



OROVILLE PLANNING COMMISSION

Council Chambers
1735 Montgomery Street
Oroville, CA. 95965

October 28, 2021
REGULAR MEETING
6:00 PM
AGENDA

PUBLIC ACCESS AND PARTICIPATION

The Oroville City Council Chambers are open to the public. To view the meeting or provide comment, please see the options below. All comments emailed will be provided to the Council Members for their consideration.

To View or listen to the Meeting:

1. Watch our live feed <https://www.youtube.com/channel/UCAoRW34swYI85UBfYqT7IbQ/>
2. Join the meeting virtually via Zoom – Join Zoom Meeting
<https://zoom.us/j/99508232402?pwd=aThZc1BsUG9sWnhNYnlwZHZZdFFrQT09>
Meeting ID: 995 0823 2402
Passcode: 17351735
3. Join the meeting by telephone (audio only):
Telephone: 1-669-900-9128
Meeting ID: 995 0823 2402

To Provide Comment to the Board:

1. Email before the meeting by 2:00 PM your comments to publiccomment@cityoforoville.org
2. Attend and comment in person

If you would like to address the Commission at this meeting, you are requested to complete the blue speaker request form (located on the wall by the agendas) and hand it to the City Clerk, who is seated on the right of the Council Chamber. The form assists the Clerk with minute taking and assists the Mayor or presiding chair in conducting an orderly meeting. Providing personal information on the form is voluntary. For scheduled agenda items, please submit the form prior to the conclusion of the staff presentation for that item. The Commission has established time limitations of two (2) minutes per speaker on all items and an overall time limit of thirty minutes for non-agenda items. If more than 10 speaker cards are submitted for non-agenda items, the time limitation would be reduced to one and a half minutes per speaker. **(California Government Code §54954.3(b)). Pursuant to Government Code Section 54954.2, the Commission is prohibited from taking action except for a brief response from the Council or staff to statements or questions relating to a non-agenda item.**

CALL TO ORDER / ROLL CALL

Commissioners: Glenn Arace, Michael Britton, Marissa Hallen, Natalie Sheard, Vice Chairperson Wyatt Jenkins, Chairperson Carl Durling

OPEN SESSION

Pledge of Allegiance

PUBLIC COMMUNICATION - HEARING OF NON-AGENDA ITEMS

This is the time to address the Commission about any item not listed on the agenda. If you wish to address the Commission on an item listed on the agenda, please follow the directions listed above.

CONSENT CALENDAR

Consent calendar items are adopted in one action by the Commission. Items that are removed will be discussed and voted on immediately after adoption of consent calendar items.

1. PROPOSED COUNTY WAREHOUSE BUILDING AT APN 031-161-065 NEXT TO EXISTING COUNTY WAREHOUSE AT 2081 2ND STREET

The Oroville Planning Commission will consider not objecting to construction of a 3,000 square foot warehouse on APN 031-161-065 on land currently zoned C-2 intensive commercial.

RECOMMENDATION:

Adopt Resolution No. P2021-21

PUBLIC HEARINGS

The Public Hearing Procedure is as follows:

- Mayor or Chairperson opens the public hearing.
- Staff presents and answers questions from Council
- The hearing is opened for public comment limited to two (2) minutes per speaker. In the event of more than ten (10) speakers, time will be limited to one and a half (1.5) minutes. Under Government Code 54954.3, the time for each presentation may be limited.
- Public comment session is closed
- Commission debate and action

2. USE PERMIT AND RECLAMATION PLAN AMENDMENT TO EXTEND THE RON HARMON MINE PERMIT UNTIL NOVEMBER 12, 2026.

The Oroville Planning Commission will review and consider approving a Use Permit No. UP 95-15 modification to extend the expiration date from November 12, 2021 to November 12, 2026.

RECOMMENDATION

Adopt the Class 1 Categorical Exemption for existing projects as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA);

Conditionally Approve Use Permit UP95-15 modification and recommended modified Conditions of Approval;

Adopt Resolution No. P2021-15

3. MINOR USE PERMIT UP21-10 FOR A CHANGE IN ALCOHOL LICENSE AT VALLARTA GRILL, INCLUDING A FINDING OF PUBLIC CONVENIENCE OR NECESSITY

The Oroville Planning Commission will review and consider approving Minor Use Permit No. UP21-10 to allow the applicant to change Alcoholic Beverage Control (ABC) Licenses from a Type 41 to a Type 47.

RECOMMENDATION:

Conduct a Public Hearing on the proposed project;

Adopt the Notice of Exemption as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA);

Adopt the recommended Findings for Use Permit No. UP21-10;

Approve Use Permit UP21-10 and recommended Conditions of Approval;

Approve a Letter of Public Convenience or Necessity, since it has been determined by ABC that an overconcentration exists;

Adopt Resolution No. P2021-18

4. GENERAL PLAN AMENDMENT AND REZONE OF PLUMAS AVE SCHOOL AT 440 PLUMAS AVE TO PUBLIC-QUASI PUBLIC

The Oroville Planning Commission will review and consider recommending that the City Council approve General Plan Amendment (GPA) 21-03 and Zoning Code Amendment (ZC) 21-07 for a parcel identified as 440 Plumas Ave (APN 031-172-082), the location of the Plumas Avenue School.

RECOMMENDATION

Conduct a Public Hearing on the proposed project;

Adopt the Notice of Exemption as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA);

Recommend that the City Council approve General Plan Amendment GPA 21-03

Recommend that the City Council approve Zoning Code Amendment ZC 21-07

Adopt Resolution No. P2021-20

5. ZC21-06 FENCES, WALLS, AND SCREENING MUNICIPAL CODE AMENDMENTS

The Oroville Planning Commission will review and consider recommending that the City Council revise OMC 17.12.020 relating to the City's regulations of fences, walls and screening.

RECOMMENDATION

Conduct a Public Hearing on the proposed code change;

Adopt Resolution No. P2021-19 Recommending that the City Council Approve the Specified Changes to OMC Section 17.12.020

REPORTS / DISCUSSIONS / CORRESPONDENCE

6. Commissioner Reports
7. Historical Advisory Commission Reports
8. Staff Reports
 1. **Potential Annual Award** - The Historic Advisory Commission may discuss the possibility of creating an annual award for an exemplary contribution by a citizen to the vitality of downtown, to Oroville's history, and/or for a purpose to be determined by the Commission. The award, if ultimately created, might be administered similarly to the Your Voice for Arts, and the Sam Norris Award. Staff will make a short presentation prior to the discussion.

ADJOURN THE MEETING

The meeting will be adjourned. A regular meeting of the Oroville Planning Commission will be held on November 17, 2021 at 6:00 PM.

Accommodating Those Individuals with Special Needs – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

Recordings - All meetings are recorded and broadcast live on cityoforoville.org and YouTube.

Planning Commission Decisions - Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the City Council by filing with the Zoning Administrator within fifteen days from the date of the action. A written notice of appeal specifying the grounds and an appeal fee immediately payable to the City of Oroville must be submitted at the time of filing. The Oroville City Council may sustain, modify or overrule this decision.



City of Oroville

Leonardo DePaola
Community Development Director

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2436 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

Thursday, October 28, 2021

RE: PROPOSED COUNTY WAREHOUSE BUILDING AT APN 031-161-065 NEXT TO EXISTING COUNTY WAREHOUSE AT 2081 2ND STREET

SUMMARY: The Oroville Planning Commission will consider not objecting to construction of a 3,000 square foot warehouse on APN 031-161-065 on land currently zoned C-2 intensive commercial.

