estuaries, wetlands, and groundwater aquifers. Saltwater intrusion caused by rising sea levels is a major threat to the quality and reliability of water within the southern edge of the Sacramento/San Joaquin River Delta, a major state fresh water supply. Global warming is also projected to seriously affect agricultural areas, with California farmers

projected to lose as much as 25% of the water supply they need; decrease the potential for hydropower production within the state (although the effects on hydropower are uncertain); and seriously harm winter tourism. Under the lower warming range, the snow dependent winter recreational season at lower elevations could be reduced by as much as one month. If temperatures reach the higher warming range and precipitation declines, there might be many years with insufficient snow for skiing, snowboarding, and other snow dependent recreational activities.

If GHG emissions continue unabated, more precipitation will fall as rain instead of snow, and the snow that does fall will melt earlier, reducing the Sierra Nevada spring snow pack by as much as 70% to 90%. Under the lower warming scenario, snow pack losses are expected to be only half as large as those expected if temperatures were to rise to the higher warming range. How much snow pack will be lost depends in part on future precipitation patterns, the projections for which remain uncertain. However, even under the wetter climate projections, the loss of snow pack would pose challenges to water managers, hamper hydropower generation, and nearly eliminate all skiing and other snow-related recreational activities.

Agriculture

Increased GHG emissions are expected to cause widespread changes to the agriculture industry reducing the quantity and quality of agricultural products statewide. Although higher carbon dioxide levels can stimulate plant production and increase plant water-use efficiency, California's farmers will face greater water demand for crops and a less reliable water supply as temperatures rise.

Plant growth tends to be slow at low temperatures, increasing with rising temperatures up to a threshold. However, faster growth can result in less-than-optimal development for many crops, so rising temperatures are likely to worsen the quantity and quality of yield for a number of California's agricultural products. Products likely to be most affected include wine grapes, fruits and nuts, and milk.

Crop growth and development will be affected, as will the intensity and frequency of pest and disease outbreaks. Rising temperatures will likely aggravate ozone pollution, which makes plants more susceptible to disease and pests and interferes with plant growth.

In addition, continued global warming will likely shift the ranges of existing invasive plants and weeds and alter competition patterns with native plants. Range expansion is expected in many species while range contractions are less likely in rapidly evolving species with significant populations already established. Should range contractions occur, it is likely that new or different weed species will fill the emerging gaps. Continued global warming is also likely to alter the abundance and types of many pests, lengthen pests' breeding season, and increase pathogen growth rates.

Forests and Landscapes

Global warming is expected to alter the distribution and character of natural vegetation thereby resulting in a possible increased risk of large of wildfires. If temperatures rise into the medium

warming range, the risk of large wildfires in California could increase by as much as 55%, which is almost twice the increase expected if temperatures stay in the lower warming range. However, since wildfire risk is determined by a combination of factors, including precipitation, winds, temperature, and landscape and vegetation conditions, future risks will not be uniform throughout the state. For example, if precipitation increases as temperatures rise, wildfires in southern California are expected to increase by approximately 30% toward the end of the century. In contrast, precipitation decreases could increase wildfires in northern California by up to 90%.

Moreover, continued global warming will alter natural ecosystems and biological diversity within the state. For example, alpine and sub-alpine ecosystems are expected to decline by as much as 60% to 80% by the end of the century as a result of increasing temperatures. The productivity of the state's forests is also expected to decrease as a result of global warming.

Rising Sea Levels

Rising sea levels, more intense coastal storms, and warmer water temperatures will increasingly threaten the state's coastal regions. Under the higher warming scenario, sea level is anticipated to rise 22 to 35 inches by 2100. Elevations of this magnitude would inundate coastal areas with saltwater, accelerate coastal erosion, threaten vital levees and inland water systems, and disrupt wetlands and natural habitats.

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less than Significant. The primary source of GHGs from the proposed project would result from emissions of CO₂ associated with vehicle trips generated by the project. In order to calculate CO₂ emissions from project vehicle trips, the URBEMIS software modeling system was utilized. Based on the total vehicle miles travelled (VMT) as a result of project implementation, the proposed project would generate up to 1,913 tons/year of CO₂ from vehicle emissions.

A number of academic and professional studies have demonstrated that the built environment can have a profound effect on travel. According to *Growing Cooler* (ULI, 2008, pg 88), ten studies examined the effects of regional location on travel. The studies yielded the same general conclusion: infill locations generate substantially lower vehicle trips and vehicle miles of travel (VMT) per capita than do greenfield locations (from 13 to 72 percent). Designing projects with greater Densities, access to regional Destinations, site Design, and Diversity of land use (the '4Ds') can result in meaningful reductions in vehicle trips and VMT.

Chapter 1 of *Driving and the Built Environment: The Effects of Compact Development on Motorized Travel, Energy Use, and CO₂ Emissions -- Special Report 298* (Transportation Research Board, 2009) reached the following key conclusions:

- Finding 1: Developing more compactly, that is, at higher residential and employment densities, is likely to reduce VMT.
- Finding 2: The literature suggests that doubling residential density across a metropolitan area might lower household VMT by about 5 to 12 percent, and perhaps by as much as 25

percent, if coupled with higher employment concentrations, significant public transit improvements, mixed uses, and other supportive demand management measures.

The City of Tracy has not established a threshold of significance for determining what level of CO₂ emissions from vehicle trips is considered a significant impact. The proposed project represents an infill project within the City. Additionally, the project is a high-density residential development, which promotes a compact development pattern, and minimizes the consumption of open space lands and resources. The project provides for additional high-density housing opportunities within the City of Tracy, and would assist the City in achieving the housing goals established in the City's Housing Element. The residential population growth that would occur as a result of project implementation would contribute to the growth anticipated in the City's General Plan and General Plan EIR.

Given the relatively small amount of GHGs that would be generated by the project, coupled with the fact that the project is a high-density residential infill project, this is considered a **less than significant** impact, and no mitigation is required.

Response b): Less than Significant. The City of Tracy recently adopted the Tracy Sustainability Action Plan. The Sustainability Action Plan includes programs and measures to reduce GHGs through community and municipal operations. Programs and measures contained in the Sustainability Action Plan that relate to the proposed project include:

Measure E-1: Implement California Green Building Standards, as contained in Title 24, Part 11, CCR.

Measure T-5 c and d: Which promote the use of alternative transportation measures, including bikes and pedestrian travel, by providing connections to existing bike and pedestrian facilities.

Measure T-3 a: Providing onsite bicycle parking in multi-family development projects.

Measure E-2 e: Requiring energy efficient exterior lighting.

Measure SW-3: Providing opportunities for onsite recycling in multi-family development

The proposed project would assist the City of Tracy with implementation of the Sustainability Action Plan, and is consistent with the measures described above. The proposed project would be constructed in compliance with the California Green Building Standards, and would install energy efficient exterior lighting. The project would provide opportunities for alternative transportation choices by providing connections to adjacent bicycle and pedestrian facilities, and through the provision of bicycle parking areas within the site.

In addition to the City of Tracy's Sustainability Action Plan, SJCOG is in the processes of preparing the Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan (RTP) update. Sen. Bill No. 375 (Stats. 2008, ch. 728) (SB 375) was built on AB 32 (California's 2006 climate change law). SB 375's core provision is a requirement for regional transportation agencies to develop a Sustainable Communities Strategy in order to reduce GHG

emissions from passenger vehicles. The SCS is one component of the SJCOG Regional Transportation Plan.

The SCS outlines the region's plan for combining transportation resources, such as roads and mass transit, with a realistic land use pattern, in order to meet a state target for reducing GHG emissions. The strategy must take into account the region's housing needs, transportation demands, and protection of resource and farmlands.

Additionally, SB 375 modified the state's Housing Element Law to achieve consistency between the land use pattern outlined in the SCS and the Regional Housing Needs Assessment allocation. The legislation also substantially improved cities' and counties' accountability for carrying out their housing element plans.

Finally, SB 375 amended the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) to ease the environmental review of developments that help reduce the growth of GHG emissions.

While the SJCOG SCS has not been completed and adopted at the time that this environmental analysis was prepared, the SCS is anticipated to encourage and promote compact land uses that focus on infill development within existing cities in the County. As described above, the proposed project is a high-density infill project that would assist the City of Tracy in meeting its regional housing needs allocation. The proposed project is consistent with the intent of SB 375, and is anticipated to further the goals and priorities of the SJCOG SCS.

Based on the project's consistency with the pending SCS and the City's Sustainability Action Plan, this is a **less than significant** impact and no mitigation is required.

VIII. HAZARDS AND HAZARDOUS MATERIALS -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|--|---------------------------------------|--|-------------------------------------|------------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | | | X | |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | | | X | |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | | | X | |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | | | X | |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | | | X | |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | | | X | |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | | | | X |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | | | X | |

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b): Less than Significant. The proposed project would place new high-density residential uses in an area of the City that currently contains predominantly residential, commercial and light industrial uses. The proposed residential land uses do not routinely transport, use, or dispose of hazardous materials, or present a reasonably foreseeable release of hazardous materials, with the exception of common residential grade hazardous materials such as household cleaners, paint, etc. The operational phase of the proposed project does not pose a significant hazard to the public or the environment. Implementation of the proposed project would have a **less than significant** impact relative to this issue.

Response c): Less than Significant. The project site is not located within ¼ mile of an existing or proposed school, and would therefore, not result in the exposure of any school site to any hazardous materials that may be used or stored at the project site. There are two elementary schools located in proximity to the project site. Tom Hawkins Elementary is located approximately 0.3 miles south of the project site, and Gladys Poet-Christian Elementary School is located approximately 0.6 miles to the northwest of the project site. As described under Response a), above, the project would not involve the use, storage, transport or handling of hazardous materials, beyond those commonly found in typical residential areas. This is a **less than significant** impact and no mitigation is required.

Response d): Less than Significant. According the California Department of Toxic Substances Control (DTSC) there are no Federal Superfund Sites, State Response Sites, or Voluntary Cleanup Sites on, or in the vicinity of the project site.

The DTSC Envirostor Database identified that the Georgia-Pacific Corporation operated a chemical packaging facility at 75 W. Valpico Road (west of the site) in Tracy from 1978 to 1986. A percolation basin being used for the disposal of waste cooling water and stormwater runoff was treated with sodium hypochlorite bleach in July 1984 to mitigate sulfite-type odors, resulting in the formation of chloroform. On 25 September 1984, the Regional Board issued a Cleanup and Abatement order to Georgia-Pacific to stop seepage of pollutants from the stormwater pond and stop pollution of the groundwater and odor nuisance. Starting in October 1984, 150,000 gallons of standing water were pumped out of the basin and disposed offsite. Wastewater flow to the basin was discontinued. The contamination was cleaned to the satisfaction of the Central Valley Regional Water Quality Control Board and the case was closed on November 15, 2011.

A Phase I Environmental Site Assessment (Phase I) was completed for the project site and some adjacent parcels in February 2004 (Baseline Environmental Consulting). The Phase I investigation included a review of environmental investigation reports and historic land use information, interviews, a site reconnaissance, a review of regulatory lists and databases, and the development of recommendations for further actions. The Phase I noted that the project site was historically used for gravel mining, orchards, and limited residential development. Railroad tracks were present on, or near the site from at least 1916 to 1950. A truck depot briefly operated on a portion of the site around 1971. A diesel underground storage tank (UST), which may have been associated with the truck depot, was removed from the site around 1986, without the presence of regulatory oversight. A previous Phase I (2001) identified several environmental issues at or near the project site, including stockpiled soil of unknown origin and pits. In 2001 a Phase II investigation included collection of soil samples from the stockpiles and pits and a soil boring in the former diesel UST area. No evidence of contamination was identified in any of the soil samples.

The 2004 Phase I also noted that no visible evidence of hazardous materials releases that could affect subsurface conditions at the project site was noted during site reconnaissance. As described above, there are no known hazardous materials located on the project site. This is a **less than significant** impact, and no mitigation is required.

Responses e), f): Less than Significant. The Federal Aviation Administration (FAA) establishes distances of ground clearance for take-off and landing safety based on such items as the type of aircraft using the airport.

The Tracy Municipal Airport is the closest airport to the project site, located approximately 1.5 miles southwest of the site. The Airport is a general aviation airport owned by the City and managed by the Parks and Community Services Department. The City of Tracy adopted an Airport Master Plan in 1998, analyzing the impacts to safety on surrounding development from the Tracy Municipal Airport.

The probability of an aircraft accident is highest along the extended runway centerline, and within one mile of the runway end. The Airport Master Plan designates four safety zones in which land use restrictions apply due to proximity to the airport:

1. Runway Protection Zone (RPZ)
2. Inner Approach Zone (PAZO)
3. Outer Approach Zone (OAZ)
4. Overflight Zone (OZ)

Land use constraints in these four zones become progressively less restrictive from the RPZ to the OZ. The proposed project is not located in any of these four safety zones. The proposed project is not located within one mile of the airport, nor along the extended runway centerline. Additionally, there are no private airstrips within the vicinity of the project site. Safety hazards related to the project's proximity to the Tracy Municipal Airport are **less than significant**, and no mitigation is required.

Response g): No Impact. The General Plan includes policies that require the City to maintain emergency access routes that are free of traffic impediments (Objective SA-6.1, P1 and A2). The proposed project does not include any actions that would impair or physically interfere with an adopted emergency response plan or emergency evacuation plan. The project involves the development of residential land uses within an urbanized environment, and would not interfere with any emergency response or evacuation plans. Implementation of the proposed project would result in **no impact** on this environmental topic.

Response h): Less than Significant. The risk of wildfire is related to a variety of parameters, including fuel loading (vegetation), fire weather (winds, temperatures, humidity levels and fuel moisture contents) and topography (degree of slope). Steep slopes contribute to fire hazard by intensifying the effects of wind and making fire suppression difficult. Fuels such as grass are highly flammable because they have a high surface area to mass ratio and require less heat to reach the ignition point, while fuels such as trees have a lower surface area to mass ratio and require more heat to reach the ignition point.

The City has areas with an abundance of flashy fuels (i.e. grassland) in the outlying residential parcels and open lands that when combined with warm and dry summers with temperatures often exceeding 100 degrees Fahrenheit create a situation that results in higher risk of wildland

fires. Most wildland fires are human caused, so areas with easy human access to land with the appropriate fire parameters generally result in an increased risk of fire.

The California Department of Forestry has designated the western and southern edge of the City as having a moderate wildland fire potential. This is predominately a result of the hills and grassland habitat that persists. The proposed project is located in an urbanized area of the City void of wildlands that would be susceptible to wildfires. This is a **less than significant** impact and no mitigation is required.

IX. HYDROLOGY AND WATER QUALITY -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Violate any water quality standards or waste discharge requirements? | | | X | |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | | | X | |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | | X | | |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? | | X | | |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | | X | | |
| f) Otherwise substantially degrade water quality? | | X | | |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | | | X | |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | | | X | |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | | | X | |
| j) Inundation by seiche, tsunami, or mudflow? | | | X | |

RESPONSES TO CHECKLIST QUESTIONS

Responses a): Less than Significant. Wastewater generated by the proposed project would be conveyed to the Tracy Wastewater Treatment Plan (WWTP) for treatment and disposal. The City's wastewater collection system consists of gravity sewer lines, pump stations and the WWTP. Wastewater flows toward the northern part of the City where it is treated at the WWTP and then discharged into the Old River in the southern Sacramento-San Joaquin Delta.

The City's WWTP provides secondary-level treatment of wastewater followed by disinfection. Treated effluent from the WWTP is conveyed to a submerged diffuser for discharge into the Old River. The WWTP has an NPDES permit for discharge into the Old River from the State Regional Water Quality Control Board. The proposed project would add a minimal volume of wastewater to the City's system, and would not produce a volume of wastewater that would significantly affect the City's ability to treat its wastewater. This is a **less than significant** impact, and no mitigation is required.

Responses b): Less than Significant. The proposed project would not result in the construction of new groundwater wells, nor would it increase existing levels of groundwater pumping. The proposed project would be served by the City's municipal water system. The City of Tracy uses several water sources, including the US Bureau of Reclamation, the South County Water Supply Project (SCWSP), and groundwater. As described in greater detail in the Utilities Section of this document, the City has adequate water supplies to serve the proposed project without increasing the current rate of groundwater extraction.

Groundwater recharge occurs primarily through percolation of surface waters through the soil and into the groundwater basin. The addition of significant areas of impervious surfaces (such as roads, parking lots, buildings, etc.) can interfere with this natural groundwater recharge process. Upon full project buildout, the majority of the project site would be covered in impervious surfaces, which would limit the potential for groundwater percolation to occur on the project site. However, given the relatively large size of the groundwater basin in the Tracy area, the areas of impervious surfaces added as a result of project implementation will not adversely affect the recharge capabilities of the local groundwater basin. The proposed project would result in **less than significant** impacts related to groundwater and groundwater recharge. No mitigation is required.

Responses c), d), e), f): Less than Significant with Mitigation. When land is in a natural or undeveloped condition, soils, mulch, vegetation, and plant roots absorb rainwater. This absorption process is called infiltration or percolation. Much of the rainwater that falls on natural or undeveloped land slowly infiltrates the soil and is stored either temporarily or permanently in underground layers of soil. When the soil becomes completely soaked or saturated with water or the rate of rainfall exceeds the infiltration capacity of the soil, the rainwater begins to flow on the surface of land to low lying areas, ditches, channels, streams, and rivers. Rainwater that flows off of a site is defined as storm water runoff. When a site is in a natural condition or is undeveloped, a larger percentage of rainwater infiltrates into the soil and a smaller percentage flows off the site as storm water runoff.

The infiltration and runoff process is altered when a site is developed with urban uses. Houses, buildings, roads, and parking lots introduce asphalt, concrete, and roofing materials to the landscape. These materials are relatively impervious, which means that they absorb less rainwater. As impervious surfaces are added to the ground conditions, the natural infiltration process is reduced. As a result, the volume and rate of storm water runoff increases. The increased volumes and rates of storm water runoff may result in flooding if adequate storm drainage facilities are not provided.

Development of the project site would place impervious surfaces on approximately 5.38 acres of the 8.75-acre project site. Development of the project site would potentially increase local runoff production, and would introduce constituents into storm water that are typically associated with urban runoff. These constituents include heavy metals (such as lead, zinc, and copper) and petroleum hydrocarbons. Best management practices (BMPs) will be applied to the proposed site development to limit the concentrations of these constituents in any site runoff that is discharged into downstream facilities to acceptable levels. Stormwater flows from the project site would be directed to the existing stormwater conveyance system along Valpico Road, south of the project site.

The project would be designed and constructed with a temporary storm drainage system that would remain in place until the downstream storm drain system is constructed with the project to the north of the site (Tiburon Village) as indicated in the City's Stormwater Master Plan. A Drainage Analysis for the proposed project was completed in May 2012 by MacKay and Soms. The proposed temporary drainage system is described below.

Stormwater Infiltration Trench

As proposed, the infiltration trench runs parallel with the north and east property lines of the site. Stormwater flows enter the infiltration trench via catch basins and area drains and are transported to a perforated pipe located near the bottom of the trench. This perforated pipe is the primary conduit of conveyance and storage of stormwater flows. It functions to allow water to flow freely along the length of the infiltration trench and be transported to those areas with the highest percolation potential based on previous soils testing. The infiltration trench will be backfilled with Caltrans Class II Permeable Material (Specification 68-1.025) placed around the pipe to the top of the infiltration trench. This material is placed un-compacted and is expected to have a 40% or greater void space throughout, providing additional storage volume to contain the design storm. The sides and top of the permeable material is wrapped in a permeable fiber fabric to prevent fines from migrating into the trench and reducing the potential storage capacity.

Stormwater Design- Storage

Based on the City's design criteria, a 10-year, 48-hour storm event with rainfall depth of 3.12 inches was used to determine the rainfall volumes. The storm depths and volumes were distributed over a 48 hour period based on the "HEC-1 balanced area distribution" method and the City's rainfall intensity curve as shown on Figure 5-1 of the City's Design Standards. As required by the City's Design Standards, a back to back 48 hour storm was added (96 hour

period) in the completed calculations. Due to the high infiltration rate, the second 48 hour event begins without any stormwater within the drainage system. It should be noted that the rainfall depth as measured at the Tracy Press and determined by NOAA for a 48 hour 10 year event is 2.17 inches. As a result, the 3.12 inch depth used in the project's stormwater calculations is a conservative measurement.

The Outflow, or infiltration potential, of the drainage trench was developed based on the surface area of the proposed infill trench and the 75 gallons per day per square foot. In-flow and Out-flow characteristics were compared side by side in order to determine the maximum volume contained within the underground basin during the design storm. The maximum storage volume occurred at hour 27 of the first storm event and resulted in 15.882 cubic feet of storage required. Similarly, since the second storm occurs when the system is empty, the maximum storage volume for the second storm event occurred at the 75th hour with the same peak volume.

The construction of the temporary stormwater conveyance and detention system, as described above, would ensure that the project is consistent with all applicable plans and regulations related to stormwater conveyance and detention, and would ensure that offsite or onsite flooding does not occur during the design storm event. The potential for the project to exceed the capacity of the stormwater system is a **less than significant** impact.

In order to ensure that stormwater runoff from the project site does not adversely increase pollutant levels in adjacent surface waters and stormwater conveyance infrastructure, Mitigation Measure 7 requires the preparation of a Stormwater Pollution Prevention Plan (SWPPP). As described below, the SWPPP would require the application of best management practices (BMPs) to effectively reduce pollutants from stormwater leaving the site during both the construction and operational phases of the project. The implementation of this mitigation measure would reduce this impact to a **less than significant** level. Additionally, the project is subject to the requirements of Chapter 11.34 of the Tracy Municipal Code – Stormwater Management and Discharge Control. The purpose of this Chapter is to *“Protect and promote the health, safety and general welfare of the citizens of the City by controlling non-stormwater discharges to the stormwater conveyance system, by eliminating discharges to the stormwater conveyance system from spills, dumping, or disposal of materials other than stormwater, and by reducing pollutants in urban stormwater discharges to the maximum extent practicable.”*

This chapter is intended to assist in the protection and enhancement of the water quality of watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Water Pollution Control Act (Clean Water Act, 33 USC Section 1251 et seq.), Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) and National Pollutant Discharge Elimination System (“NPDES”) Permit No. CAS000004, as such permit is amended and/or renewed.

Mitigation Measures

Mitigation Measure 7: *The project applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) that includes specific types and sources of stormwater pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts on receiving water quality from stormwater runoff. The SWPPP shall require treatment BMPs that incorporate, at a minimum, the required hydraulic sizing design criteria for volume and flow to treat projected stormwater runoff. The SWPPP shall comply with the most current standards established by the Central Valley RWQCB. Best Management Practices shall be selected from the City's Manual of Stormwater Quality Control Standards for New Development and Redevelopment according to site requirements and shall be subject to approval by the City Engineer and Central Valley RWQCB.*

Responses g), h): Less than Significant. The 100-year floodplain denotes an area that has a one percent chance of being inundated during any particular 12-month period. The risk of a site within the 100-year floodplain being flooded in any century is one percent but statistically the risk is almost 40 percent in any 50-year period.

Floodplain zones are determined by the Federal Emergency Management Agency (FEMA) and used to create Flood Insurance Rate Maps (FIRMs). These tools assist cities in mitigating flooding hazards through land use planning. FEMA also outlines specific regulations for any construction, whether residential, commercial, or industrial within 100-year floodplains.

The project site is not located within the FEMA designated 100-year floodplain. This is a **less than significant** impact and no mitigation is required.

Responses i), j): Less than Significant. The project site is located within the inundation risk area for San Luis Reservoir and New Melones Dams. The safety of dams in California is stringently monitored by the California Department of Water Resources, Division of Safety of Dams (DSD). In the unlikely event of a dam failure, there is the potential that the project site could become inundated with water. The DSD is responsible for inspecting and monitoring the dam in perpetuity. The proposed project would not result in actions that could result in a higher likelihood of dam failure at San Luis Reservoir and New Melones Dams. There will always be a remote chance of dam failure that results in flooding of the City of Tracy, including the project site. However, given the regulations provided in the California Dam Safety Act, and the ongoing monitoring performed by the DSD, the risk of loss, injury, or death to people or structures from dam failure is considered **less than significant**.

There are no significant bodies of water near the project site that could result in the occurrence of a seiche or tsunami. Additionally, the project site and the surrounding areas are essentially flat, which precludes the possibility of mudflows occurring on the project site. This is a **less than significant** impact and no mitigation is required.

X. LAND USE AND PLANNING - Would the project:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Physically divide an established community? | | | | X |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | | | X | |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | | | X | |

RESPONSES TO CHECKLIST QUESTIONS

Responses a): No Impact. The project site is surrounded by residential, commercial and light industrial land uses. The project is an infill project that would be consistent and compatible with the surrounding land uses, and would not divide an established community. There is **no impact**.

Responses b): Less than Significant. The project site is currently designated Commercial by the City of Tracy General Plan Land Use Designations Map and is zoned Community Shopping. The proposed project includes a request for a General Plan Amendment to designate the site Residential High, and a zoning change to zone the site High Density Residential.

The proposed uses on the project site are consistent with the General Plan designation of Residential High. Approval of the requested General Plan Amendment would ensure that the proposed project is consistent with the Tracy General Plan. The project's consistency with other General Plan policies that provide environmental protections are addressed within the relevant sections of this document. This is a **less than significant** impact, and no mitigation is required.

Response c): Less than Signification. As described under the Biological Resources section of this document, the proposed project is classified as Urban Habitat under the SJMSCP. The City of Tracy and the project applicant have consulted with SJCOG and agreed to allow coverage of the project pursuant to the SJMSCP. SJCOG staff has determined that the proposed project is consistent with the SJMSCP and coverage under the plan has been obtained. Therefore, this is a **less than significant** impact and no additional mitigation is required.

XI. MINERAL RESOURCES -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | | | X | |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | | | X | |

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b): Less than Significant. As described in the Tracy General Plan EIR, the main mineral resources found in San Joaquin County, and the Tracy Planning Area, are sand and gravel (aggregate), which are primarily used for construction materials like asphalt and concrete. According to the California Geological Survey (CGS) evaluation of the quality and quantity of these resources, the most marketable aggregate materials in San Joaquin County are found in three main areas:

- ◆ In the Corral Hollow alluvial fan deposits south of Tracy
- ◆ Along the channel and floodplain deposits of the Mokelumne River
- ◆ Along the San Joaquin River near Lathrop

Figure 4.8-1 of the General Plan EIR identifies Mineral Resource Zones (MRZs) throughout the Tracy Planning Area. The project site is located within an area designated as MRZ-3. The MRZ-3 designation applies to areas containing mineral deposits the significance of which cannot be evaluated from available data.

The project site was previously used for sand and gravel extraction. Therefore, it is likely that all usable aggregate materials for the project site have already been removed, and there is little potential for additional usable materials to be present at the project site. Therefore, the project would not result in the loss of availability of a known mineral resource. This impact is considered **less than significant**

XII. NOISE -- WOULD THE PROJECT RESULT IN:

| | Potentially Significant Impact | Less Than Significant with Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | | | X | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | | | X | |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | | | X | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | | X | | |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | | | X | |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | | | | X |

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less than Significant. The proposed project is located in an area consisting predominately of residential land uses. Commercial and light industrial land uses are also located in the project vicinity. The primary sources of noise currently present in the project area are from vehicle traffic along MacArthur Drive and Valpico Road.

The City of Tracy General Plan establishes allowable noise exposure levels for new multi-family residential land uses. As described under Goal N-1, Objective N-1.1, Policy P.6 of the Tracy General Plan, *“For new multi-family residential land uses, noise from external sources shall not cause the community outdoor recreation areas to exceed 65 Ldn. This policy shall not apply to balconies.”*

In order to estimate noise levels at the project site from roadway noise along MacArthur Drive and Valpico Road, information from the MacArthur Drive Widening Noise Study Report (JC Brennan and Associates, June 2012) was reviewed and utilized. The MacArthur Drive Widening Noise Study Report included measurements of noise levels at a study location at 2675 South MacArthur Drive, approximately 60 feet from the roadway centerline, and approximately 480

feet to the east/northeast of the project site. At this study location, the loudest-hour sound level average (over a 24-hour period) measured at this location was 64 dBA_{Leq}, with peak hour vehicle trip volumes of 673 vehicles per hour. The eastern edge of the project site is approximately 520 feet from the roadway centerline of MacArthur Drive, which would further reduce the exposure to traffic noise from this roadway. It is estimated that roadway noise from MacArthur Drive would be approximately 51 dBA at the project's eastern boundary line.

According to the analysis contained in the MacArthur Drive Widening Noise Study report, peak hour vehicle trips along Valpico Road were anticipated to reach 930 vehicles per hour in the project vicinity. This roadway traffic volume would equate to a peak hour noise average of approximately 63dBA at a distance of 120 feet from the roadway centerline. The nearest residential structures within the project site are located approximately 120 feet from the centerline of Valpico Road. Therefore, the proposed project would not be subject to roadway noise in excess of 65dBA in the exterior areas of the site.

As described above, the proposed project would not be subjected to vehicle roadway noise in excess of 65dBA in the exterior areas of the site. This is a **less than significant** impact and no mitigation is required.

Response b): Less than Significant. No major stationary sources of groundborne vibration were identified in the project area that would result in the long-term exposure of proposed onsite land uses to unacceptable levels of ground vibration. In addition, the proposed project would not involve the use of any major equipment or processes that would result in potentially significant levels of ground vibration that would exceed these standards at nearby existing land uses. However, construction activities associated with the proposed project would require the use of various tractors, trucks, and potentially jackhammers that could result in intermittent increases in groundborne vibration levels. The use of major groundborne vibration-generating construction equipment/processes (i.e., blasting, pile driving) is not anticipated to be required for construction of the proposed project.

Groundborne vibration levels commonly associated with construction equipment are summarized in Table 2. Based on the levels presented in Table 2, groundborne vibration generated by construction equipment would not be anticipated to exceed approximately 0.09 inches per second ppv at 25 feet. Predicted vibration levels would not be anticipated to exceed recommended criteria for structural damage and human annoyance (0.2 and 0.1 in/sec ppv, respectively) at nearby land uses. As a result, short-term groundborne vibration impacts would be considered **less than significant** and no mitigation is required.

Table 2: Representative Vibration Source Levels for Construction Equipment

| <i>EQUIPMENT</i> | <i>PEAK PARTICLE VELOCITY AT 25 FEET (IN/SEC)</i> |
|---------------------------------|---|
| Large Bulldozers | 0.089 |
| Loaded Trucks | 0.076 |
| Jackhammer | 0.035 |
| Small Bulldozers | 0.003 |
| Source: FTA 2006, Caltrans 2004 | |

Response c): Less than Significant. Generally, a project may have a significant effect on the environment if it will substantially increase the ambient noise levels for adjoining areas or expose people to severe noise levels. In practice, more specific professional standards have been developed. These standards state that a noise impact may be considered significant if it would generate noise that would conflict with local planning criteria or ordinances, or substantially increase noise levels at noise-sensitive land uses.