RECOMMENDATION: Staff recommends the following actions:

1. **Adopt** Resolution No. P2021-21

APPLICANTS: Butte County

LOCATION: next to 2081 2nd Street, Oroville, California

GENERAL PLAN: RBS (Retail & Business Services)

ZONING: C-2 (Intensive Commercial)

FLOOD ZONE: Zone X

ENVIRONMENTAL DETERMINATION: Categorically Exempt per Section 15332 of Title 14, California Code of Regulations, Infill development projects.

REPORT PREPARED BY:

Wes Ervin, Senior Planner
Community Development Department

REVIEWED BY:

Dawn Nevers, Assistant Director
Community Development Director

DISCUSSION

Pursuant to state law, namely Government Code 65402, Butte County has notified the city of its intent to construct a new 3,000 square foot warehouse next to their existing General Services building/warehouse at 2081 2nd street. GC 65402 provides the city up to 40 days to determine whether the proposed project conforms with our General Plan and Zoning ordinance. The 40 days runs out on November 17, before another Planning Commission meeting.

In this case, the land is Zoned C-2, which does not allow warehousing (OMC 17.32.010). Such a use by a private entity would ordinarily require a rezone and/or a use permit. However, because this project is by the county, the city does not require permits other than those that would directly affect city services.

Staff has reviewed the proposal against the backdrop of the existing county facility on 2nd Street and the surrounding land uses and recommends that the city not object to the project. It is a natural extension of the existing General Services function already long established in this zone and is on a parcel already being used by the county as part of its administrative function.

FISCAL IMPACT

None. The project is by another public agency and is not subject to our planning or building fees. The city may require a plumbing permit to connect to city sewer, and perhaps an encroachment permit if a new driveway is constructed. If so, the county will pay any appropriate fees.

ATTACHMENTS

1. Letter from Butte County
2. Government Code 65402
3. Resolution P2021-21
4. Aerial of proposed project location



Department of General Services

Janice Taylor, Real Property Agent

Real Property Management Division

2081 2nd Street
Oroville, California 95965

T: 530.552.3513
F: 530.538.6760

buttecounty.net/generalservices
jdtaylor@buttecounty.net

October 6, 2021

City of Oroville
City Administrator's Office
Planning Division
Building Division
1735 Montgomery Street
Oroville, CA 95965

*Sent via email to: admin@cityoforoville.org; planning@cityoforoville.org;
building@cityoforoville.org

Re: New Construction - Public Health Warehouse next to 2081 2nd Street, Oroville

To Whom It Will Concern;

This letter is to notify you that in accordance with Government Code §65402(a) and §65402(c), the County of Butte intends to design, bid and construct approximately 3,000 square foot warehouse located on Assessor Parcel Number 031-161-065-000, which is next to 2081 2nd Street, Oroville Assessor Parcel Number 031-061-066-000.

The purpose of this warehouse is a climate controlled storage for the Department of Public Health. The County will tentatively begin construction in early 2022.

Should you have any questions or need any additional information, feel free to contact me at 530.552.3513, or email to jdtaylor@buttecounty.net.

Sincerely,
Janice Taylor
Janice Taylor
Real Property Agent

Cc: Butte County Development Services
DBreedon@buttecounty.net; CLJohnson@buttecounty.net



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Search Phrase:

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.*)

DIVISION 1. PLANNING AND ZONING [65000 - 66301] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.*)

CHAPTER 3. Local Planning [65100 - 65763] (*Chapter 3 repealed and added by Stats. 1965, Ch. 1880.*)

ARTICLE 7. Administration of General Plan [65400 - 65404] (*Article 7 added by Stats. 1965, Ch. 1880.*)

65402. (a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

(c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency.

Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include the state, or county, or a city.

RESOLUTION NO. P2021-21

A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION NOT OBJECTING TO A COUNTY WAREHOUSE BUILDING ON APN 031-161-065 NEXT TO THE EXISTING COUNTY WAREHOUSE AT 2081 2ND STREET.

WHEREAS, the County of Butte has informed the City that it intends to construct a 3,000 square foot warehouse on APN 031-161-065 adjacent to its existing warehouse; and

WHEREAS, per the City of Oroville Municipal Code the property has a zoning land use designation of Retail and Business Services and a Zoning designation of Intensive Commercial (C-2); and

WHEREAS, warehousing is not an approved use in the C-2 Zone; and

WHEREAS, pursuant to Government Code 65402(c) the County has notified the city of their intent to construct the warehouse on the above parcel and the city has 40 days until November 17, 2021, in which to respond; and

WHEREAS, the Planning Commission has considered the information provided by the County as to the project location, size, and surrounding land uses; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION as follows:

1. The Planning Commission has no objection to the construction of the County’s warehouse regardless of the existing zoning and directs staff to notify the county of its non-objection.

I HEREBY CERTIFY that the foregoing resolution was duly introduced and passed at a special meeting of the Planning Commission of the City of Oroville held on the 28th of October, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

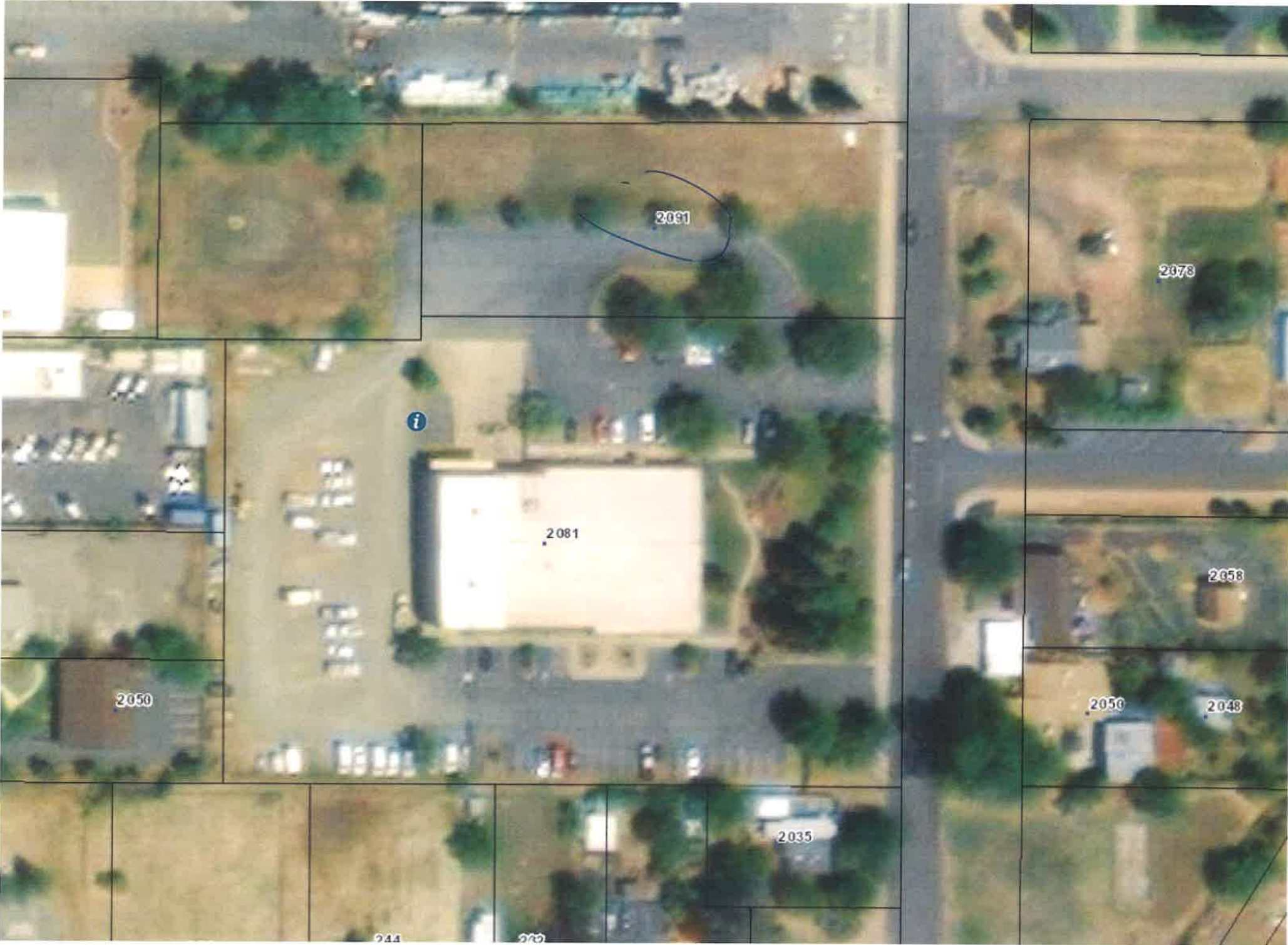
ABSENT:

ATTEST:

APPROVE:

JACKIE GLOVER, ASSISTANT CITY CLERK

CARL DURLING, CHAIRPERSON



*C-2, not
various not
allowed.*



City of Oroville

Leonardo DePaola
Community Development Director

COMMUNITY DEVELOPMENT DEPARTMENT

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(530) 538-2436 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

Thursday, October 28, 2021

RE: Use Permit and Reclamation Plan Amendment to extend the Ron Harmon Mine permit until November 12, 2026.

SUMMARY: The Oroville Planning Commission will review and consider approving a Use Permit No. UP 95-15 modification to extend the expiration date from November 12, 2021 to November 12, 2026.

RECOMMENDATION: Staff recommends the following actions:

1. Adopt the Class 1 Categorical Exemption for existing projects as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA);
2. Conditionally Approve Use Permit UP95-15 modification and recommended modified Conditions of Approval;
3. Adopt Resolution No. P2021-15

APPLICANTS: Ronald Harmon

LOCATION:

Bounded by Baggett-Marysville Road, Baggett-Palermo Road, and Ophir Road on APNs 035-470-016, 017, 026 and 027.

GENERAL PLAN: Industrial

ZONING: Intensive Industrial (M-2)

FLOOD ZONE:

FLOOD ZONE: ZONE X: Areas determined to be outside the 0.2% annual chance floodplain (500-year floodplain).

California Mine ID: #91-04-0022

ENVIRONMENTAL DETERMINATION: Categorically Exempt per Section 15332 of Title 14, California Code of Regulations, Existing Facilities.

REPORT PREPARED BY:

Connie Spade, Associate Planner
Community Development Department

REVIEWED BY:

Dawn Nevers, Assistant Director
Community Development Department

DISCUSSION

Background:

The original conditional use permit (UP 95-15) was approved by the Planning Commission on November 12, 1996. A site agreement between the City and the property owner Ron Harmon for completion of use permit conditions and environmental mitigation measures in the “Findings of Fact and Mitigation Monitoring Program” document was signed by both parties in May 1997.

The City extended the use permit and Reclamation Plan (RP) in 2016 to allow the mine to operate until November 12, 2021. Original conditions remained the same and the additional condition (number 28) states “the use permit shall share the same expiration date as the RP for the mine”. These conditions, and the 1997 mitigated negative declaration (environmental document), and the mitigation and monitoring plan are applicable today.

Proposal:

The applicant requests an extension of the use permit and RP until November 12, 2026, due to the previous economic downturn and other unanticipated factors. There has been minimal mining over the last several years.

Current Site Conditions:

The total surface area (14 acres) approved for mining has been disturbed. The remaining materials available for future mining are along the south property line adjacent to Ophir Road. Aerial images of the mine site were taken on August 2, 2021, by Enviromine. A topography map is being prepared based on the images, and submittal of the aerial photograph and topography map to the City are a condition of this approval.

Surrounding properties are zoned M-2, Intense industrial and are developed with industrial uses. Continued operation of the mine would not jeopardize the use of surrounding industrial lands. Once mining is complete the end use of the site is anticipated to be industrial development.

Analysis:

Oroville Municipal Code 15.92.050 H requires the Planning Commission to hold a public hearing on this application. Staff is recommending Conditional approval of the extension, pending DMR review of the revised reclamation plan and cost estimates. Oroville Municipal Code 15.92.050 I states that:

“If necessary to comply with permit processing deadlines, the planning commission may conditionally approve the use permit with the condition that the planning department shall not issue the use permit for the mining operations until cost estimates for financial assurances have been reviewed by the State Department of Conservation and final action has been taken on the reclamation plan and

financial assurances”

The mine operator requires additional time to fully deplete the permitted reserves. The City will comply with the Surface Mining and Reclamation Act (SMARA) §3502 requirements by providing the Division of Mine Reclamation (DMR) with a statement that extending the life of the operation for an additional five years is not a substantial deviation and does not trigger the need for an amended reclamation plan. The statement will include an updated reclamation plan report and map, which is being prepared by Enviromine, the applicant’s consultant.

Extending the duration of mine operations at the site by five years will not affect the approved end use. The approved 1997 Reclamation Plan identifies industrial development as the proposed end use for the site after mining and reclamation is complete. Allowing the operation additional time to extract material from the site will allow for further site leveling to occur which will allow for industrial pad development as specified in the 1997 plan.

Operations at the site are consistent with the project description contained within the Mitigated Negative Declaration (MND) adopted in conjunction with the approval of UP 96-15 and Reclamation Plan. Allowing mining to continue for an additional five years would not change operations as described in the approved environmental document.

According to CEQA statute, continuing mining for an additional five years falls under a CEQA Class I exemption. CEQA Guidelines §15301 allow for the following activities to be exempt from additional CEQA analysis: "maintenance and permitting of existing private facilities, mechanical equipment and topographical features with no expansion of the use, as originally permitted'.

Reclamation Plan:

The principal aspect of the RP is revegetation using a mix of ten native seed types including grass, legume, and forbs to stabilize soils from erosion and to control dust and noxious weeds. The property owner is required to monitor the site until revegetation standards are met or until a new use is developed. Prior to commencement of mining operations, the top six inches of topsoil was stripped and stockpiled for re use during reclamation. When mining has ceased, all equipment and any refuse found at the site will be removed. Final grading will be completed to ensure positive drainage and compacted surfaces will be ripped to aid water infiltration. Topsoil will then be spread over the mined land to facilitate revegetation. These materials will aid in the prevention of erosion and help to stabilize the soils until further developed. Performance standards for revegetation success are included in the RP.

A revegetation monitoring plan was not previously submitted to the City. The plan will identify amongst other things, the frequency of monitoring, the time of year monitoring takes place, and a description of remedial measures to be implemented if revegetation is

not successful according to the performance criteria.

Changes to 2016 Conditions of Approval:

Substantial revisions to the SMARA were enacted in 2018 and are ongoing. Current regulations prevail over previous conditions. For this reason, some conditions have been updated, revised, or removed for accuracy (i.e., the current RP map does not include a date, utility features, the licensed professional's license number, signature or seal as required by PRC 2772(c)(5) (A-F). Many of the original conditions of approval are applicable. The changed conditions are edited as shown. New conditions numbers 29-32 are added.