The proposed project would not directly generate increased noise beyond those activities commonly found in residential developments (i.e., lawnmowers, leaf blowers, etc.). The noise directly generated by the project would not differ from the existing ambient noises currently generated by the surrounding residential land uses.

The proposed project may indirectly increase ambient noise levels in the project vicinity through the introduction of additional vehicle trips to area roadways, particularly Valpico Road and MacArthur Drive. The Traffic Impact Study prepared for the project estimates that the project would generate up to 122 vehicle trips during the P.M. peak hour. Approximately 55 percent of these trips (67 trips in the peak hour) would travel west from the project site on Valpico Road. Therefore, this segment of Valpico Road has the greatest potential to see increases in vehicle noise attributable to the proposed project during the P.M. peak hour. As described above, this segment of Valpico Road currently experiences up to 930 peak hour vehicle trips. The addition of 67 peak hour trips attributable to the proposed project would represent an increase of 7.2 percent in peak hour vehicle trips. The addition of 67 peak hour vehicle trips to Valpico Road during the P.M. peak hour would result in an increased roadway dBA of less than one decibel above existing ambient conditions. This very minor increase in roadway noise would not be perceptible in the project area. As such, this is a **less than significant** impact and no mitigation is required.

Response d): Less than Significant with Mitigation. Construction activities at the project site would result in temporary increases in noise levels that could expose adjacent residences to increased noise levels and noise nuisances. Construction activities could create temporary noise levels of up to 90 dBA at distances of 50 feet. Because the project site is surrounded by existing residential neighborhoods, this temporary increase in construction noise is considered potentially significant.

The following mitigation measure would place restrictions on the time of day that construction activities can occur, and includes additional techniques to reduce noise levels at adjacent residences during construction activities. The implementation of this mitigation measure would reduce this temporary impact to a **less than significant** level.

Mitigation Measures

Mitigation Measure 8: *The following mitigation measures shall be implemented:*

- a) Construction activities (excluding activities that would result in a safety concern to the public or construction workers) shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. Construction activities shall be prohibited on Sundays and federal holidays.*
- b) Construction equipment shall be properly maintained and equipped with noise-reduction intake and exhaust mufflers and engine shrouds, in accordance with manufacturers' recommendations.*
- c) Construction equipment staging areas shall be located at the furthest distance possible from nearby noise-sensitive land uses.*

Response e): Less than Significant. The Tracy Municipal Airport is the closest airport to the project site, located approximately 1.5 miles southwest of the site. The Airport is a general aviation airport owned by the City and managed by the Parks and Community Services Department. The City of Tracy adopted an Airport Master Plan in 1998, analyzing the impacts to safety on surrounding development from the Tracy Municipal Airport.

The San Joaquin County Airport Land Use Plan establishes noise contours surrounding the Tracy Municipal Airport. As shown on Figure 4.14-3 of the Tracy General Plan Final Supplemental EIR (Certified on February 1, 2011), the project site is located outside of both the 65 dBCNEL and the 60 dBCNEL noise contours for the Tracy Municipal Airport. As such, the project site would not be exposed to excessive noise from the Tracy Municipal Airport. This is a **less than significant** impact, and no mitigation is required.

Response f): No Impact. The project site is not located within two miles of a private airstrip. There is **no impact**.

XIII. POPULATION AND HOUSING -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | | | X | |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | | | | X |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | | | | X |

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less than Significant. Implementation of the project would result in the construction of 184 multi-family housing units on the project site. The proposed project is located in an urbanized area of the City of Tracy, and constitutes an infill project. There is existing infrastructure (roads, water, sewer, etc) in the immediate vicinity of the project site. While the project would extend these services onto the site to serve the proposed development, the project would not extend infrastructure to an area of the City not currently served. Therefore, while the project may directly induce population growth through the provision of 184 new high-density residences, the project would not indirectly induce population growth in other areas of the City of Tracy.

The potential for the project to directly induce population growth in the City of Tracy is not a significant impact in and of itself. Population growth can result in impacts to other environmental topics, such as traffic, service demands, etc. As described throughout this environmental document, the population growth attributable to the proposed project would not result in any significant environmental impacts to other environmental topics that cannot be mitigated to a less than significant level. While this document acknowledges that project approval would provide for additional housing opportunities in the City of Tracy, which may lead to population growth in the City, this impact is **less than significant**, as demonstrated throughout this document. No additional mitigation is required.

Responses b), c): No Impact. There are no existing homes or residences located on the project site. There is **no impact**.

XIV. PUBLIC SERVICES

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | |
| i) Fire protection? | | | X | |
| ii) Police protection? | | | X | |
| iii) Schools? | | X | | |
| iv) Parks? | | X | | |
| v) Other public facilities? | | | X | |

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less than Significant.

i) Fire Protection and Emergency Medical Services

The Tracy Fire Department, as a member agency of the South County Fire Authority, provides fire protection, life safety, and emergency response services to 167 square miles of the southern part of San Joaquin County. In 1999, the South County Fire Authority was established to more effectively and efficiently serve the City of Tracy, the Tracy Rural Fire Protection District (FPD), and the Mountain House Community Services District (CSD).

The Fire Authority currently operates seven fire stations and an administrative office. Twenty-four hour-a-day staffing is provided with five paramedic engine companies, two basic life support engine companies, and one ladder truck company. Three fire stations are within the incorporated area of the City of Tracy, three are in the surrounding rural Tracy area, and one is located in the planned Community of Mountain House.

Medical transport is provided by private ambulance. American Medical Response is the exclusive emergency ambulance service provider in San Joaquin County.

The Tracy Fire Department has 74.94 full-time equivalent (FTE) fire fighters/ fire station staff, and an additional 4.30 FTE civilian staff. The 2010 ratio of fire fighters per 1,000 population was 0.9 certified fire fighters per 1,000 population.

The Tracy Fire Department conducted a Standards of Response Coverage study in late 2007. Findings of the study indicated that the Department has challenges in meeting its established response time objectives in the areas of the West Valley Mall and Downtown Tracy utilizing existing resources. The Department is currently in the process of mitigating the deficiency in the area of the West Valley Mall through the potential relocation of an existing fire station. Future development will create a need for expanded fire and emergency medical services.

Currently the Department is working on a plan to expand its ability to deliver Advanced Life Support services from all seven Fire Department facilities. Since November 2008, the Fire Department has expanded its provision of Advanced Life Support Services to six of the seven fire stations; there are plans to provide these services from the final station upon successful relocation of the facility, which is expected to be completed in fiscal year 2012/2013. Emergency medical services in Tracy and the surrounding areas are reported to be good, as Tracy is one of only three fire departments in San Joaquin County that provide Advanced Life Support services, and there are no reported concerns about the level of service provided.

Recognizing the potential need for increases in fire protection and emergency medical services, the City's General Plan includes policies to ensure that adequate related facilities are funded and provided to meet future growth (Objective PF-1.1, P1). This policy will be implemented through the review of all new projects within the SOI, prior to development, and through the collection of development impact fees for the funding of facilities.

The project site and the surrounding area is served by Fire Station #97, which is located at 595 West Central Avenue, approximately 0.8 miles west of the project site. The project site is located within the Fire Department's 5-minute response zone.

Implementation of the proposed project would not adversely impact existing fire and emergency services within the City, and would not require the construction of new fire protection facilities.

In order to provide adequate fire protection and suppression services to the project site, the Tracy Fire Department must have access to adequate onsite hydrants with adequate fire-flow pressure available to meet the needs of fire suppression units. The final site plans and development specifications developed for the proposed project will indicate the location and design specifications of the fire hydrants that will be required within the project site. This is a **less than significant** impact.

ii) Police Protection

The Tracy Police Department provides police protection services to the City of Tracy. Its headquarters are located at 1000 Civic Center Drive, and there are no satellite offices or plans to construct any in the near future. The Department currently employs 91 officers, and responded to over 72,500 calls for service in 2008. The Department also has 43 non-sworn positions, which include both full- and part-time administrators, communications dispatchers, community services personnel, animal control, crime scene technicians, and a records

superintendent. The City has a goal of a 5-minute response time for Priority 1 calls (life threatening situations).

The police station is located approximately 2 miles north of the project site. The Department divides calls for service into three categories:

- Priority 1 calls are defined as life threatening situations.
- Priority 2 calls are not life threatening, but require immediate response.
- Priority 3 calls cover all other calls received by the police.

The average response time for Priority 1 calls within the City limits is approximately seven to nine minutes. Response time for Priority 2 and 3 calls is, on average, between 20 and 30 minutes. The Tracy Police Department provides mutual aid to the San Joaquin County Sheriff's office, and vice versa, when a situation exceeds the capabilities of either department. Mutual aid is coordinated through the San Joaquin County Sheriff.

It is not anticipated that implementation of the proposed project would result in significant new demand for police services. Project implementation would not require the construction of new police facilities to serve the project site, nor would it result in impacts to the existing response times and existing police protection service levels. This is a **less than significant** impact.

iii) Schools

Implementation of the proposed project would result in population growth within the City of Tracy, which would likely increase enrollment at schools within the Tracy Unified School District. According to the School District's boundary maps, new elementary school students residing at the project site would attend Louis A. Bohn Elementary School, middle school students would attend Earle E. William Middle School, and high school students would attend Tracy High School.

Under the provisions of SB 50, a project's impacts on school facilities are fully mitigated via the payment of the requisite new school construction fees established pursuant to Government Code Section 65995. Payment of the applicable impact fees by the project applicant, and ongoing revenues that would come from taxes, would ensure that project impacts to school services are **less than significant**.

Mitigation Measures

Mitigation Measure 9: *Prior to the issuance of a building permit, the applicant shall pay applicable school fees mandated by SB 50 to the Tracy Unified School District and provide a receipt of payment to the Tracy Development Services Department.*

iv) Parks

Potential project impacts to parks and recreational facilities are addressed in the following section of this document.

v) Other Public Facilities

Other public facilities in the City of Tracy include libraries, hospitals, and cultural centers such as museums and music halls. The proposed project would increase demand on these facilities. The City of Tracy General Plan requires new development to pay its fair share of the costs of public buildings by collecting the Public Buildings Impact Fee. The Public Buildings Impact fee is used by the City to expand public services and maintain public buildings, including the Civic Center and libraries in order to meet the increased demand generated by new development. Payment of the applicable impact fees by the project applicant, and ongoing revenues that would come from taxes, would ensure that project impacts to libraries and public buildings are **less than significant**.

Mitigation Measures

Mitigation Measure 10: *Prior to the issuance of a building permit, the applicant shall pay applicable Public Building Impact Fees to the City of Tracy.*

XV. RECREATION

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|--|---------------------------------------|--|-------------------------------------|------------------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | | X | | |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | | X | | |

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b): Less than Significant with Mitigation. The proposed project would increase demand for parks and recreational facilities within the City of Tracy, and would increase the use of the City’s existing parks and recreation system. As described in the Tracy General Plan, the City maintains 48 mini-parks, 15 neighborhood parks, and eight community parks, providing approximately 256 acres at 71 sites. The City is also in the process of constructing the Holly Sugar Sports Park at the northern edge of the City, which will provide an additional 166 acres of sports parks, 86 acres of passive recreation area, and a 46-acre future expansion area for additional park facilities.

The City strives to maintain a standard of 4 acres of park land for every 1,000 persons. In order to maintain this standard, the City requires new development projects to either include land dedicated for park uses, or to pay in-lieu fees towards the City’s parks program. Chapter 13.12 of the Tracy Municipal Code states that, “*all development projects shall be required to maintain the City standard of four (4) acres of park land per 1,000 population. All development projects, as a condition of approval of any tentative parcel map or tentative subdivision map, or as a condition of approval of any building permit, shall dedicate land to the City or pay a fee in lieu thereof, or a combination of both, in order to maintain this City standard. The precise obligation of any development project to dedicate land or pay a fee pursuant to this section shall be incorporated in the implementing resolution for the park fee applicable to the development project.*”

The payment of the project’s fair share in-lieu parks fees to the City of Tracy, as required by the following mitigation measure, would ensure that this is a **less than significant** impact.

Mitigation Measures

Mitigation Measure 11: *Prior to the issuance of a building permit, the applicant shall pay applicable Park Development Impact Fees to the City of Tracy.*

XVI. TRANSPORTATION/TRAFFIC -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|--|---------------------------------------|--|-------------------------------------|------------------|
| a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? | | | X | |
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | | | X | |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | | | X | |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | | | X | |
| e) Result in inadequate emergency access? | | | X | |
| f) Result in inadequate parking capacity? | | | X | |
| g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? | | | | X |

RESPONSES TO CHECKLIST QUESTIONS

Response a), b): Less than Significant. In order to determine potential impacts related to traffic generated by the proposed project, a Traffic Impact Study was prepared by TJKM Transportation Consultants in April 2012. In consultation with staff from the City of Tracy, it was determined that the intersections of Glenbriar Drive/Valpico Road and MacArthur Drive/Valpico Road were the two intersections with the greatest potential to be impacted by the proposed project. These two intersections were addressed in the traffic study to determine if the project would result in an unacceptable level of service (LOS) under either existing (near-term) conditions or cumulative (future) conditions with the addition of traffic generated by the proposed project.

Level of service is a qualitative measure describing operational conditions at an intersection. The LOS generally describes these conditions in terms of average delay per vehicle. Six levels of service are defined and given letter designations from A to F, with LOS A representing the best operating conditions and LOS F the worst. The City of Tracy General Plan has established LOS D as the City's desired operating level for intersections. Therefore, the proposed project may

result in a significant impact if the addition of project traffic causes one of the study intersections to operate at a condition worse than LOS D.

Existing Roadway Network

S. MacArthur Drive runs north and south and is located to the east of the project site. It is a four-lane roadway with a median turn lane and the roadway is designated as a truck route. A bike lane exists on both sides of the roadway. It is fronted mainly by residential developments.

Valpico Road runs east west and is adjacent and located to the south of the project site. It is generally a two to four-lane roadway in the project vicinity and designated as a major arterial in the City’s Roadway Master Plan.

Glenbriar Drive is a local street that runs north-south and primarily provides access to local residents of the Glenbriar Subdivision located to the south of Valpico Road.

Existing Intersection Traffic Counts

In preparing the traffic study, TJKM conducted two-hour peak hour turning movement counts during a typical weekday in March 2012. The counts collected were two-hour turning movement counts conducted during the weekday a.m. and weekday p.m. peak periods. In addition, TJKM collected the existing signal timing information for both the intersections and used it as inputs for the levels of service analysis.

Table 3 summarizes the results of the intersection analysis under Existing Conditions for the a.m. and p.m. peak hours. The detailed LOS calculations are contained in Appendix B of the Traffic Study, which is available for review at the Tracy Development Services Department. Under Existing Conditions, all the study intersections operate at LOS C or better during both the a.m. and p.m. peak hours. Level of service worksheets are provided in Appendix C of the Traffic Study.

Table 3: Intersection LOS- Existing Conditions

| INTERSECTION | CONTROL | EXISTING CONDITIONS | | | | | |
|------------------------------|---------|---------------------|------|-----|-----------|------|-----|
| | | A.M. PEAK | | | P.M. PEAK | | |
| | | DELAY | V/C | LOS | DELAY | V/C | LOS |
| Glenbriar Drive/Valpico Road | Signal | 16.1 | 0.62 | B | 14.7 | 0.65 | B |
| MacArthur Drive/Valpico Road | Signal | 33.3 | 0.61 | C | 30.2 | 0.51 | C |

NOTE: DELAY=OVERALL AVERAGE INTERSECTION DELAY IN SECONDS FOR SIGNALIZED INTERSECTIONS

Project Trip Generation

TJKM developed estimated project trip generation for the proposed project based on the published trip generation rates from the Institute of Transportation Engineers’ (ITE) publication *Trip Generation (8th Edition)*. TJKM also followed the guidance of ITE’s *Trip*

Generation Handbook (2nd Edition) to use the fitted curve rate equations for the proposed apartment projects. ITE Land Use Codes of 220 for Apartments was used in the trip generation calculation.

Based on ITE *Trip Generation*, the proposed project is expected to generate approximately 1,269 daily trips on a typical weekday, including 96 trips (19 inbound, 77 outbound) during the a.m. peak hour and 122 trips (79 inbound and 43 outbound) during the p.m. peak hour. The proposed project's estimated trips are shown in Table 4.

Table 4: Project Trip Generation

| LAND USE (ITE CODE) | SIZE | DAILY TRIPS | A.M. PEAK | | | | | P.M. PEAK | | | | |
|---------------------------|------------|----------------|-----------|-------|----|-----|-------|-----------|-------|----|-----|-------|
| | | | IN % | OUT % | IN | OUT | TOTAL | IN % | OUT % | IN | OUT | TOTAL |
| Valipico Apts (220) | 189* du | 1,269 | 20 | 80 | 19 | 77 | 96 | 65 | 35 | 79 | 43 | 122 |

* The TJKM Traffic Study assumed 189 units. However, the project now proposes 184 units, resulting in a minor decrease of the traffic impacts described in the Traffic Study.

Project Trip Distribution and Assignment

Trip distribution is a process that determines in what proportion vehicles would travel between a project site and various destinations outside the project study area. The process of trip assignment determines the various routes that vehicles would take from the project site to each destination using the calculated trip distribution.

Trip distribution assumptions for the proposed project were developed based on existing travel patterns, knowledge of the study area, and input from City staff. Trips generated by the proposed project are expected to travel to and from the site according to the distribution assumptions described below:

- 55 percent will travel to/from the west via Valpico Road
- 20 percent will travel to/from the east via Valpico Road
- 15 percent will travel to/from the north via S MacArthur Drive
- 10 percent will travel to/from the south via S MacArthur Drive

Level of Service Analysis- Existing plus Project Conditions

Table 5 shows the results of the LOS analysis for the study intersections under Existing plus Project Conditions. It is assumed that the approach of the proposed roadway on Valpico Road will include a left-turn lane and a shared through and right-turn lane. It is assumed that the existing northbound approach on Glenbriar Drive will continue to operate with a shared left-through-right turn lane. Consequently, the future signal timing for the north-south approach would operate as split-phased. With the addition of the proposed project trips, both study

intersections are expected to continue operating at LOS C or better. LOS worksheets are provided in Appendix D of the Traffic Study.

Table 5: Intersection LOS- Existing plus Project Conditions

| INTERSECTION | CONTROL | EXISTING CONDITIONS | | | | | | EXISTING + PROJECT CONDITIONS | | | | | |
|-------------------------|---------|---------------------|------|-----|-----------|------|-----|-------------------------------|------|-----|-----------|------|-----|
| | | A.M. PEAK | | | P.M. PEAK | | | A.M. PEAK | | | P.M. PEAK | | |
| | | DELAY | V/C | LOS | DELAY | V/C | LOS | DELAY | V/C | LOS | DELAY | V/C | LOS |
| Glenbriar Dr/Valpico Rd | Signal | 16.1 | 0.62 | B | 14.7 | 0.65 | B | 30.6 | 0.69 | C | 28.6 | 0.5 | C |
| MacArthur Dr/Valpico Rd | Signal | 33.3 | 0.61 | C | 30.2 | 0.51 | C | 33.8 | 0.63 | C | 30.4 | 0.54 | C |

NOTE: DELAY=OVERALL AVERAGE INTERSECTION DELAY IN SECONDS FOR SIGNALIZED INTERSECTIONS

As shown in the table above, the addition of traffic generated by the proposed project would cause the intersection of Glenbriar Drive and Valpico Road to decrease from LOS B to LOS C during both the A.M. and P.M. peak hour periods. The intersection of MacArthur Drive and Valpico Road would continue to operate at LOS C during both the A.M. and P.M. peak hour periods with the addition of project traffic. None of the study intersections would operate at LOS D or worse under existing plus project conditions. As such, under existing plus project conditions, the proposed project would have a **less than significant** impact, and no mitigation is required.

Cumulative plus Project Traffic Analysis

Based on discussions with City staff, the Traffic Study used the 2025 cumulative base volumes from the study that was completed for the previously proposed Valpico Town Center Project (2004). This scenario utilized estimated traffic from the base Cumulative Conditions with the addition of the currently estimated project trips.

Table 6 shows the results of the LOS analysis for the study intersections under Cumulative plus Project Conditions. With the addition of the trips from the proposed project, both the study intersections are expected to continue operating at LOS C or better. Level of service worksheets are provided in Appendix F of the Traffic Study.

Table 6: Intersection LOS- Cumulative plus Project Conditions

| INTERSECTION | CONTROL | CUMULATIVE + PROJECT CONDITIONS | | | | | |
|------------------------------|---------|---------------------------------|------|-----|-----------|------|-----|
| | | A.M. PEAK | | | P.M. PEAK | | |
| | | DELAY | V/C | LOS | DELAY | V/C | LOS |
| Glenbriar Drive/Valpico Road | Signal | 26.4 | 0.32 | C | 23.7 | 0.55 | C |
| MacArthur Drive/Valpico Road | Signal | 26.0 | 0.39 | C | 29.9 | 0.62 | C |

NOTE: DELAY=OVERALL AVERAGE INTERSECTION DELAY IN SECONDS FOR SIGNALIZED INTERSECTIONS

As shown in the table above, under Cumulative plus Project Conditions, both of the study intersections would continue to operate at LOS C, which is above the threshold of LOS D. Therefore, under cumulative conditions, the proposed project would have a **less than significant** impact on intersection operations, and no mitigation is required.

Response c): Less than Significant. The Tracy Municipal Airport is the closest airport to the project site, located approximately 1.5 miles southwest of the site. The Airport is a general aviation airport owned by the City and managed by the Parks and Community Services Department. The City of Tracy adopted an Airport Master Plan in 1998, analyzing the impacts to safety on surrounding development from the Tracy Municipal Airport.

The probability of an aircraft accident is highest along the extended runway centerline, and within one mile of the runway end. The Airport Master Plan designates four safety zones in which land use restrictions apply due to proximity to the airport:

1. Runway Protection Zone (RPZ)
2. Inner Approach Zone (PAZO)
3. Outer Approach Zone (OAZ)
4. Overflight Zone (OZ)

Land use constraints in these four zones become progressively less restrictive from the RPZ to the OZ. The proposed project is not located in any of these four safety zones. The proposed project is not located within one mile of the airport, nor along the extended runway centerline. Additionally, there are no private airstrips within the vicinity of the project site. Implementation of the proposed project would not result in any needed changes to airport operations or air travel patterns at the Tracy Municipal Airport. This impact is **less than significant**, and no mitigation is required.

Responses d) and e): Less than Significant. Based on the preliminary site plan, there is a steep eight percent downgrade from the top of the intersection at Valpico Road/ Glenbriar Drive to the bottom of the level grade. TJKM worked closely with the designer to ensure that the proposed roadway is acceptable based on safety and ease of access. Initially the design consisted of two reverse curves without a transitional tangent between the two curves. Subsequently, a transition was provided between the two reverse curves, which made the design acceptable.

The proposed site plan for the Valpico Apartments provides three driveways to the site. One is an existing driveway at the southeast corner of the site to Valpico Road that currently provides access to the adjacent Rite Aid store. This driveway will provide right-in and right-out turning movements plus left-in movements from east-bound Valpico Road. The other two driveways will be on the west side of the site to the proposed extension of Glenbriar Drive. The Glenbriar driveways will provide full right-in and right-out access and connection to the signalized intersection of Valpico Road and Glenbriar Drive.

Glenbriar Drive is anticipated, eventually, to be extended north to Stalsburg Drive as the property north of the proposed Valpico Apartments site is developed. Since Glenbriar Drive

will provide access to residential neighborhoods, and not a short cut for through traffic, it will remain a primarily local-serving street.

Based on the site plan, a 20-foot wide travel lane would be provided for each direction of traffic flow on the future Glenbriar Drive. This should be adequate to allow for on-street parking on each side of the street.

The proposed site plan provides adequate access to the project site, which would accommodate emergency vehicles and provide for LOS C or better on adjacent roadways. Implementation of the proposed project would have a less than significant impact related to emergency access, and would not interfere with an emergency evacuation plan. This is a **less than significant** impact and no mitigation is required.

Response f): Less than Significant. The proposed project includes 362 on-site parking spaces, approximately half of which would be covered. This yields approximately two parking spaces per residential unit. Section 10.08.3480 of the Tracy Municipal Code identifies parking requirements for residential projects. Multi-family residential projects are required to provide a minimum of 1.5 parking spaces per one-bedroom residential unit, 2.0 spaces per unit with two or more bedrooms, and an additional “guest” parking space for every five residential units. The project includes 90 one-bedroom units and 94 units with two or more bedrooms. Based on City standards, the proposed 184-unit project, therefore, would be required to provide a minimum of 360 parking spaces. The project proposes 362 parking spaces, which meets the City’s minimum requirements. This is a **less than significant** impact and no mitigation is required.

Response g): No Impact. The project would have no impact on any existing plans or policies related to alternative transportation. The proposed project includes onsite parking for bicycles, and provides connections to the existing bicycle lanes in the project area on Valpico Road. Project implementation would assist the City in providing connections and access to alternative transportation in the project area. There is **no impact**.

XVII. UTILITIES AND SERVICE SYSTEMS -- WOULD THE PROJECT:

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|--|-------------------------------------|------------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | | | X | |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | X | |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | X | |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | | | X | |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments? | | | X | |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs? | | | X | |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | | | X | |

RESPONSES TO CHECKLIST QUESTIONS

Responses a) and e): Less than Significant. Wastewater generated by the proposed project would be conveyed to the Tracy Wastewater Treatment Plan (WWTP) for treatment and disposal. The City's wastewater collection system consists of gravity sewer lines, pump stations and the WWTP. Wastewater flows toward the northern part of the City where it is treated at the WWTP and then discharged into the Old River in the southern Sacramento-San Joaquin Delta.

The City's WWTP provides secondary-level treatment of wastewater followed by disinfection. Treated effluent from the WWTP is conveyed to a submerged diffuser for discharge into the Old River. The WWTP has an NPDES permit for discharge into the Old River from the State Regional Water Quality Control Board. The City of Tracy currently has plans to expand and improve the existing Tracy Wastewater Treatment Plant. These plans have been evaluated in the Draft and

Final EIR for the Tracy Wastewater Treatment Plant Expansion (SCH No. 2000012039). The Final EIR was completed in September of 2002 and was certified in November 2002. The City plans to expand the average dry weather flow treatment capacity of the Plant from 9.0 million gallons per day to 16.0 million gallons per day. The expansion would also result in improvements to the quality of the effluent discharged from the Plant by upgrading the facility from secondary to tertiary treatment. The expansion of the Wastewater Treatment Plant is occurring in four phases. The phase expanding the treatment capacity to 10.8 mgd was completed in 2008. The final phase of the four phases is projected to be completed in the year 2014.

The City's WWTP currently treats approximately 9.0 mgd of wastewater. For this analysis, a unit generation factor of 176 gallons per day of wastewater per residential unit was used. Therefore, the proposed project would generate up to 33,264 gallons per day of wastewater, or 0.0033 mgd of wastewater. The addition of 0.0033 mgd of wastewater would not exceed the treatment capacity of the City's WWTP. No improvements or expansions to the existing WWTP are required, and the addition of project-generated wastewater would not result in any RWQCB violations related to effluent treatment or discharge. Implementation of the proposed project would have a **less than significant** impact and no mitigation is required.

Responses b) and d): Less than Significant. Potable water for the proposed project would be supplied from the City's municipal water system. The project site would receive potable water via a connection to an existing water main located on Valpico Road. The proposed project's water demand was calculated in a technical memorandum prepared by West Yost Associates. It is estimated that the proposed project would increase the demand for municipal water supplies by 55 acre feet per year (afy), which accounts for residential water usage, the proposed swimming pool, landscape irrigation, and unaccounted-for water (UAFW). The peak hour demand for water was determined to be 115.9 gallons per minute and 0.17 million gallons per day.

The City of Tracy obtains water from both surface water and groundwater sources. The amount of water that Tracy uses from each of its water supply sources to make up its total water use varies from year to year based on contractual agreements, annual precipitation, and City policies about how to expand, utilize, and manage its water resources. As described in the 2011 City of Tracy Urban Water Management Plan- Public Review Draft, Tracy's maximum annual water supply amounts to over 31,500 acre feet per year from its various supply sources. Future agreements may increase the City's available water supply to over 49,500 acre feet per year.

In recent years, demand for potable water in the City of Tracy has been trending downward. The 2010 total water demand in the City was 16,603 afy. The addition of the project's water demand would not exceed the City's available water supply. The City's water treatment and conveyance infrastructure is adequate to serve existing demand, in addition to the demand created by the proposed project. This is a **less than significant** impact and no mitigation is required.

Responses c): Less than Significant. Development of the project site would place impervious surfaces on approximately 5.38 acres of the 8.75-acre project site. Development of the project site would potentially increase local runoff production, and would introduce constituents into storm water that are typically associated with urban runoff. These constituents include heavy metals (such as lead, zinc, and copper) and petroleum hydrocarbons. Best management practices (BMPs) will be applied to the proposed site development to limit the concentrations of these constituents in any site runoff that is discharged into downstream facilities to acceptable levels.

The project would be designed and constructed with a temporary storm drainage system that would remain in place until the downstream storm drain system is constructed with the project to the north of the site (Tiburon Village) as indicated in the City's Stormwater Master Plan. A Drainage Analysis for the proposed project was completed in May 2012 by MacKay and Soms. The proposed temporary drainage system is described below.

Stormwater Infiltration Trench

As proposed, the infiltration trench runs parallel with the north and east property lines of the site. Stormwater flows enter the infiltration trench via catch basins and area drains and are transported to a perforated pipe located near the bottom of the trench. This perforated pipe is the primary conduit of conveyance and storage of stormwater flows. It functions to allow water to flow freely along the length of the infiltration trench and be transported to those areas with the highest percolation potential based on previous soils testing. The infiltration trench will be backfilled with Caltrans Class II Permeable Material (Specification 68-1.025) placed around the pipe to the top of the infiltration trench. This material is placed un-compacted and is expected to have a 40% or greater void space throughout, providing additional storage volume to contain the design storm. The sides and top of the permeable material is wrapped in a permeable fiber fabric to prevent fines from migrating into the trench and reducing the potential storage capacity.

Stormwater Design- Storage

Based on the City's design criteria, a 10-year, 48-hour storm event with rainfall depth of 3.12 inches was used to determine the rainfall volumes. The storm depths and volumes were distributed over a 48 hour period based on the "HEC-1 balanced area distribution" method and the City's rainfall intensity curve as shown on Figure 5-1 of the City's Design Standards. As required by the City's Design Standards, a back to back 48 hour storm was added (96 hour period) in the completed calculations. Due to the high infiltration rate, the second 48 hour event begins without any stormwater within the drainage system. It should be noted that the rainfall depth as measured at the Tracy Press and determined by NOAA for a 48 hour 10 year event is 2.17 inches. As a result, the 3.12 inch depth used in the project's stormwater calculations is a conservative measurement.

The Outflow, or infiltration potential, of the drainage trench was developed based on the surface area of the proposed infill trench and the 75 gallons per day per square foot. In-flow and Out-flow characteristics were compared side by side in order to determine the maximum

volume contained within the underground basin during the design storm. The maximum storage volume occurred at hour 27 of the first storm event and resulted in 15.882 cubic feet of storage required. Similarly, since the second storm occurs when the system is empty, the maximum storage volume for the second storm event occurred at the 75th hour with the same peak volume.