2021 Conditions of Approval:

1. ~~Prior to any operations onsite, a~~ reclamation and monitoring plan containing site specific sediment/erosion control and dust control plans must be submitted to and approved by the City of Oroville and the Regional Water Quality Control Board. (MM-City)
2. The operator shall apply an Air Quality Management District (AQMD) approved nontoxic soil stabilizer to all inactive construction areas (previously graded areas which remain inactive for 96 hours). Acceptable materials that may be used for chemical stabilization of soils include petroleum resins, asphaltic emulsions, acrylics, and adhesives which do not violate Regional Water Quality Control Board Standards. (MM-AQMD)
3. All materials excavated, stockpiled, or graded shall be sufficiently watered to prevent fugitive dust from leaving property boundaries and causing a public nuisance or a violation of an ambient air standard. Watering shall occur at least twice daily with complete excavation site coverage; preferably at mid-morning and after work is completed each day when dust may be a nuisance. (MM-AQMD)
4. All areas including unpaved roads with vehicle traffic shall be watered daily ~~periodically~~ or have dust palliatives applied for stabilization of dust emissions. (MM-AQMD)
5. All clearing, grading, earth moving or excavation activities on the project site shall be suspended when winds exceed 20 miles per hours. (MM-AQMD)
6. Assessment of \$0.10 per yard shall be collected for public street repair and maintenance. Assessment shall be collected annually on a mutually agreed upon date and shall be based upon sales invoice amounts for the year. If soil is sold to nearby property and an off-road route is approved by the City, the assessment may be waived by the City. (MM-City)
7. ~~The top six inches of topsoil shall be removed and stockpiled for use in the reclamation of mined areas.~~ All stockpiled topsoil shall remain on site until

replacement topsoil has been delivered to the site equal to 11,293 cubic yards. Seeds, microbial organisms, and organic matter found in the upper six inches of growth media constitute a significant resource when used in reclamation. (MM-City)

8. A project site reclamation and monitoring plan shall be submitted to and approved by the City of Oroville. The reclamation and monitoring plan shall contain site specific sediment and erosion control criteria and revegetation plan. (MM-DMR)

a. ~~Prior to operations onsite, the~~ The applicant shall post a bond or provide other financial ~~assurances mechanism~~ to ensure the City can complete reclamation is successfully implemented and monitoring if needed. The amount of the financial assurance shall be determined by Public Works and is based upon the reclamation and monitoring plan requirements. The financial mechanism must include both the City of Oroville and the Department of Conservation as payees (i.e., City of Oroville or the Department of Conservation). (MM-City)

8-9. Applicant shall obtain an encroachment permit for the driveway approach and install a culvert in the ditch under the driveway approach. Structural section for driveway approach is to be 10-inch Class II AB and 3-inch, 3/4-inch maximum AC. (PW) This condition has been completed.

9-10. Provide legal and physical access to AP No. 36-49-0-020 or combine with adjacent parcels via merger or boundary line modification. (PW) This condition has been completed.

10-11. Access road must be of all-weather construction and support fire apparatus year-round. (OFD)

11-12. Access road must end in a City approved turn-around. (OFD)

12-13. Fire extinguishers must be located onsite, or on equipment, in sufficient number. (OFD)

13-14. If processing equipment (screening, crushing) is used during mining or reclamation, a District Authority to Construct Permit and Permit to Operate is required. (AQMD)

14-15. All trucks hauling dirt, sand, soil, or other loose materials shall be covered or shall maintain at least 2 feet of freeboard (i.e., minimum vertical distance between top of the load and the trailer) in accordance with the requirements of CVC Section 23114. (AQMD)

15-16. All material transported off-site shall be either sufficiently watered, or securely covered to prevent a public nuisance. (AQMD)

~~16-17.~~ At a minimum, a chemical toilet must be onsite for employee use. (BCEHD)

~~17-18.~~ Operator shall observe the City's Noise Ordinance for hours of operation and level of noise at property boundaries. (PLNG)

~~18-19.~~ All mining and reclamation activities must comply with District Rule 207, Fugitive Dust Emissions. (AQMD)

~~19-20.~~ All onsite vehicles shall be limited to a speed of 15 mph on unpaved roads. (AQMD)

~~20-21.~~ Applicant shall submit a plan for approval by the Parks and Trees Department for the planting of street trees along Ophir Road; to be planted no later than completion of each cell's excavation as a wind break and for beautification. (PTD) The applicant shall coordinate with the City Parks and Trees Department to develop a landscape plan along Ophir Road. The plan may include drought tolerant bushes or other City approved vegetation for beautification and stabilization. (PLNG)

~~21-22.~~ All inactive portions of the site shall be seeded and watered until a suitable grass cover is established. (AQMD)

~~22-23.~~ Reclamation plan map shall indicate utility locations, equipment storage locations, drainages and their direction of flow, and all erosion control facilities. (DMR/City)

~~23-24.~~ As part of the reclamation plan, applicant shall supply a revegetation plan containing a list of species, application rates for propagules, and the source of plant materials that are to be installed. Native plants are required. A description of the planting methods and schedule shall also be included. (DMR)

~~24-25.~~ A revegetation monitoring plan shall be submitted as part of the reclamation plan for all areas that will need revegetation or erosion control. The monitoring plan shall contain quantitative performance standards for plant cover, plant density, erosion control, and weed abatement. The plan shall also state the frequency of monitoring and the time of year monitoring takes place. The plan shall contain a description of remedial measures to be implemented if revegetation is not successful according to the performance criteria. (DMR)

~~25-26.~~ The applicant shall provide a Financial Assurance Cost Estimate (FACE) to the City within 30 days of an annual inspection being conducted. Financial assurances shall be provided for the cost of reclamation based upon the reclamation plan approved. The ~~DMR and the~~ City of Oroville shall review and approve the FACE and forward to DMR for comment prior to approval of the financial assurances. (DMR/PW)

~~26-27.~~ The operator of the mine shall file ~~an initial report and subsequent~~ annual reports

with the State and provide a copy to the City and shall pay DMR any required reporting fees. ~~The initial report and fee shall be sent to the State within 30 days of approval of the mining permit. Department of Conservation, Office of Mine Reclamation, Reclamation Unit, 801 K Street, MS 09-06, Sacramento, CA 95814-3529. (OMR/DMR)~~

~~27-28.~~ This use permit shall share the same expiration date as the Reclamation Plan for the mine. (PLNG)

~~28-29.~~ An Interim Management Plan application shall be submitted to the City for the mine to remain idle that includes the August 2021 drone site images and topography map and meets the requirements of SMARA. (City)

~~29-30.~~ The applicant shall comply with all local, State and Federal mining regulations. (PLNG)

~~30-31.~~ The method of reclamation revegetation shall be added to the RP. (PLNG)

~~32.~~ Update the Stormwater Pollution Prevention Plan (SWPPP) report and map consistent with the City design standards, and the latest version of the California Storm Water Quality Construction handbook, published by the California Storm Water Quality Association. (PLNG)

FISCAL IMPACT

None. The project is subject to all customary fees.

PUBLIC NOTICE

As is required for a Use permit, the meeting date, time, and project description were published in the Oroville Mercury Register, mailed to property owners within 300 feet, emailed to Caltrans, and posted at City Hall.

ATTACHMENTS

- A. Reclamation Plan Extension Request
- B. Letter of Support from Enviromine
- C. Reclamation Plan Map
- D. Topographic aerial photo
- D. Resolution P2021-15 with Findings of Fact
- E. Notice of Exemption

PL2004-005
Item 2.

CITY OF OROVILLE
BUILDING DEPARTMENT

APR 14 2020

RECEIVED

RON HARMON
1982 HILLCREST DRIVE
NEWCASTLE, CA 95658
HARMONRON@SBCGLOBAL.NET

(916) 663-3111 CELL (916) 316-5481

April 10, 2020

Wes Ervin
City Planner
City of Oroville

Oroville, CA

Re: Ron Harmon Mine # 91-04-0022
Five (5) Year Extension

We are requesting an Administrative Approval for a Five-year Extension on our mining operation in the city of Oroville.