The construction of the temporary stormwater conveyance and detention system, as described above, would ensure that the project is consistent with all applicable plans and regulations related to stormwater conveyance and detention, and would ensure that offsite or onsite flooding does not occur during the design storm event. The potential for the project to exceed the capacity of the stormwater system is a **less than significant** impact.

Responses f) and g): Less than Significant. The City of Tracy has an exclusive franchise agreement with Tracy Disposal Service for solid waste collection and disposal and recycling collection. Solid waste is collected and taken to the 40-acre Tracy Material Recovery Facility (MRF) and Transfer Station on South MacArthur Drive before being sent to the Foothill Sanitary landfill, 48 miles northeast of Tracy, off of Shelton Road east of Linden, California. The MRF is operated by Tracy Material Recovery and Solid Waste Transfer, Inc., and has capacity of approximately 1,000 tons per day, but averages approximately 350 tons per day, of which 85 percent is generated in Tracy. Approximately 175,000 tons of solid waste is generated in Tracy each year, of which approximately 27 percent is residential garbage.

The approximately 800-acre Foothill landfill, owned by San Joaquin County, is the primary disposal facility accepting the City's solid waste. The Foothill landfill receives approximately 810 tons per day. The landfill is permitted to accept up to 1,500 tons per day, and has a permitted capacity of 51 million tons, of which approximately 45 million tons of capacity remains. It is estimated that the Foothill landfill will have the capacity to accept solid waste from the City of Tracy until 2054.

The proposed project would not generate significant volumes of solid waste, beyond levels normally found in residential developments. The proposed project would not generate hazardous waste or waste other than common household solid waste. As described above, there is adequate landfill capacity to serve the proposed project. This is a **less than significant** impact.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --

| | <i>Potentially Significant Impact</i> | <i>Less Than Significant with Mitigation Incorporation</i> | <i>Less Than Significant Impact</i> | <i>No Impact</i> |
|--|---------------------------------------|--|-------------------------------------|------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | | | X | |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? | | | X | |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | | | X | |

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b), c): Less than Significant. As described throughout the analysis above, the proposed project would not result in any significant impacts to the environment that cannot be mitigated to a less than significant level. The proposed project is required to implement mitigation measures that would reduce any potentially significant impacts to a less than significant level. The project would not result in any cumulative impacts, impacts to biological resources or impacts to cultural and/or historical resources. These are **less than significant** impacts.

REFERENCES

- City of Tracy General Plan and EIR (City of Tracy, 2011)
- California Important Farmlands 2010 Map (California Department of Conservation, September 2012)
- 2007 Ozone Plan, 2007 PM10 Plan and the Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI), prepared by the San Joaquin Valley Air Pollution Control District.
- Meteorology Today: An Introduction to Weather, Climate, & the Environment, 2003, D.C. Ahrens
- Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2004. (Staff Final Report), California Energy Commission, 2006
- City of Tracy Airport Master Plan (P&D Aviation, 1998)
- City of Tracy Manual of Stormwater Quality Standards for New Development and Redevelopment (Larry Walker Associates, 2008)
- City of Tracy Storm Drainage Master Plan (1994)
- Drainage Analysis for Valpico and MacDonald Apartments (MacKay and Soms, May 10, 2012)
- Geotechnical Exploration, Valpico Apartments (Engeo Inc., February 27, 2012)
- Phase I Environmental Site Assessment, Battaglia Property (Advanced GeoEnvironmental, Inc., January 3, 2001)
- Phase I Site Assessment, Valpico/MacArthur Development Projects (Baseline Environmental Consulting, February 2004)
- Preliminary Site Assessment Phase II Report, Battaglia Property (Advanced GeoEnvironmental, Inc., February 23, 2001)
- Wastewater System Fee for Valpico Apartments (CH2MHill, July 2012)
- Traffic Impact Study for the Proposed 189 Units Valpico Apartments and 60 Units MacDonald Apartments (TJKM Transportation Consultants, April 25, 2012)
- Hydraulic Evaluation of Valpico and MacDonald Apartments (West Yost Associates, July 16, 2012)

MITIGATION MONITORING AND REPORTING PROGRAM

2012

This document is the Mitigation Monitoring and Reporting Program (MMRP) for the Valpico Apartments Project in the City of Tracy. This MMRP has been prepared pursuant to Section 21081.6 of the California Public Resources Code, which requires public agencies to “adopt a reporting and monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment.” A MMRP is required for the proposed project because the Mitigated Negative Declaration (MND) has identified potentially significant adverse impacts, and measures have been identified to mitigate those impacts to a less than significant level.

MITIGATION MONITORING AND REPORTING PROGRAM

The MMRP, as outlined in the following table, describes mitigation timing, monitoring responsibilities, and compliance verification responsibility for all mitigation measures identified in the Valpico Apartments Project MND.

The City of Tracy will be the primary agency responsible for implementing the mitigation measures and will continue to monitor mitigation measures that are required to be implemented during the operation of the project.

The MMRP is presented in tabular form on the following pages. The components of the MMRP are described briefly below:

- **Mitigation Measures:** The mitigation measures are taken from the MND in the same order they appear in the MND.
- **Mitigation Timing:** Identifies at which stage of the project mitigation must be completed.
- **Monitoring Responsibility:** Identifies the agency that is responsible for mitigation monitoring.
- **Compliance Verification:** This is a space that is available for the monitor to date and initial when the monitoring or mitigation implementation took place.

TABLE 1: MITIGATION MONITORING AND REPORTING PROGRAM

| ENVIRONMENTAL IMPACT | MITIGATION MEASURE | MONITORING RESPONSIBILITY | TIMING | VERIFICATION (DATE/INITIALS) |
|--|---|---|---|------------------------------|
| <p>Impact I d): Project implementation may result in increased nighttime lighting.</p> | <p>Mitigation Measure 1: A lighting plan shall be prepared prior to the issuance of a building permit and installation of the project's exterior lighting. The lighting plan shall demonstrate that the exterior lighting systems have been designed to minimize light spillage onto adjacent properties to the greatest extent feasible. The lighting plan shall include the following:</p> <ul style="list-style-type: none"> • Design of site lighting and exterior building light fixtures to reduce the effects of light pollution and glare off of glass and metal surfaces; • Lighting shall be directed downward and light fixtures shall be shielded to reduce upward and spillover lighting; | <p>City of Tracy</p> | <p>Prior to issuance of the building permit.</p> | |
| <p>Impact III a), b), c): Project construction may result in short-term air quality impacts.</p> | <p>Mitigation Measure 2: Prior to the commencement of grading activities, the City shall require the contractor hired to complete the grading activities to prepare a construction emissions reduction plan that meets the requirements of SJVAPCD Rule VIII. The construction emissions reductions plan shall be submitted to the SJVAPCD for review and approval. The City of Tracy shall ensure that all required permits from the SJVAPCD have been issued prior to commencement of grading activities. The construction emissions reduction plan should include the following requirements and measures:</p> <ul style="list-style-type: none"> • Properly and routinely maintain all construction equipment, as recommended by manufacturer's manuals, to control exhaust emissions. • Shut down equipment when not in use for extended periods of time, to reduce exhaust emissions associated with idling engines. • Encourage ride-sharing and of use transit transportation for construction employees commuting to the project site. • Use electric equipment for construction whenever possible in lieu of fossil fuel-powered equipment. • Curtail construction during periods of high ambient pollutant concentrations. | <p>San Joaquin Valley Air Pollution Control District.</p> | <p>Prior to and during grading and construction activities for each phase of project development.</p> | |

MITIGATION MONITORING AND REPORTING PROGRAM

2012

| ENVIRONMENTAL IMPACT | MITIGATION MEASURE | MONITORING RESPONSIBILITY | TIMING | VERIFICATION (DATE/INITIALS) |
|----------------------|---|---------------------------|--------|------------------------------|
| | <ul style="list-style-type: none"> • Construction equipment shall operate no longer than eight cumulative hours per day. • All construction vehicles shall be equipped with proper emission control equipment and kept in good and proper running order to reduce NOx emissions. • On-road and off-road diesel equipment shall use aqueous diesel fuel if permitted under manufacturer's guidelines. • On-road and off-road diesel equipment shall use diesel particulate filters if permitted under manufacturer's guidelines. • On-road and off-road diesel equipment shall use cooled exhaust gas recirculation (EGR) if permitted under manufacturer's guidelines. • Use of Caterpillar pre-chamber diesel engines or equivalent shall be utilized if economic and available to reduce NOx emissions. • All construction activities within the project site shall be discontinued during the first stage smog alerts. • Construction and grading activities shall not be allowed during first stage ozone alerts. (First stage ozone alerts are declared when ozone levels exceed 0.20 ppm for the 1-hour average.) <p>Implementation of this mitigation shall occur during all grading or site clearing activities. The SJVAPCD shall be responsible for monitoring.</p> <p>Mitigation Measure 3: The following mitigation measures, in addition to those required under Regulation VIII of the SJVAPCD, shall be implemented by the Project's contractor during all phases of project grading and construction to reduce fugitive dust emissions:</p> <ul style="list-style-type: none"> • Water previously disturbed exposed surfaces (soil) a minimum of three-times/day or whenever visible dust is capable of drifting from the site or approaches 20 percent opacity. • Water all haul roads (unpaved) a minimum of three-times/day or whenever visible dust is capable of drifting from the site or approaches 20 percent opacity. • All access roads and parking areas shall be covered with asphalt-concrete paving or water sprayed regularly. | | | |

2012 MITIGATION MONITORING AND REPORTING PROGRAM

| ENVIRONMENTAL IMPACT | MITIGATION MEASURE | MONITORING RESPONSIBILITY | TIMING | VERIFICATION (DATE/INITIALS) |
|--|--|-------------------------------|-------------------------------------|------------------------------|
| <p>Impact III a), b), c): Project operations may result in the</p> | <ul style="list-style-type: none"> • Dust from all on-site and off-site unpaved access roads shall be effectively stabilized by applying water or using a chemical stabilizer or suppressant. • Reduce speed on unpaved roads to less than 15 miles per hour. • Install and maintain a trackout control device that meets the specifications of SJVAPCD Rule 8041 if the site exceeds 150 vehicle trips per day or more than 20 vehicle trips per day by vehicles with three or more axles. • Stabilize all disturbed areas, including storage piles, which are not being actively utilized for construction purposes using water, chemical stabilizers or by covering with a tarp, other suitable cover or vegetative ground cover. • Control fugitive dust emissions during land clearing, grubbing, scraping, excavation, leveling, grading or cut and fill operations with application of water or by presoaking. • When transporting materials offsite, maintain a freeboard limit of at least six inches and over or effectively wet to limit visible dust emissions. • Limit and remove the accumulation of mud and/or dirt from adjacent public roadways at the end of each workday. (Use of dry rotary brushes is prohibited except when preceded or accompanied by sufficient wetting to limit visible dust emissions and the use of blowers is expressly forbidden.) • Remove visible track-out from the site at the end of each workday. • Cease grading activities during periods of high winds (greater than 20 mph over a one-hour period). • Asphalt-concrete paving shall comply with SJVAPCD Rule 4641 and restrict use of cutback, slow-sure, and emulsified asphalt paving materials. <p>Implementation of this mitigation shall occur during all grading or site clearing activities. The SJVAPCD shall be responsible for monitoring.</p> <p>Mitigation Measure 4: Prior to the issuance of the first building permit, the project applicant shall coordinate with the SJVAPCD to verify that the</p> | <p>San Joaquin Valley Air</p> | <p>Prior to the issuance of the</p> | |

MITIGATION MONITORING AND REPORTING PROGRAM 2012

| ENVIRONMENTAL IMPACT | MITIGATION MEASURE | MONITORING RESPONSIBILITY | TIMING | VERIFICATION (DATE/INITIALS) |
|---|--|---|---|------------------------------|
| <p>emissions of criteria pollutants.</p> | <p>project meets the requirements of District Rule 9510, which is aimed at the following reductions:</p> <ul style="list-style-type: none"> • 20 percent of construction-exhaust nitrogen oxides; • 45 percent of construction-exhaust PM10; • 33 percent of operational nitrogen oxides over 10 years; and • 50 percent of operational PM10 over 10 years. <p>The project applicant shall coordinate with SJVAPCD to develop measures and strategies to reduce operational emissions from the proposed project. If feasible measures are not available to meet the emissions reductions targets outlined above, then the project applicant may be required to pay an in-lieu mitigation fee to the SJVAPCD to off-set project-related emissions impacts. If in-lieu fees are required, the project applicant shall coordinate with the SJVAPCD to calculate the amount of the fees required to off-set project impacts.</p> | <p>Pollution Control District</p> | <p>first building permits.</p> | |
| <p>Impact IV a): Project implementation may result in impacts to burrowing owl habitat.</p> | <p>Mitigation Measure 5: Prior to the commencement of grading activities or other ground disturbing activities on the project site, the project applicant shall arrange for a qualified biologist to conduct a follow-up preconstruction survey for western burrowing owls. If no owls or owl nests are detected, then construction activities may commence. If burrowing owls or occupied nests are discovered, then the following shall be implemented:</p> <ul style="list-style-type: none"> • During the breeding season (February 1 through September 1) occupied burrows shall not be disturbed and shall be provided with a 75 meter protective buffer until and unless the SJCOG Technical Advisory Committee (TAC), with the concurrence of the Permitting Agencies' representatives on the TAC; or unless a qualified biologist approved by the Permitting Agencies verifies through non-invasive means that either: 1) the birds have not begun egg laying, or 2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. Once the fledglings are capable of independent survival, the burrow can be destroyed. They should only be destroyed by a | <p>San Joaquin Council of Governments (SJCOG)</p> | <p>Prior to site grading or ground disturbing activities.</p> | |

| ENVIRONMENTAL IMPACT | MITIGATION MEASURE | MONITORING RESPONSIBILITY | TIMING | VERIFICATION (DATE/INITIALS) |
|---|--|---------------------------|---|------------------------------|
| <p>Impact V a), b), c), d): Project implementation may result in impacts to unknown cultural or historical resources.</p> | <p>qualified biologist using passive one-way eviction doors to ensure that owls are not harmed during burrow destruction. Methods for removal of burrows are described in the California Department of Fish and Game's Staff Report on Burrowing Owls (October, 1995)</p> <ul style="list-style-type: none"> During the non-breeding season (September 1 through January 31) burrowing owls occupying the project site should be evicted from the project site by passive relocation as described in the California Department of Fish and Game's Staff Report on Burrowing Owls (Oct., 1995) <p>Implementation of this mitigation shall occur prior to grading or site clearing activities. SJCOG shall be responsible for monitoring and a qualified biologist shall conduct surveys and relocate owls as required.</p> | <p>City of Tracy</p> | <p>During ground-disturbing activities.</p> | |
| | <p>Mitigation Measure 6: If any prehistoric or historic artifacts, human remains or other indications of archaeological resources are found during grading and construction activities, an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, shall be consulted to evaluate the finds and recommend appropriate mitigation measures.</p> <ul style="list-style-type: none"> If cultural resources or Native American resources are identified, every effort shall be made to avoid significant cultural resources, with preservation an important goal. If significant sites cannot feasibly be avoided, appropriate mitigation measures, such as data recovery excavations or photographic documentation of buildings, shall be undertaken consistent with applicable state and federal regulations. If human remains are discovered, all work shall be halted immediately within 50 meters (165 feet) of the discovery, the County Coroner must be notified, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed. | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