We received approval for a five-year extension in November 2016 through November of 2022.

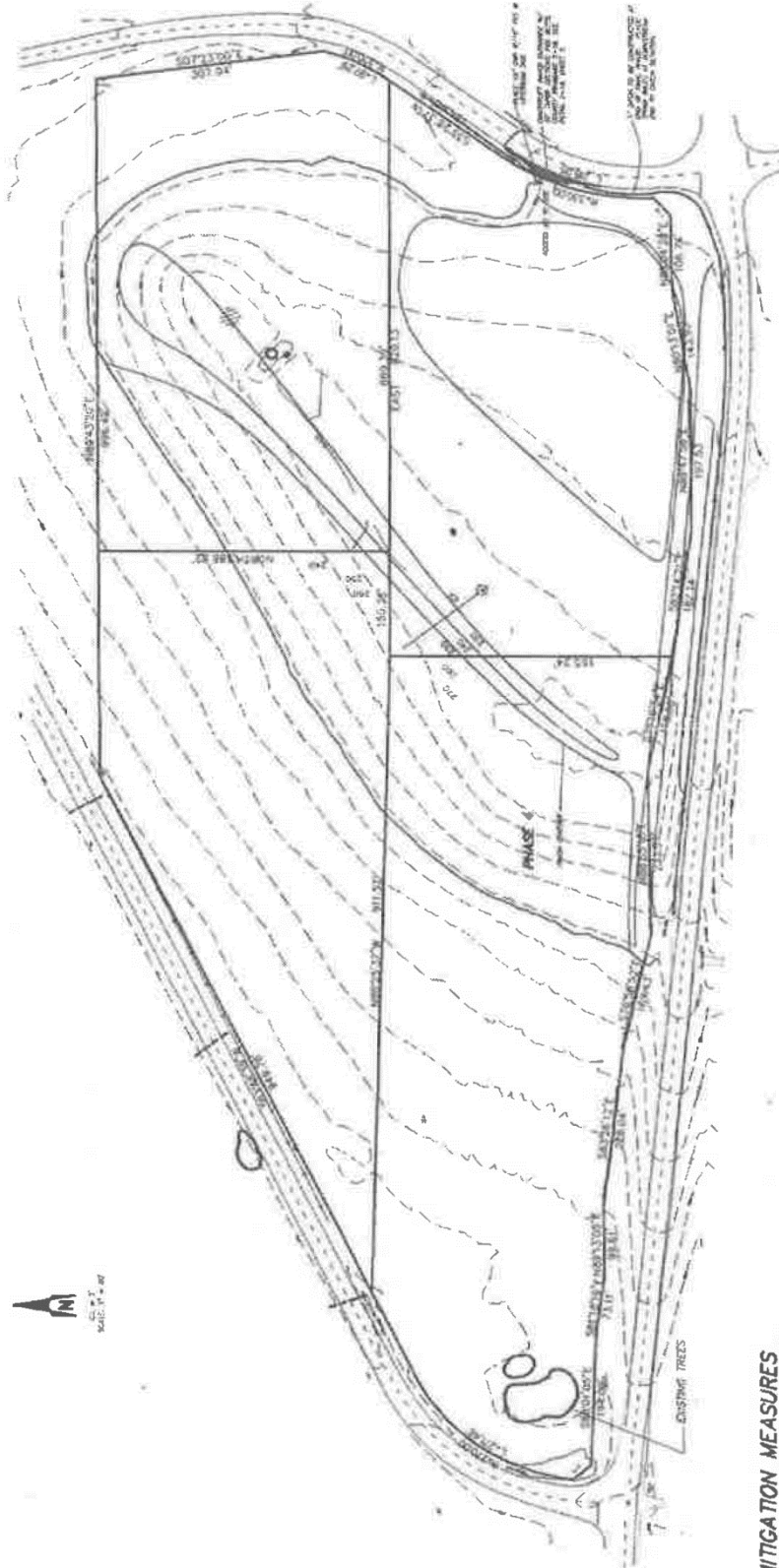
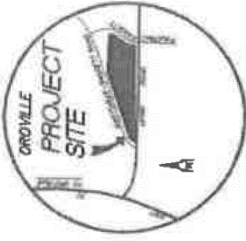
Due to the economic slowdown and other construction factors the mine has been idle for two years. There are several HI way projects and sub divisions including City operations coming up in the next few years that will benefit our project.

If there are any questions or reasons that need to be addressed before the approval can be granted please contact us at the above address.

Respectfully,



Ron Harmon
Owner – Ron Harmon Mine



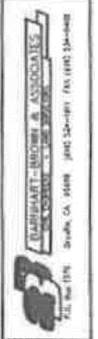
MITIGATION MEASURES

1. THE PROPOSED MINING OPERATIONS WILL BE CONDUCTED IN ACCORDANCE WITH THE MITIGATION MEASURES SET FORTH IN THIS PLAN. THESE MEASURES ARE INTENDED TO MINIMIZE THE IMPACTS OF THE MINING OPERATIONS ON THE ENVIRONMENT AND TO RESTORE THE AREA TO ITS ORIGINAL STATE AS MUCH AS POSSIBLE.
2. THE MITIGATION MEASURES WILL BE IMPLEMENTED IN ACCORDANCE WITH THE MITIGATION PLAN AND WILL BE MONITORED AND REPORTED TO THE AGENCY AS REQUIRED.
3. THE MITIGATION MEASURES WILL BE IMPLEMENTED IN ACCORDANCE WITH THE MITIGATION PLAN AND WILL BE MONITORED AND REPORTED TO THE AGENCY AS REQUIRED.
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10. THE MITIGATION MEASURES WILL BE IMPLEMENTED IN ACCORDANCE WITH THE MITIGATION PLAN AND WILL BE MONITORED AND REPORTED TO THE AGENCY AS REQUIRED.

ATTACHMENT 6

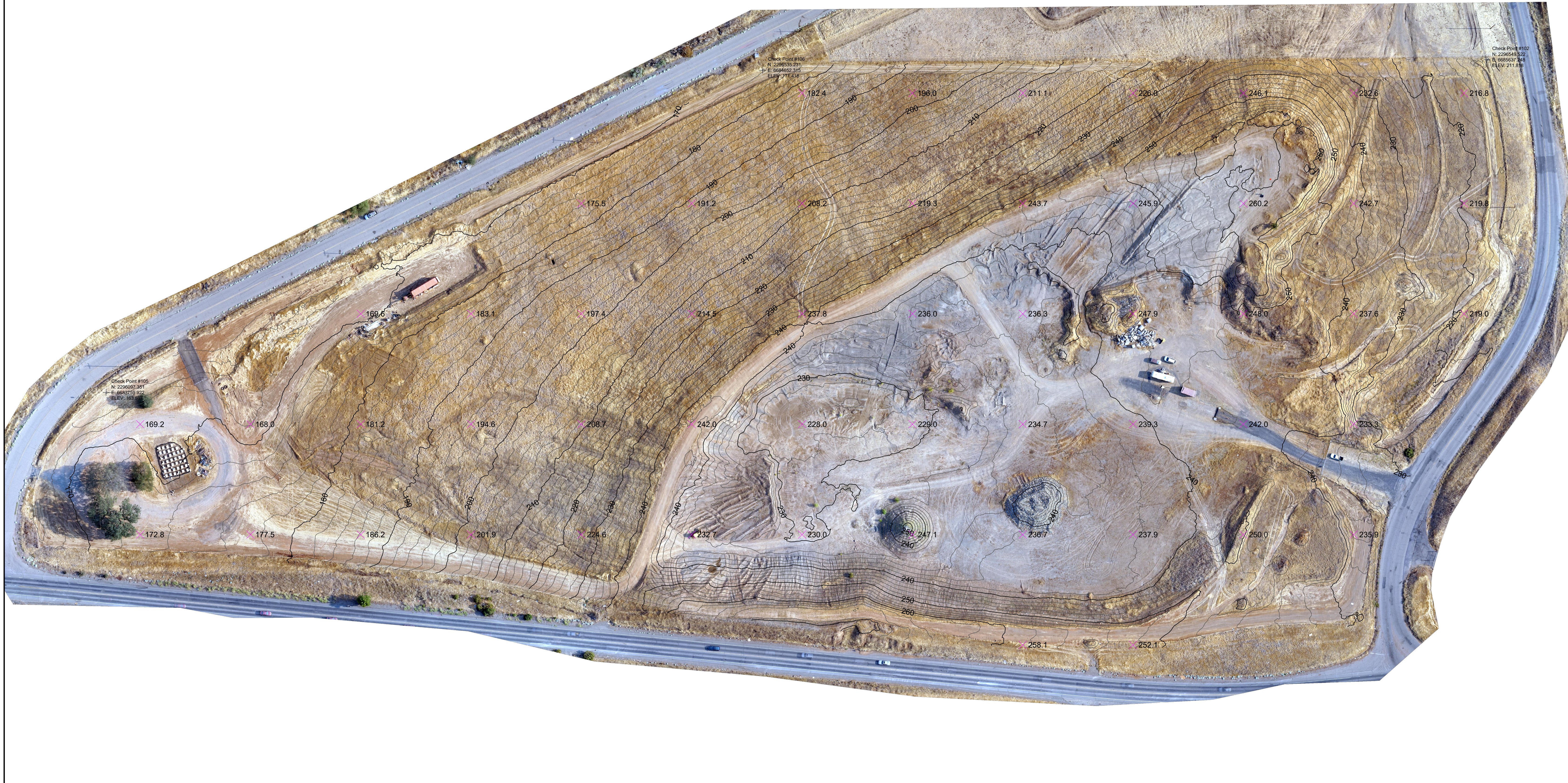
1. THIS ATTACHMENT IS FOR THE PURPOSES OF DELINEATING THE PHASE 4 MINING OPERATION AND IS NOT TO BE CONSIDERED A FINAL DESIGN OR CONSTRUCTION PLAN.
2. PHASE LINES AND PARCEL BOUNDARIES ARE THE SAME AS SHOWN ON THE 1990 AERIAL PHOTOGRAPH.
3. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.
4. THIS ATTACHMENT IS NOT TO BE CONSIDERED A FINAL DESIGN OR CONSTRUCTION PLAN.

MINING OPERATION FEATURES—PHASE 4
RON HARMON RECLAMATION PLAN
OROVILLE, CALIFORNIA 95965



CLABHART-BROWN & ASSOCIATES, INC.
 1000 S. 10TH STREET, SUITE 100
 OROVILLE, CALIFORNIA 95965
 TEL: (530) 534-1111 FAX: (530) 534-1112

NO.	DESCRIPTION	DATE	BY	CHK'D BY
1	DESIGNED			
2	CHECKED			
3	APPROVED			



<p>Ron Harmon Mine CA Mine ID # 91-04-0022 OROVILLE, CA</p>	<p>LEGEND</p> <p>2 FT CONTOUR </p> <p>10 FT CONTOUR </p> <p>CONTROL </p> <p>HV-1 ELEV </p>	<p>NOTES/ASPRS Accuracy Reporting:</p> <p>-This data set was produced to meet ASPRS Positional Accuracy Standards for Digital Geospatial Data (2014) for a 2.7 (cm) RMSE_x and 5.7 (cm) RMSE_y Horizontal Accuracy Class which equates to Positional Horizontal Accuracy = +/- 14.1 (cm) at a 95% confidence level.</p> <p>-This data set was produced to meet ASPRS Positional Accuracy Standards for Digital Geospatial Data (2014) for a 3.9 (cm) RMSE_x Vertical Accuracy Class equating to NVA = +/- 7.6 (cm) at a 95% confidence level and VVA = +/- 11.7 (cm) at the 95th percentile.</p> <p>*Produced by James DeCarolis ASPRS Certified UAS Technologist - No. UAS-T010</p>	<p>ABBREVIATIONS:</p> <p>NVA: Non-vegetated Vertical Accuracy</p> <p>VVA: Vegetated Vertical Accuracy</p>		<p>SCALE 1" = 60'</p>	<p>GROUND CONTROL BY: TIMOTHY P. GIORDANO 2 MARGARET DRIVE OROVILLE, CA 95966 (530) 532-1029</p>	<p>AERIAL FLOWN BY: CHRIS BOYER</p> <p>ENVIROMINE JOB NAME: RON HARMON</p> <p>ENVIROMINE JOB NUMBER: D0195</p>	<p>COORDINATE SYSTEM: NAD 1983 CA STATE PLANE ZONE II (U.S. FT)</p>	<p>AERIAL MAPPING PERFORMED BY: 3511 Camino Del Rio South Suite 403 San Diego, CA 92108 (619) 284-8515 www.enviromineinc.com Aerial/Topographic Date: 8-3-2021</p>	<p>SHEET NO. 1 OF 2 SHEETS</p>
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Environmental & Mine Permitting Services

October 6, 2021

Mr. Wes Erving
Planning and Development Services Department
1735 Montgomery Street
Oroville, CA 95965

**Re: Administrative Reclamation Plan Amendment for the Ron Harmon Mine
CA Mine ID 91-04-0022**

Dear Mr. Irving,

This letter is being submitted on behalf of Ron Harmon to request an administrative amendment to the borrow operation for the Ron Harmon Borrow Pit (CA Mine ID#91-04-0022) located in the City of Oroville, California. The purpose of the amendment to the Reclamation Plan is to allow an additional five years of mining operations to occur beyond the initial 20-year timeline and the added 5 year extension approved in May of 2016 that was included in the approved 1997 Reclamation Plan text. The Plan identifies a proposed initiation date of June 1997 and a 20-year timeline for the life of the mine.

The Ron Harmon mine site was initially granted a Conditional Use Permit (CUP) and approval of a Reclamation Plan in November of 1996. The CUP includes 27 conditions that guide operations at the site while the reclamation plan provides an overview of mining operations and plans on how to reclaim the site to an industrial use consistent with current zoning once mining is complete. The CUP has no expiration date; however, the Reclamation Plan has a proposed 20-year life of the mine, ending on November 16, 2016. With the economic downturn experienced in the late 2000's and the slow recovery, the mine site has not extracted as much material as estimated at the time of the initial approval in 2016. Because of lower demand for mined material from the site for construction projects than initially anticipated, the mine operator requires additional time to fully deplete the permitted reserves.

Based on the above information, we propose an administrative amendment to the Reclamation Plan to allow the mine site to operate for an additional five years beyond the November 16, 2021 date that was identified in the approved Reclamation Plan. Discussion below provides explanation of how an administrative amendment for this specific situation is consistent with SMARA.