2012

| ENVIRONMENTAL IMPACT | MITIGATION MEASURE | MONITORING RESPONSIBILITY | TIMING | VERIFICATION (DATE/INITIALS) |
|--|--|---|--|------------------------------|
| <p>Impact IX c), d) e), f): Project construction and operation may result in impacts to drainage, erosion and water quality.</p> | <ul style="list-style-type: none"> If any fossils are encountered, there shall be no further disturbance of the area surrounding this find until the materials have been evaluated by a qualified paleontologist, and appropriate treatment measures have been identified. <p>Mitigation Measure 7: The project shall prepare a Storm Water Pollution Prevention Plan (SWPPP) that includes specific types and sources of stormwater pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts on receiving water quality from stormwater runoff. The SWPPP shall require treatment BMPs that incorporate, at a minimum, the required hydraulic sizing design criteria for volume and flow to treat projected stormwater runoff. The SWPPP shall comply with the most current standards established by the Central Valley RWQCB. Best Management Practices shall be selected from the City's Manual of Stormwater Quality Control Standards for New Development and Redevelopment according to site requirements and shall be subject to approval by the City Engineer and Central Valley RWQCB.</p> | <p>Central Valley Regional Water Quality Control Board.</p> | <p>Prior to grading and construction activities.</p> | |
| <p>Impact XII d): Project construction may lead to increases in ambient noise levels in the project vicinity.</p> | <p>Mitigation Measure 8: The following mitigation measures shall be implemented:</p> <ol style="list-style-type: none"> Construction activities (excluding activities that would result in a safety concern to the public or construction workers) shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. Construction activities shall be prohibited on Sundays and federal holidays. Construction equipment shall be properly maintained and equipped with noise-reduction intake and exhaust mufflers and engine shrouds, in accordance with manufacturers' recommendations. Construction equipment staging areas shall be located at the | <p>City of Tracy</p> | <p>During all construction and grading activities.</p> | |

2012 MITIGATION MONITORING AND REPORTING PROGRAM

| ENVIRONMENTAL IMPACT | MITIGATION MEASURE | MONITORING RESPONSIBILITY | TIMING | VERIFICATION (DATE/INITIALS) |
|---|---|---------------------------|--|------------------------------|
| Impact XIV a, iii): Project implementation may impact area schools. | <p>furthest distance possible from nearby noise-sensitive land uses.</p> <p>Mitigation Measure 9: Prior to the issuance of a building permit, the applicant shall pay applicable school fees mandated by SB 50 to the Tracy Unified School District and provide a receipt of payment to the Tracy Development Services Department.</p> | City of Tracy | Prior to the issuance of building permits. | |
| Impact XIV a, iv): Project implementation may impact city facilities. | Mitigation Measure 10: Prior to the issuance of a building permit, the applicant shall pay applicable Public Building Impact Fees to the City of Tracy. | City of Tracy | Prior to the issuance of building permits. | |
| Impact XV a), b): Project implementation may impact city parks and recreation facilities. | Mitigation Measure 11: Prior to the issuance of a building permit, the applicant shall pay applicable Park Development Impact Fees to the City of Tracy. | City of Tracy | Prior to the issuance of building permits. | |

RESOLUTION 2012-_____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TRACY
RECOMMENDING
APPROVAL OF A GENERAL PLAN AMENDMENT (GPA12-0001),
APPROVAL OF A REZONING (R12-0001),
APPROVAL OF ZONING REGULATION CHANGE TO TRACY MUNICIPAL CODE SECTION
10.08.1610(d) REGARDING DISTANCE BETWEEN MAIN BUILDING (ZA12-0004),
APPROVAL OF A DEVELOPMENT REVIEW APPLICATION (D12-0004), AND
ADOPTION OF A MITIGATED NEGATIVE DECLARATION
FOR THE VALPICO APARTMENTS PROJECT

WHEREAS, Applications have been filed or initiated for a General Plan Amendment to re-designate approximately 8.75 acres from Commercial to Residential High, amend the zone district from Community Shopping Center to High Density Residential (HDR), amend Tracy Municipal Code Section 10.08.1610(d) to allow the minimum distance between main buildings in the HDR Zone to be six feet, and approve a Development Review application for a 184-unit residential multi-family project, collectively, the "Project", and

WHEREAS, The subject property is located on the north side of Valpico Road, northeast of the intersection of Valpico Road and Glenbriar Drive, 501 E. Valpico Road (formerly 2795 S. MacArthur Drive), Assessor's Parcel Numbers 246-140-13 and 14, and

WHEREAS, In 2004, the site received approval for an approximately 100,000 square foot commercial shopping center, including a 36,000 square foot market, and

WHEREAS, The recent construction of the nearby Raley's commercial shopping center, the site's topography, and other conditions render the site less desirable or feasible for commercial development, and

WHEREAS, The Project represents an infill site in the City, promotes a compact development pattern, minimizes consumption of open space lands and resources, and provides for high-density housing opportunities which assist the City in achieving housing goals established in the City's General Plan Housing Element, and

WHEREAS, The Project is consistent with General Plan Housing Element Goals and Policies, including Policy 3.1 ("Provide for a range of residential densities and products, including ... higher-density apartments.") and Policy 4.1 ("Review and adjust as appropriate residential development standards, regulations, [and] ordinances....").

WHEREAS, The public necessity, convenience, and general welfare require the rezoning of the subject property and the Tracy Municipal Code amendment for the reasons stated herein, and

WHEREAS, The City has determined that the Project requires review pursuant to the California Environmental Quality Act (CEQA), and pursuant to CEQA, an Initial Study/Mitigated Negative Declaration was prepared to evaluate the potential environmental effects of the Project and to evaluate and recommend mitigation measures for all potentially significant impacts of the Project, and

WHEREAS, The Planning Commission conducted a public hearing to receive public input and review the Project on November 14, 2012;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission as follows:

1. Initial Study/Mitigated Negative Declaration

a. An Initial Study was conducted for the project consistent with CEQA Guidelines Section 15063.

b. The Initial Study identifies potentially significant effects, but (1) revisions in the project plans or proposal would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (2) there is no substantial evidence, in light of the whole record before the City, that the project as revised may have a significant effect on the environment, therefore, a Mitigated Negative Declaration was prepared.

c. On October 15, 2012, the City published a Notice of Intent to Adopt a Mitigated Negative Declaration for public review.

d. The Mitigated Negative Declaration reflects the City's independent judgment and analysis.

e. The Planning Commission finds that the Initial Study/Mitigated Negative Declaration has been completed in compliance with the requirements of CEQA and the CEQA Guidelines (14 Cal. Code Regs. sections 15000-15387).

f. The Planning Commission recommends that the City Council take the following actions:

- i. Adopt the Mitigated Negative Declaration.
- ii. Adopt the Mitigation Monitoring and Reporting Program

2. General Plan Amendment (GPA12-0001)

The Planning Commission recommends that the City Council approve the General Plan Amendment to re-designate the site from Commercial to Residential High.

3. Rezoning (R12-0001)

The Planning Commission recommends that the City Council rezone the site from Community Shopping Center to High Density Residential.

4. Tracy Municipal Code Amendment

The Planning Commission recommends that the City Council amend Tracy Municipal Code Section 10.08.1610(d) as follows:

Distance between buildings: Six (~~6'~~) feet between accessory buildings and between an accessory building and a main building; and minimum distance between main buildings shall be ~~the average height of the two (2) main buildings~~ six feet.

5. Development Review

a. The Planning Commission finds as follows:

i. The Project includes appropriate buildings and site design in that the two-story townhouse units present street-grade entrances toward Valpico Road to enhance the appearance and presentation of the Project; the three-story apartment units will be constructed below the adjacent Valpico Road and nearby residential neighborhood grades to reduce visual effects of the Project; and the Project will enjoy direct access to the adjacent Rite Aid retail store.

ii. The project will have direct access onto Valpico Road and onto the newly extended Glenbriar Drive so that the Project's automobile traffic is not required to travel through any existing residential neighborhoods for access.

iii. The Project is consistent with the City's Design Goals and Standards, including its variety of housing types, compared with nearby single-family detached housing, to provide increased diversity and visual interest in the City's residential development.

b. The Planning Commission recommends that the City Council approve the Development Review Application for the Project subject to the Conditions of Approval contained in Exhibit 1.

* * * * *

The foregoing Resolution 2012-_____ was adopted by the Planning Commission on the 14th day of November, 2012, by the following vote:

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

CHAIR

ATTEST:

STAFF LIAISON

**Conditions of Approval for Valpico Apartments
Application Number D12-0004
November 14, 2012**

These Conditions of Approval shall apply to the real property described as the Valpico Apartments Project; proposed 184 multi-family residential units on approximately 8.75 acres located on the north side of Valpico Road, adjacent to and east of Glenbriar Drive, 501 E. Valpico Road (formerly 2795 S. MacArthur Drive), Assessor's Parcel Numbers 246-140-13 and 14; Application Number D12-0004.

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

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
3. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
4. "Conditions of Approval" shall mean the conditions of approval applicable to the Valpico Apartments Project, proposed 184 multi-family residential units on approximately 8.75 acres located on the north side of Valpico Road, adjacent to and east of Glenbriar Drive, 501 E. Valpico Road (formerly 2795 S. MacArthur Drive), Assessor's Parcel Numbers 246-140-13 and 14, Application Number D12-0004. The Conditions of Approval shall specifically include all Development Services Department conditions, including Planning Division and Engineering Division conditions set forth herein.
5. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
6. "Project" means the real property consisting of approximately 8.75 acres located on the north side of Valpico Road, adjacent to and east of Glenbriar Drive, 501 E. Valpico Road (formerly 2795 S. MacArthur Drive), Assessor's Parcel Numbers 246-140-13 and 14, Application Number D12-0004.
7. "Property" means the real property generally located on the north side of Valpico Road, adjacent to and east of Glenbriar Drive, 501 E. Valpico Road (formerly 2795 S. MacArthur Drive), Assessor's Parcel Numbers 246-140-13 and 14.
8. "Subdivider" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries.

"Subdivider" also means Developer. The term "Developer" shall include all successors in interest.

9. Adjacent HDR Project means the 60-unit apartment project to be located at the northwest corner of Valpico Road and Glenbriar Drive.

B. Planning Division Conditions of Approval:

1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, et seq.), the Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 15000, et seq., "CEQA Guidelines").
2. Unless specifically modified by these Conditions of Approval, the Project shall comply with all City Regulations.
3. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all mitigation measures identified in the General Plan Environmental Impact Report, dated February 1, 2011 and the Valpico Apartments Project Mitigated Negative Declaration.
4. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
5. Except as otherwise modified herein, all construction shall be consistent with the plans received by the Development and Engineering Services Department on May 16, 2012 and as modified by plans submitted on September 5, 2012.
6. Prior to the issuance of a building permit, the applicant shall provide a detailed landscape and irrigation plan consistent with City landscape and irrigation standards, including, but not limited to Tracy Municipal Code Section 10.08.3560, the City's Design Goals and Standards, and the applicable Department of Water Resources Model Efficient Landscape Ordinance on private property, and the Parks and Parkways Design Manual for public property, to the satisfaction of the Development Services Director. Said landscape plans shall include documentation which demonstrates there is no less than 20 percent of the parking area in landscaping, and 40 percent canopy tree coverage at tree maturity in accordance with City Regulations. Newly planted, on-site trees shall be a minimum size of 24-inch box and shrubs shall be a minimum size of five gallons.

7. Where landscape planters are parallel and adjacent to vehicular parking spaces, the planter areas shall incorporate a 12-inch wide concrete curb along their perimeter that is adjacent to the parking space in order to allow access to vehicles without stepping into landscape planters.
8. Prior to the issuance of a building permit, an Agreement for Maintenance of Landscape and Irrigation Improvements shall be executed and financial security submitted to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements, or \$2.50 per square foot of on-site landscape area.
9. No roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from Valpico Road, Glenbriar Drive, or any other public right-of-way. All roof-mounted equipment shall be contained within the roof well or screened from view from the public rights-of-way by the roof of the building, to the satisfaction of the Development Services Director.
10. All vents, gutters, downspouts, flashing, electrical conduit, and other wall-mounted or building-attached utilities shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.
11. Prior to final inspection or certificate of occupancy, on-site circulation signs shall be installed to the satisfaction of the Development Services Director.
12. Prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way or nearby residential property, to the satisfaction of the Development Services Director.
13. Prior to the issuance of a building permit, bicycle parking spaces shall be provided in accordance with Tracy Municipal Code Section 10.08.3510 to the satisfaction of the Development Services Director.
14. All PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Development Services Director.
15. Prior to the issuance of a building permit, a lot line adjustment or other instrument shall be approved by the City and recorded to effectively merge the two lots of the Project site into one lot.

16. No signs are approved as a part of this development application. Prior to the installation of any signs, the applicant shall submit a sign permit application and receive approval from the Development Services Director in accordance with City Regulations.
17. Prior to the issuance of a building permit, the Developer shall submit detailed trash and recycling enclosure plans which include the following, to the satisfaction of the Development Services Director: the walls shall be of masonry construction, at least eight feet in height, include solid metal doors, a solid roof, and an interior perimeter concrete curb. The enclosures shall include exterior color and material consistent with the adjacent building exterior.
18. Prior to the issuance of a building permit, the developer shall design a recycling program consistent with State Assembly Bill 341, to the satisfaction of the Public Works Director. The program shall include enclosures with adequate space for both refuse and recycling and shall be incorporated with the trash and recycling enclosures described in Planning Division Condition of Approval Number 17, above. Each enclosure shall have signs that clearly indicate refuse and recycling locations as well as prohibition of scavenging. The program shall include recycling options or elements at the pool area and other common areas for the tenants.
19. Because the project is located within Tracy Municipal Airports' Airport Influence Area, prior to the issuance of a building permit, and thereafter as applicable, the developer shall comply with the following San Joaquin County Council of Government's (COG) 2009 Airport Land Use Compatibility Plan conditions, to the satisfaction of San Joaquin County COG:
 - a. New land uses that may cause visual, electronic, or increased bird strike hazards to aircraft in flight shall not be permitted within any airport's influence area. Specific characteristics to be avoided include the following:
 - i. Glare or distracting lights which could be mistaken for airport lights. Reflective materials are not permitted to be used in structures or signs (excluding traffic directing signs).
 - ii. Sources of dust, steam, or smoke which may impair pilot visibility.
 - iii. Sources of electrical interference with aircraft communications or navigation. No transmissions which would interfere with aircraft radio communications or navigational signals are permitted.
 - iv. Any proposed use that creates an increased attraction for large flocks of birds.
 - b. Occupied structures must be soundproofed to reduce interior noise to 45dB according to State Guidelines.

- c. A deed notice shall be recorded with the San Joaquin County Recorder regarding potential noise inconvenience, annoyance, or discomfort resulting from the nearby Tracy Municipal Airport.
20. Prior to the issuance of a building permit, the developer shall document compliance with the City of Tracy Manual of Stormwater Quality Control Standards for New Development and Redevelopment (Manual) to the satisfaction of the Public Works Director, which includes the requirement for Site Design Control Measures, Source Control Measures and Treatment Control Measures under the guidelines in a project Stormwater Quality Control Plan (SWQCP). Compliance with the Manual includes, but is not limited to, addressing outdoor storage areas, loading and unloading areas, trash enclosures, parking areas, any wash areas and maintenance areas. The SWQCP must conform to the content and format requirements indicated in Appendix D of the Manual and must be approved by the Public Works Director prior to issuance of grading or building permits.
21. The project shall comply with all applicable provisions of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, including Incidental Take Minimization Measures applicable at the time of permit and a pre-construction survey prior to ground disturbance, to the satisfaction of San Joaquin Council of Governments.
22. The developer shall design the carports and the pool area accessory building in substantial conformance with the "Accessory Buildings" design received by the Development and Engineering Services Department on September 27, 2012.
23. The developer shall design and construct all buildings with fire sprinklers in accordance with City Regulations.
24. Prior to the issuance of a building permit, the developer shall annex the property to the Tracy Consolidated Landscape Maintenance District to the satisfaction of the Public Works Director, deposit a first year's assessment equivalent to the Maintenance District's first 12 months of estimated costs as determined by the Public Works Director, and shall pay all processing fees associated with annexation to the District.
25. This Development Review approval shall not become effective until and unless the City Council amends the Tracy Zoning Regulations to allow the main buildings to be constructed at the distances proposed. Without an amendment to Tracy Municipal Code (TMC) Section 10.08.1610(d) or other City Council action to obtain relief from the distance-between-buildings requirement, the project buildings shall be designed to meet the requirements of TMC Section 10.08.1610(d).
26. Prior to issuance of a building permit, the developer shall design a paved, pedestrian access to at least one ground floor entrance of each of the townhouse units.
27. Prior to the issuance of a building permit, the developer shall identify the design of the two "usable open space" areas (one between Buildings 3 and 7, and the other between Buildings 4 and 5), including landscaping, furniture, recreational equipment, or other improvements consistent with City standards to the satisfaction of the Development Services Director.