SMARA §3502 provides, amongst other things, that the lead agency (i.e., City of Oroville) must determine whether extending the life of the operation for an additional five years triggers the need for an amended reclamation plan that complies with, current reclamation standards as described in Chapter 9 SMARA §3502(d), which states: "*in determining whether a change or expansion constitutes*

Mr. Wes Erving
October 6, 2021
Page 2

a substantial deviation, the lead agency shall take into consideration the following five criteria": (with discussion following each criteria)

(1) A substantial increase in the disturbance of a surface area or in the maximum depth of mining;

The site operator does not propose any increase to the disturbance area or mining depths described in the approved Reclamation Plan. All past mining activity has been conducted within the approved boundary and future operations are proposed to be within the limits of the approved Reclamation Plan.

(2) A substantial extension of the termination date of the mining operation as set out in the approved reclamation plan;

A five year extension of mining operations is proposed. The approved plan assumed the entire permitted reserves would be depleted after a 20 year period. Due to a depressed economy in California and the rest of the United States over the past years, mining has progressed at a pace slower than anticipated. Several construction projects are planned in the immediate area for the coming years and should deplete the remaining reserves within the five year period.

(3) Changes that would substantially affect the approved end use of the site as established in the reclamation plan;

Extending the duration that mining may occur at the site by five years will not affect the approved end use. The approved 1997 Reclamation Plan identifies industrial development as the proposed end use for the site after mining and reclamation is complete. Allowing the operation additional time to extract material from the site will allow for further site leveling to occur which will allow for industrial pad development as specified in the 1997 plan.

(4) The consistency of any proposed change to the operation with the previously adopted environmental determinations.

Operations at the site are consistent with the project description contained within the Mitigated Negative Declaration (MND) adopted in conjunction with the approval of CUP and Reclamation Plan. Allowing mining to continue for an additional five years would not change operations as described in the approved environmental document.

According to CEQA statute, continuing mining beyond what was described in the 1997 Reclamation Plan falls under a CEQA Class I exemption. CEQA Guidelines §15301 allow for the following activities to be exempt from additional CEQA analysis: *"maintenance and permitting of existing private facilities, mechanical equipment and topographical features with no expansion of the use, as originally permitted"*.

Mr. Wes Erving
October 6, 2021
Page 3

(5) Any other changes that the lead agency deems substantial deviations as defined in the subsection.

There are no "other changes" associated with allowing the mine to continue operations for an additional five years that is as a substantial deviation.

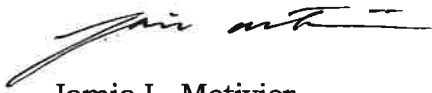
For the reasons mentioned above, allowing the mine to continue operations for an additional five years does not constitute a "substantial deviation," as described by SMARA §3502, and an administrative amendment to the reclamation plan is all that is needed to accept this change. We request this administrative amendment to the Reclamation Plan be formally considered by the City of Oroville Planning Director and that a response letter to this request be issued.

If the change to the Plan is determined by the City of Oroville to meet the criteria for approval of an administrative amendment, the letter approving the amendment should be forwarded to the Division of Mine Reclamation for its review at least 30 days prior to the approval.

Please let me know if you need additional information.

Should you have any questions regarding this matter please contact me anytime at my office at (619) 284-8515.

Respectfully submitted,
EnviroMINE, Inc.



Jamie L. Metivier
Project Manager

Attachment: Ron Harmon Mine Project Description

Mr. Wes Erving
October 6, 2021
Page 4

Ron Harmon Mine Project description:

Location:

The Ron Harmon Mine is located in the City of Oroville, County of Butte on private lands consisting of four parcels. The project is bounded on the northeast side by Baggett Marysville Road, on the south side by Ophir Road, and on the east side by Baggett Palermo Road. The project is located in portions of the north half of the northeast quarter of section 31 Township 19 north, range 4 east, Mount Diablo and Meridian.

Environmental Setting:

The existing site consists of rolling valley grasslands. Currently the site has 14 acres of disturbed land with non-native grasses growing on the property. At the central area of the site towards the south there is a knoll with landfall to the north, east and west at slopes ranging 0-10%. The elevation ranges from 281 feet to 170 feet above mean sea level. A natural drainage swale exists along the easterly boundary of the site. The site typically demonstrates sheet flow and infiltration drainage characteristics. There are no sensitive species or sensitive habitats identified on this site.

Geology:

The mine site is located at the base of the westerly side of the Sierra Nevada Mountains. Geologic characteristics to the north, south and west consist of recent deposits of the Great Valley, sedimentary and metasedimentary rocks. These recent alluvial fan deposits are derived from sediments deposited from streams emerging from high lands surrounding the Great Valley which includes the Victor Formation of lenticular silt, sand, gravel and clay. Tailings are found on the north and west sides of the property and are remnants from gold dredging activities.

Geology and Soils of the Ron Harmon Mine:

The geologic characteristics of the mine site are also sedimentary and metasedimentary rocks, Plio-Pleistocene non-marine formed during the Pleistocene, Quaternary Period of the Cenozoic Era. These deposits are composed of silt, sand, clay, and unsorted gravels. The soil on the site is classified as a Redding gravelly sandy loam and contains minimal amounts or organic material.

Description of the Mine:

The site is a single-phase surface borrow mine. The material is excavated with a loader and off-hauled with 18-wheel trucks. There is no screening equipment of fixed facilities on the site.

Mr. Wes Erving
October 6, 2021
Page 5

End Use:

Once mining is complete the end use of the site is anticipated to be industrial development. The site is currently zoned as M-2, industrial. This is the same zone for properties surrounding the site. Following excavation of the materials, the site will be graded to a nearly level pad. A maximum of 2:1 cut slopes will occupy the fringes of the pad area. A maximum of one acre of the site will be sloped lands, enabling cost affective development for future industrial use compatible with the surrounding area.

Reclamation:

Prior to commencement of mining operations, the top six inches of topsoil was stripped and stockpiled for use in reclamation. When mining has ceased, all equipment and any refuse found at the site will be removed. Final grading will be completed to ensure positive drainage and compacted surfaces will be ripped to aid water infiltration. Topsoil will then be spread over the mined land to facilitate revegetation. The principal revegetation effort for this site is the seeding of native grass/legume/forbs. These materials will aid in the prevention of erosion, and erosion and help to stabilize the soils until further developed. Performance standards for revegetation success are included in the Reclamation Plan, as well as monitoring requirements.



City of Oroville

Planning Division - Community Development Department

1735 Montgomery Street
 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530)
 538-2426 www.cityoforoville.org

Item 2.

TRAKIT#:

USE PERMIT APPLICATION

(Please print clearly and fill in/provide all that apply)

REQUIRED FOR A COMPLETE APPLICATION		PERMIT TYPE	
<input type="checkbox"/>	Completed and signed Application Forms	<input type="checkbox"/>	New Use Permit: \$2,889.98 (Deposit) + \$173.40(6% Tech Fee) = \$3,063.38
<input type="checkbox"/>	Application Fee Paid	<input checked="" type="checkbox"/>	Amendment to Existing Use Permit: \$1,024.09 + \$61.45 (6% Tech Fee) = \$1,085.54

PROJECT PLANS

All plans and drawings shall be drawn to scale to the extent feasible and shall indicate the full dimensions, contours and other topographic features and all information necessary to make a full evaluation of the project. Please include the following:

1. **Site and floor plans**, including the location, square footage and use of all structures.
2. **Architectural drawings** showing proposed building elevations.
3. Landscape plans showing the types, sizes and location of vegetation to be planted and the irrigation system to be installed
4. Plans for the configuration & layout of all off-street parking spaces, including entrances, exits and internal circulation routes.
5. Plans for all lighting to be installed on the site, including the location, type, height and brightness of each lighting fixture.
6. **Drawings of all signs** that are proposed in association with the project.
7. Plans showing the location, sq footage and capacity of any existing or proposed surface storm-water detention facilities.
8. Plans showing the location and square footage of any existing or proposed outdoor storage areas.
9. Descriptions of any off-site infrastructure improvements to be provided in conjunction with the project.
10. Hours of operation for all proposed land uses.
11. Number of employees and fleet vehicles for all proposed land uses
12. **A letter authorizing the use permit application from the owner of the property.**

CLASSIFICATION

Alcohol & Beverage Sales	Nonconforming Uses & Structures	Uses in Industrial Districts
Agricultural Uses	Outdoor Storage	Uses Mini-Storage Overlay(MS-O)
Animal Keeping (Commercial)	Parking Requirement Exceptions	Uses in Residential Districts
Barbed/Razor Wire Fence	Temporary Use	Uses in Special Purpose Districts
Density Bonus & Other Incentives	Uses in a Conditional Overlay (C-O)	Uses not Specified but Allowed
Exceptions to Height Limits	Uses in Commercial & Mixed-Use Districts	Wireless Communication Facilities
Other: (Please Specify)		

APPLICANT'S SIGNATURE

I hereby certify that the information provided in this application is, to my knowledge, true and correct.