C. ENGINEERING DIVISION CONDITIONS OF APPROVAL

1. Conditions of Approval Prior to Approval of Grading and Encroachment Permit Applications: No application for grading permit and encroachment permit within the Project boundaries will be accepted by the City as complete until the Developer provides all documents required by City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:
 - a. The Developer has completed all requirements set forth in this section.
 - b. The Developer has obtained the approval of all other public agencies with jurisdiction over the required public facilities.
 - c. Execution of all agreements, posting of all improvement security, and providing documentation of insurance, as required by these Conditions of Approval.
 - d. The Grading and Improvement Plans prepared in accordance with the Subdivision Ordinance and the City Design Documents. The improvement plans for all improvements (on-site and off-site) required to serve the development project in accordance with the Subdivision Ordinance, the City Design Documents, and these Conditions of Approval. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:
 - i. All existing and proposed utilities.
 - ii. All supporting calculations, specifications, cost estimate, and reports related to the design of streets and utilities improvements.
 - iii. Method of disposing storm water in the interim and ultimate conditions, the Project's on-site drainage connections to City's storm drainage system as approved by the City Engineer. Improvement Plans of the temporary off-site storm drainage retention basin or other means as approved by the City Engineer, percolation report and storm drainage calculations for the sizing of the basin.
 - iv. Improvement Plans prepared on 24" x 36" size polyester film (mylar) with the City Engineer and Fire Marshall approval and signature blocks. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.
 - v. Grading and Drainage Plan in accordance with the requirements of Tracy Municipal Code, Subdivision Ordinance and City Regulations. Grading and Drainage Plans to be submitted in 24" x 36" size polyester film (mylar).

- vi. Documentation or letter from respective owner(s) of private utilities, as required in Condition C-4(a), below.
- vii. Joint Trench Plans and Composite Utility Plans for the installation of dry utilities such as electric, gas, TV cable and others that will be located within the 10 feet wide Public Utility Easement or to be installed to serve the Project or for the conversion of aerial lines to underground facilities, as required Condition C-5(a), below.
- e. Two (2) copies of the Project's Geo-technical /Soils Report prepared by Geo-technical Engineer and a copy of recorded slope easements (if applicable), as required in Condition C-4(a), below.
- f. Three (3) sets of the Project's Storm Water Pollution Prevention Plan (SWPPP), Best Management Practices (BMPs) and a copy of the Notice of Intent (NOI) with the State-issued Wastewater Discharge Identification number, as required in Condition C-5(c), below.
- g. Copy of the improvement plans and structural calculations for all on-site retaining walls, signed and stamped by the Design Engineer and approved by the City's Building Division, as required in Condition C-5(d), below.
- h. A construction cost estimate for all required public facilities, prepared in accordance with City Regulations. In calculating the total cost of public improvements, add 15% construction contingencies.
- i. Payment of applicable fees required by these Conditions of Approval and City Regulation including plan checking, grading and encroachment permit processing, construction inspection, testing, and agreement processing fees.
- j. Signed and notarized Deferred Improvement Agreement including improvement security(s) in the amounts approved by the City Engineer and form approved by the City Attorney including all the necessary attachments to the agreement, as required in Condition C-7(b), below.
- k. Memorandum issued by the City's storm drainage consultant confirming the invert elevation of the outlet pipe at the Project's permanent storm drainage connection point, as required in Condition C-7(d), below.
- l. Tracy's Fire Marshall's signature on the Improvement Plans indicating their approval of the location and construction detail of the fire service connection and the location and spacing of fire hydrants that are required to be installed to serve the Project, as required in Condition C-9(d), below.
- m. Signed and notarized Offsite Improvement Agreement with the fully executed improvement security for faithful performance, labor and materials, and warranty, for the construction of Glenbriar Drive Improvements and Valpico Road Frontage Improvements, as required in Condition C-1(b), below.

- n. Signed and notarized Grant Deed with the legal description and plat map that describes the land to be dedicated to the City, for the construction of Glenbriar Drive Improvements and Valpico Road Frontage Improvements, as required in Condition C-6(c), below.
 - o. Signed and notarized Grant of Public Access Easement with the legal description and plat map that describes the portion of the Property to be used for vehicle turn-around maneuvering or access through the Property, as required in Condition C-1(f), below.
 - p. Signed and notarized Sanitary Sewer Maintenance Agreement (SSMA), for the private sewer line crossing on Glenbriar Drive, as required in Condition C-8(b), below. The City will prepare and complete the final agreement, before the completion of the plan review process. The SSMA and the Grant of Permanent Sanitary Sewer Easement will require City Council approval.
2. Conditions of Approval Prior to Approval of Building Permit. No building permit within the Project boundaries will be approved by the City until the Developer demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:
- a. The Developer has completed all requirements set forth in Condition C-1, above.
 - b. Payment of all applicable and adopted Infill development impact fees required by these Conditions of Approval and City Regulations, that are in effect at the time of issuance of the building permit. The Infill development impact fees described above will include the storm drainage impact fee update discussed in Condition H-5, below
 - c. Documentation evidencing that the Property has been annexed to an existing Landscape Maintenance District (LMD), as required in Condition C-10(c), below.
 - d. In-lieu payment in the amount of \$7,000.00, for the Project's estimated share of cost of the re-striping on Valpico Road as required in the Tiburon Village Traffic Impact Study, Final Report dated February 6, 2004 (Traffic Study). Refer to Table I of the recommended Mitigation Measures in the Traffic Study.
3. Conditions of Approval Prior to Certificate of Occupancy or Final Building Inspection. No certificate of occupancy within the Project boundaries will be approved by the City or final building inspection will be performed until the Developer provides documentation which demonstrates, to the satisfaction of the City Engineer, that:
- a. The Developer has completed all requirements set forth in Condition C-2, above and this section.
 - b. The Developer has completed construction of all public facilities required to serve the building for which a certificate of occupancy is requested. Unless

specifically provided in these Conditions of Approval, or some other City Regulation, the Developer shall take all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

4. Undergrounding of Overhead Utilities:

- a. Prior to starting work, the Developer shall obtain written permission from the respective owner(s) of private utilities, for the installation of permanent surface improvements and structure over their underground facilities located within the 10-foot wide Public Utility Easement along Valpico Road. Prior to the issuance of the Grading Permit, the Developer must submit documentation evidencing that required permission has been granted to the Developer by the respective owner(s) of the private utilities.
- b. All private utility services such as electric, telephone and cable TV to the building must be installed underground, and to be installed at the location approved by the respective owner(s) of the utilities. The Developer shall submit improvement plans for the installation of electric, gas, telephone and TV cable lines that are necessary to serve the Project.

5. Grading:

- a. A Grading Plan prepared by a Registered Civil Engineer and accompanied by Soils Engineering report shall be submitted to the City with the Grading and Storm Drainage Plans. The report shall provide recommendations regarding adequacy of sites to be developed by the proposed grading and also information relative to the stability of soils such as soil classification, percolation rate, soil bearing capacity and others. Slope easements shall be dedicated to the City where cuts or fills do not match existing ground or final grade adjacent to public right of way (up to a maximum grade differential of two feet only). Slope easements shall be recorded per City's requirements, prior to the issuance of the Grading Permit. The Developer shall be responsible to obtain and record slope easement(s) on private properties, where it is needed to protect private improvements constructed within and outside the Project, and a copy of the recorded easement document must be provided to the City prior to the issuance of the Grading Permit.
- b. All grading work (on-site and off-site) shall require a Grading Permit. Erosion control measures shall be implemented in accordance with Grading Plans approved by the City Engineer for all grading work not completed before October 15. Improvement Plans shall specify all erosion control methods to be employed and materials to be used.
- c. Prior to the issuance of the Grading Permit, the Developer shall submit three (3) sets of the Storm Water Pollution Prevention Plan (SWPPP) submitted to the

State Water Quality Control Board (SWQCB) and any documentation or written approvals from the SWQCB including a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID). After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Developer. The Developer shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the Storm Water Regulations adopted by the City in 2008.

- d. The Developer shall design and construct a wrought iron metal fence along the north entire frontage of the Property on Valpico Road. The height of the metal fence shall not be less than 4 feet but not more than 6 feet measured from the finish grade of the proposed concrete bike path. The final height of the metal fence will be determined by the City during the improvement plan review process. The metal fence shall have equally spaced fence post. The wrought iron fence shall be generally made of square metal bars, with rust-proofing coat and painted with the color selected by the City. A 12 inches wide 8 inches thick concrete strip must be installed below the bottom of the wrought iron fence and between the concrete fence post. This concrete strip will prevent growth of vegetation or weeds under the metal fence and will facilitate easier cleaning of weeds or vegetation that will grow adjacent the fence or bike path. The metal fence shall be at least 3 feet away from the bike path. The space between the bike path and the concrete strip below the metal fence shall be improved with drought resistant plants with automatic irrigation system. The wrought iron metal fence and the landscaping between the bike path the metal fence are considered private improvements. The cost of constructing and maintaining the wrought iron metal fence and landscaping improvements as described above is the sole responsibility of the Developer.

6. Street Improvements:

- a. The extension of Glenbriar Drive from Valpico Road to the Project's projected northern boundary will provide an opportunity for full vehicular access for the Project to and from Valpico Road. The streets and utilities improvements on this roadway extension will include but not limited to, installation of concrete curb, gutter, sidewalk, asphalt concrete pavement, handicap ramp, storm drain, catch basin or drop-inlet, landscaping and street tress with automatic irrigation system (Motorola), median curb, hand-placed grouted cobblestones, pavement signing and striping, barricade and guardrail, and intersection improvements on Glenbriar Drive /Valpico Road such as traffic signal pole and light, traffic detecting loops, traffic loops pull boxes, conduits and wires, audible pedestrian warning, electronic sign, and other improvements as determined by the City Engineer that are deemed to be necessary to have a safe and functional street improvements (Glenbriar Drive Improvements).

Glenbriar Drive Improvements shall include the installation of a 6 feet high chain link fence with plastic slats on the entire right-of-way width and along the northern terminus of Glenbriar Drive. The space between the barricade and guardrail and the chain link fence shall be paved. The final location and construction detail of the chain link fence and additional asphalt concrete paving shall be included on the improvement plans for City's review and approval. Cost of installing the chain link fence and additional asphalt concrete paving shall be the responsibility of the Developer.

The Developer is also required to construct certain street and utilities improvements on Valpico Road which include but not limited to, concrete bike path, concrete sidewalk, handicap ramp, offsite water main upgrade and all the improvements described in Condition C-9(a)/C-9(b), concrete curb and gutter, replacement of pavement marking and striping, traffic signs, and the installation of bus shelter and associated improvements such as water service with hose bibb, garbage receptacle, additional concrete paving, and removal and replacement of disturbed irrigation and landscaping improvements (Valpico Road Frontage Improvements). The final location of the bus shelter will be determined at the time of review of improvement plans, and the materials specifications and construction details of the bus shelter will be provided by the City at the time of preparation of the improvement plans. The Developer shall dedicate a 10 feet wide strip of land along the entire frontage of the Property on Valpico Road, for the construction of Valpico Road Frontage Improvements, all at the Developer's sole cost and expense.

Completion of the Glenbriar Drive Improvements and Valpico Road Frontage Improvements are required, prior to final building inspection of the first building to be constructed on the Property. To guarantee completion of Glenbriar Drive Improvements and Valpico Road Frontage Improvements within the time described above, the Developer will be required to execute an Offsite Improvement Agreement (OIA) with the City and post improvement security in the amounts approved by the City Engineer and form acceptable to the City Attorney, prior to the issuance of the Grading Permit. The OIA requires approval from the City Council.

- b. Prior to the approval of the OIA, the Developer is required to submit Improvement Plans, Technical Specifications and Cost Estimates, prepared in a 24" x 36" size polyester film or known as mylar, signed and stamped by the Design Engineer, for City's approval and signature. All engineering calculations for the design of the improvements must be submitted. The Developer will be required to pay Engineering Review Fees which include plan checking, agreement and permit processing, testing, engineering inspection, and program management fees, estimated to be 11 to 13% of the cost of public improvements, prior to the approval of the OIA.
- c. All work to be performed and improvements to be constructed within City's right-of-way will require an Encroachment Permit from the City, prior to starting the work. The Developer or its authorized representative shall submit all documents

that are required to process the Encroachment Permit including but not limited to, approved Improvement Plans, Traffic Control Plan that is prepared by and signed and stamped by a Civil Engineer or Traffic Engineer registered to practice in the State of California, payment of Engineering Review Fees, copy of the Contractor's license, Contractor's Tracy business license, and certificate of insurance with the insurance coverage specified in the OIA and naming the City of Tracy as additional insured or as a certificate holder.

- d. The Developer will be required to offer to the City for dedication all lands that are required for extending Glenbriar Drive from Valpico Road to its northern terminus and the right-of-way for the proposed pedestrian and bike path improvements on Valpico Road. The Developer shall convey the lands described above to the City in fee title. The offer of dedication for roadway right-of-way described above has to be made, filed at the Office of the San Joaquin County Recorder, prior to the issuance of the Encroachment Permit. The City will assume responsibility to maintain the public improvements and will accept the offer of dedication after the City Council accepts the improvements. It is the responsibility of the Developer to acquire the land for the portion of Glenbriar Drive Improvements that will be constructed within the land owned by the developer or owner of the Adjacent High Density Residential (HDR) Project. The City will assist the Developer in the acquisition of the land necessary to construct Glenbriar Drive Improvements with its eminent domain power, if the Developer fails to acquire the land that is needed for the street extension. The Developer shall pay the City all costs associated in the condemnation proceedings including administrative, court, and attorney's fees.
- e. The Developer shall install all surface and underground improvements such as concrete driveway approach, ramp and sidewalk, sewer connection, domestic water service, fire service, sewer pipeline, and storm drainage line(s) that are intended to serve the Adjacent HDR Project which would be located within the right-of-way of Glenbriar Drive, prior to placing of the final lift of asphalt concrete pavement, in order to avoid cutting newly paved streets.
- f. The Developer shall provide a paved or all-weather turn-around area for fire truck and emergency vehicles that is acceptable to the Chief Building Official and the City's Fire Marshall, all at the Developer's sole cost and expense. The location, configuration, design, and construction details of the turn-around area shall be reviewed and approved by the Chief Building Official and Fire Marshall, and must be shown on the Improvement Plans. Portion of the turn-around improvements that are within the Property will be maintained by the Developer.

The Developer shall grant a public access easement, for the benefit of the public, for rights to enter a portion of the Property for vehicle maneuvering or for turn-around access through the Property to Glenbriar Drive. The Grant of Public Access Easement must be filed at the Office of the San Joaquin County Recorder, prior to City's acceptance of Glenbriar Drive Improvements. The Developer is responsible for all costs associated in dedicating the necessary

public access easement to the City including the cost of preliminary title report, and preparing the easement document, legal description and plat map.

- g. Glenbriar Drive Improvements will be considered public improvements after the City accepts the offer of right-of-way dedication and the responsibility of maintaining the public improvements. The Adjacent HDR Project and other undeveloped properties north of the Project will benefit from the Glenbriar Drive Improvements and will be required to pay their proportional share of cost of constructing Glenbriar Drive Improvements when their property develops. The Developer may request formation of a benefit district for recovering cost of public improvements beyond the Developer's responsibility or for constructing oversized public improvements. The City will collect administrative fee, formation cost, and program management fees for forming, administering, and managing the benefit district. The Developer is responsible for submitting all documents such as materials receipt, payroll, equipment rental and others to show actual construction cost or expenses incurred or to support claim for reimbursement.
- h. The Developer has the option to enter into private reimbursement or cost sharing agreement(s) with the developer of the Adjacent HDR Project and other benefitting properties, for the sharing of the cost of constructing Glenbriar Drive Improvements and for dedicating the land for the extension of Glenbriar Drive. The Developer is required to provide documentation that all the involved party(s) or individual(s) have agreed on the terms and conditions of the cost sharing agreement, prior to the issuance of the Encroachment Permit. The City has no obligation to construct Glenbriar Drive Improvements.
- i. The design and construction of Glenbriar Drive Improvements and Valpico Road Frontage Improvements shall meet City Regulations and all applicable requirements and recommendations specified in the final traffic report dated August 14, 2012 and titled "Traffic Impact Study for the Proposed 189 units Valpico Apartments and 60 units MacDonald Apartments" prepared by TJKM Transportation Consultants. The final traffic report is on file with the Office of the City Engineer.

7. Storm Drainage:

- a. The on-site storm drainage system and site grading shall be designed such that the Project storm drainage overland release point will be directly to a public street with existing storm drainage system in accordance with City standards. The City may allow overland storm drainage release to private property(s), only if, the Developer enter into an agreement with the fee owners of the affected property(s) and indemnify the City for any liability, damages and costs that may arise as a result of utilizing their property as the Project's storm drainage release point. The Developer shall obtain written permission or agreement and/or easements from fee owner(s) of all affected property(s), for the use of their property(s) as Project's storm drainage release point. The Developer shall indemnify and hold harmless the City for any liability, damages and costs that may arise as a result of the use the storm drainage release on their property.

The irrevocable agreement must be signed by fee owner(s) of all affected property(s) and will be reviewed by the City Engineer and will be recorded to the Property and to all affected properties. The Developer shall provide a copy of the fully executed agreement to the City, prior to the issuance of the Grading Permit. Cost of obtaining permission and/or easement(s) and the agreement from the fee owner(s) of the affected property(s) will be the sole responsibility of the Developer.

- b. The Developer has proposed to use a trench infiltration system as an interim solution for disposing storm water generated from the Project site. The trench infiltration system is described in the technical memorandum titled "Drainage Analysis for the Valpico and MacDonald Apartment" prepared by Mackay & Soms of Pleasanton, California. The City will allow this method of disposing storm water, if the Developer executes a Deferred Improvement Agreement, prior to the issuance of the Grading Permit, to guarantee performance of the Developer's responsibilities and obligations and conditions described below including paying all costs associated in complying with all the requirements described under this section: a) that the Developer will be responsible for repairing, rectifying, and maintaining the trench infiltration system to acceptable standards and to the satisfaction of the City; b) the Developer will provide guarantee acceptable to the City Engineer for performing the responsibilities and obligations as described above; c) the Developer will also install the Project's permanent storm drainage connection as the final method of disposing storm water; and d) the Developer will provide other means of disposing storm water such as a temporary storm drainage retention basin within the time specified by the City, if the trench infiltration system fails to function to the level or condition acceptable to the City, or fails to drain storm water as designed or intended to do as determined by the City Engineer, or if determined by the City that a temporary storm drainage retention basin is necessary to be constructed due to public health and safety reasons.

Draining the storm water to the City's storm drainage system is the required final solution of disposing storm water from the Project site. The Developer shall design and install all the necessary improvements for the final solution of disposing storm water. The Developer is responsible for installing the Project's permanent storm drainage connection from the Project site to the City's future public storm drain line at the location and grade approved by the City Engineer. The future public storm drain line starts from a new storm drain manhole north of the northwest corner of the Project to the City's proposed storm drainage detention basin described as Detention Basin #2B (DB#2B) (Zone 1 Storm Drain Line Improvements as shown on Attachment B1 of South ISP Storm Drainage Analysis - Final Technical Report dated July 2000) and the outfall drain connection from DB#2B to the existing storm drainage channel located south of the existing apartment buildings (Sycamore Village Apartments) south of Central Avenue.

If a temporary storm drainage retention basin is used, the Developer shall design, acquire right-of-way and/or permanent utility easements, including

temporary construction easement(s), if necessary, and construct temporary on-site or off-site storm drainage retention facilities meeting City Regulations and such retention facility shall have adequate capacity to retain, store and drain storm water within the time specified in the City's Design Standards. It is the Developer's responsibility to repair, rectify, and maintain the trench filtration system or the temporary storm drainage retention basin, if constructed, to the satisfaction of the City. These private improvements will be removed by the Developer when the Project's permanent storm drainage connection is installed and the City's public storm drain line described above are installed, and made available for connection. The Developer shall submit engineering calculations for the design and sizing of the trench filtration system or the temporary storm drainage retention basin, including a percolation report prepared, signed and stamped by a registered Geo-technical Engineer, and a copy of the written permission from property owner(s), if off-site retention basin is utilized, as part of the Grading and Drainage Plans.

To assure performance of the Developer's responsibilities to repair, rectify, and maintain the trench infiltration system or temporary storm drainage retention basin, if installed, and also to guarantee completion of the Project's storm drainage connection, the Developer is required to execute a Deferred Improvement Agreement and post necessary improvement security, in the amount(s) approved by the City Engineer and form approved by the City Attorney, prior to the issuance of the Grading Permit. The Deferred Improvement Agreement will require approval from the City Council and will be recorded against the Property. The Developer shall pay all costs associated with the preparation, processing and approval of the agreement, including the cost of preparing the legal description and map, and recording the agreement.

Flow capacity and cost of Zone 1 Storm Drain Line Improvements are determined based on the design criteria that all storm water collected from impervious portion of the Project site will drain to the City's storm drainage system. The use of trench infiltration system shall not reduce the amount of Infill storm drainage development impact fees due from the Project nor will entitle the Developer Infill storm drainage development impact fee credits or reimbursement(s).

- c. In the event an off-site retention basin is required, the Developer shall obtain written permission or agreement and/or easements from fee owner(s) of all affected property(s), for the use of their property(s) as a temporary storm drainage retention basin. The Developer shall indemnify and hold harmless the City for any liability, damages and costs that may arise as a result of the use their property(s) for a storm drainage retention basin. The easement agreement must be signed by fee owner(s) of the property(s) and will be reviewed by the City Engineer and will be recorded to the Property and to all affected properties. The Developer shall provide a copy of the fully executed agreement to the City, prior to starting the grading work on the involved property. Cost of obtaining permission and/or easement(s) and the agreement from the fee owner(s) of the affected property(s) will be the sole responsibility of the Developer.

- d. As part of a complete submittal of the Grading and Drainage Plans, the Developer obtain a technical memorandum from the City's consultant, stating that the pipe invert elevation of the Project's permanent storm drainage connection is consistent with the design of the Zone 1 Storm Drain Line Improvements. The cost of the technical memorandum and coordination with the City's storm drain consultant shall be paid by the Developer.
- e. The City is in the process of updating the Infill storm drainage development impact fees due to anticipated increase in cost of constructing the Zone 1 Storm Drain Line Improvements and DB#2B. The cost increase on Infill storm drainage development impact fees would be the cost of mitigating soil contamination within and along the alignment of the future storm drain line that will be constructed on the Chevron Property (undeveloped property located northwest of the Property, west of the future Tiburon Village Subdivision and south of the existing Larkspur Estates Subdivision). The City will adopt this additional Infill storm drainage development impact fees, prior to the issuance of the building permit.

8. Sanitary Sewer:

- a. A sanitary sewer lift-station will be used to convey domestic sewage from the Property to the City's existing sewer main on Valpico Road. The sewer lift-station including the sewer force main and the sewer pipeline up to the new sewer manhole on Glenbriar Drive / Valpico Road are private improvements and they will be owned, operated and maintained by the Developer. These private improvements are required to be installed and made functional, prior to the final inspection of the first building to be constructed on the Property. The City has no responsibility of repairing and maintaining these improvements. The sewer lift-station on this Property will also serve the residential development at the northwest corner of Glenbriar Drive / Valpico Road (Adjacent HDR Project). The Developer will be required to provide documentation in the form acceptable to the City's Chief Building Official as a guarantee that the sewer lift-station will be repaired and maintained by the Developer and/or the developer of the Adjacent HDR Project.
- b. The Developer will be required to design and construct the 8-inch diameter sewer pipeline crossing on Glenbriar Drive at the location and grade shown on the improvement plans for the Adjacent HDR Project. The sewer line crossing is a private sewer line. The City will grant a permanent sanitary sewer easement, upon completion of the sewer line crossing, to grant access rights to the Developer or the developer of the Adjacent HDR Project, to enter City's right-of-way on Glenbriar Drive, for the repair and maintenance of the sewer line crossing. The developer of the Adjacent HDR Project will be required to execute a maintenance agreement with the City, to guarantee the responsibilities and obligations of the developer of the Adjacent HDR Project regarding the use, operation, repair, and maintenance of the private sewer crossing on Glenbriar Drive. The Developer shall pay all costs associated with the processing of the

grant of easement and maintenance agreement including the cost of preparing the legal description and map. The maintenance agreement will be filed for recording with the Office of the San Joaquin County Recorder, prior to City's acceptance of public improvements on Glenbriar Drive.

- c. The Developer shall comply with all the recommendations with regards to design, and construction of wastewater conveyance and shall pay sewer development impact fees for wastewater collection, conveyance and treatment as identified in the sewer analysis dated July 2012 titled "Wastewater System Fee for Valpico Apartments and Peter MacDonald Apartments" prepared by CH2M Hill of Sacramento, California (the City's sewer consultant). A copy of the technical report is on file with the office of the City Engineer.

9. Water System:

- a. A water pressure and flow analysis was performed by West Yost & Associates of Pleasanton, California (the City's water consultant), to verify adequacy of capacity of the City's existing water distribution lines and treatment plant to serve the Project and to ensure that the Project's permanent water line connection and on-site water system meets the Project's water flow and pressure demand in a scenario when the combined amount of domestic, fire and irrigation water has to be provided to the Project site at the same time. The Developer shall comply with all the recommendations specified in the water pressure and flow analysis report dated July 16, 2012 titled "Hydraulic Evaluation of Valpico and MacDonald Apartments". The Developer is required to install the pipe upgrade of approximately 50 feet of existing 8-inch diameter water main located at the intersection of Valpico Road / Glenbriar Drive to a 12-inch diameter Ductile Iron Pipe (DIP) water main at the location and grades approved by the City Engineer, all at the Developer's sole cost and expense. The Developer shall submit improvement plans that include the design, location, and grade of the offsite water main upgrade including all existing (above or below ground) improvements that will be affected or restored and replaced as a result of installing the offsite water main upgrade. Completion of the offsite water main upgrade will increase the water pressure at each on-site fire hydrant and in turn meet the fire flow requirement at each fire hydrant. The Developer shall obtain an Encroachment Permit, prior to starting the work. The Developer shall pay permit processing fees including plan checking, testing, and inspection fees at the issuance of the Encroachment Permit. The offsite water main upgrade shall be completed by the Developer, prior to final inspection of the first building to be constructed on the Property.
- b. All costs associated with the installation of the offsite water main upgrade including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings, replacing traffic detecting loops, conduits, and wires, relocating existing utilities that may be in conflict with the new water main, and other improvements shall be paid by the Developer. When street cuts are made, the Developer is required to install 2 inches thick asphalt concrete overlay with reinforcing fabric at least 25

feet from all sides of the utility trench. A 2 inches deep grind on the existing asphalt concrete pavement will be required where the asphalt concrete overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes.

If water main shut down is necessary, the City will allow a maximum of 4 hours water supply shutdown. The Developer shall be responsible for notifying residents or business owner(s), regarding the water main shutdown. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least 72 hours before the water main shutdown. Prior to starting the work described in this section, the Developer shall submit a Traffic Control Plan, to show the method and type of construction signs to be used for regulating traffic during the installation of the offsite water main upgrade. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.

- c. The Developer shall design and install domestic and irrigation water service connection, including a remote-read master water meter (the water meter to be located within City's right-of-way) and an R/P Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection must be completed before the final inspection of the building. Sub-metering will be allowed within private property. The City will not perform water consumption reading on sub-meters. The Developer will be responsible for relocating or reinstalling water sub-meters. The City's responsibility to maintain water lines shall be from the water main on the street to the master water meter (inclusive) only. Maintenance of all on-site water lines, laterals, sub-meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer.
- d. The Developer shall design and install fire hydrants at locations approved by the Building Division and Fire Department. Location and construction details of the fire service line shall be approved by the Building Division and Fire Department. Prior to the approval of the Improvement Plans, the Developer shall obtain written approval from the Building Division and Fire Department for the design, location and construction details of the fire service connection to the Project, and for the location and spacing of fire hydrants that are to be installed to serve the Project.

10. Special Conditions:

- a. All improvements shall be in accordance with all City Regulations, Facilities Master Plan for storm drainage, roadway, wastewater and water adopted by the City, Tracy Design Standards and Specifications, and Parks and Parkways Design Manual, or as otherwise specifically approved by the City.
- b. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Developer shall be responsible for all costs associated with the abandonment or removal of the

water well(s) including the cost of permit(s) and inspection. The Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.

- c. Developer, and/or owner of record, is responsible for assuring the maintenance of the public improvements installed in the right-of-way. The public improvements include, but are not limited to, street landscaping, sidewalk, and improvements as defined in California Streets and Highway Code Sections 22525 et. seq. Developer shall be responsible for all formation costs. To comply with this obligation, Developer, and/or owner of record, shall evidence one of the following prior to City's acceptance of the public landscape improvements: (i) participation in an existing Landscape Maintenance District (LMD), or (ii) formation of a new Landscape Maintenance District. If the Property is not annexed to an existing or new LMD and the collection of assessment have not started prior to City's acceptance of the public landscape improvements, the Developer shall submit a cash deposit, to pay for cost of services and expenses incurred by the City in maintaining the landscape improvements. The amount of cash deposit shall be determined by the City's Public Works Department at the time of review of improvement plans. City will return any unused portion of the cash deposit, after the Developer submits documentation evidencing that assessments have been levied on the Property and that collection of assessments have started. City will not accept the public landscape improvements until all the requirements in this section are satisfied to the satisfaction of Director of Engineering and Development Services. The Developer is still required to contribute towards cost of maintaining public landscaping that are away from the Project, that are located within the Landscape Maintenance District zone for which the Property is responsible to pay for.
- d. The Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.

Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This condition of approval does not preclude the City from requesting additional revisions and requirements to the final parcel map and improvement plans, prior to the City Engineer's signature and approval of the proposed final parcel map and improvement plans, if the City deems it necessary. The Developer shall bear the all cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

Conditions of Approval
Valpico Apartments
Application Number D12-0004
November 14, 2012

Exhibit "1"
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