Signature: *Ronald J. Davis* Date:

OFFICE USE ONLY

Approved By: Date:
 Payment: Number:

PROJECT DESCRIPTION	
Present or Previous Use:	
Proposed Use:	
Detailed Description:	

The Community Development Department operates on a full cost recovery for processing of permits. Staff will charge their time and any expenses associated with processing the application against the initial deposit. Fees that have been captured for the reimbursement of City expenses are non-refundable.

Technology cost recovery fees are non-refundable

Resolution No. P2021-15

A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION AMENDING THE CONDITIONS OF APPROVAL OF USE PERMIT NO. 96-15 TO EXTEND THE EXPIRATION DATE OF THE USE PERMIT FOR THE RON HARMON MINE (CA MINE ID #91-04-0022) AND THE RECLAMATION PLAN TO NOVEMBER 12, 2026.

WHEREAS, in 1991, following significant revisions to the Surface Mining and Reclamation Act of 1975 (SMARA), the Division of Mine Reclamation (DMR) was created to provide a measure of oversight for local governments as they administer SMARA within their respective jurisdictions; and

WHEREAS, under SMARA Section 2774(c), local lead agencies are required to submit reclamation plans and plan amendments to the Director of the Department of Conservation (i.e., DMR) for review prior to approving such documents; and

WHEREAS, mining activities can commence once the lead agency (City) approves of a mining permit (UP 96-15), a plan for returning the land to a usable condition (known as a "reclamation plan"), and financial assurances to guarantee costs for reclamation; and

WHEREAS, the current Use Permit No. 96-15 and Reclamation Plan is due to expire on November 12, 2021; and

WHEREAS, the Oroville Municipal Code (OMC) Section 17.48.010(D) specifies that conditions imposed by the Planning Commission may include, but are not limited to, regulating the term during which a use permit is valid.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION as follows:

1. This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15301 "Existing Facilities." A Class 1 categorical exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use. As the request is simply an extension in time on the existing entitlements and there will be no change in the surface area or depth of disturbance, no change in the approved end use of the site as initially approved, is consistent

with the operation of the previously adopted environmental determinations, and there is no other proposed change from the project as originally approved, this action has been determined to be exempt from further CEQA review.

2. The Planning Commission hereby deems that extending the Use Permit and Reclamation Plan expiration date to November 12, 2026, is necessary to allow the landowner to operate the mine and deplete the previously approved quantity of resources.

Use Permit Findings

The planning commission may grant the use permit extension and Reclamation Plan amendment based upon all of the following findings, based on substantial evidence. The staff comment for each finding is in *italics*:

- a. The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the city as a whole. *The use permit and reclamation plan extension until November 12, 2026 will not be incompatible with or detrimental to the general health, safety, or public welfare of the surrounding area or the city as a whole. If for any reason, the land owner or operator is not financially able or abandons the surface mine operation, there will be a financial mechanism in place to allow the City or Department of Conservation to reclaim the site based on the approved 1996 reclamation plan.*
- b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity. *The proposed use permit and reclamation plan amendment extension does not change the location or extent of the existing mine, which has been located in a suitable location on land zoned Industrial.*
- c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use or will be made adequate prior to the establishment of the proposed use. *The project site is surrounded by local roadways and Highway 70 to the west. Water and sanitation facilities have been and are adequate to serve the surface mine or will be made adequate if needed.*
- d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties. *There is no change to the location, size, design, and operating characteristics of the mine operation. The extension of the use permit will not affect surrounding properties as they are also zoned Intensive Industrial (M-2) and are currently vacant or used as industrial.*
- e. The subject site is physically suitable for the type and intensity of land use being proposed. *The surface mine was approved in 1996 and has operated on and*

off over the last 25 years based on demand. The intensity of the use going forward will include removal and transport of the remaining materials along the south property line adjacent to Ophir Road. Past operations of the mine have confirmed that the site is physically suitable for the surface mine operation and the intensity of use.

f. The size, intensity and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole. *The surface mine provided earthen materials for the Oroville Walmart in 2010. The soil, sand, gravel, and cobble are available to the City and surrounding area and can be used for fill, to make concrete, landscaping, and a variety of construction projects including utility installation.*

g. The permit complies with all applicable laws and regulations, including the requirements of the general plan, of this title and of the city municipal code. *The use permit and reclamation plan extension will be approved with conditions which includes compliance with all applicable local, State and Federal laws. An annual inspection required by the SMARA will take place every 12 months (generally March of each year) and activities will be monitored by the City on a regular basis per the previously approved California Environmental Quality Act mitigation measures to verify compliance with the Surface Mining and Reclamation Act (SMARA) and the City Municipal Code.*

Notice of the planning commission’s determination shall be issued within 10 days after the determination has been made. This notice shall be issued in writing to the permit applicant.

I HEREBY CERTIFY that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 28th day of October, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

JACKIE GLOVER, ASSISTANT CITY CLERK

CARL DURLING, CHAIRPERSON



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

LEONARDO DEPAOLA
DIRECTOR

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

NOTICE OF EXEMPTION

TO:	Butte County Clerk 25 County Center Drive Oroville, CA 95965	FROM:	City of Oroville 1735 Montgomery Street Oroville, CA 95965
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Project Title: Amendment to extend the Ron Harmon Mine until November 12, 2026.

Project Location: The mine is bounded by Baggett-Marysville Road to the north and west, Baggett-Palermo Road to the east, and Ophir Road to the south on APNs 035-470-016, 017, 026 and 027.

Project Location - City: City of Oroville

Project Location - County: Butte

Description of Nature, Purpose, and beneficiaries of project: The Planning Commission will review and consider a Use Permit modification and Reclamation Plan Amendment to extend the mine operation until November 12, 2026 and amending the Conditions of Approval of Use Permit No 96-15 for the Ron Harmon Mine (CA Mine ID #91-04-0022). The current entitlements are due to expire on November 12, 2021.

The subject property has a zoning designation of Intensive Industrial (M-2) and a General Plan land use designation of Mixed Use.

The applicant is proposing to extend the Use Permit and Reclamation Plan to mine the remaining resources. The project is categorically exempt as an existing facility.

Name of Public Agency Approving Project: City of Oroville

Name of Person or Agency Carrying Out Project: Mr. Ron Harmon

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number:
 - Existing Facilities, Title 14, CCR, §15301
- Statutory Exemption: State code number:

Reasons why project is exempt:

This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review as follows:

Existing Facilities, Title 14, CCR, §15301

Class 1 categorical exemptions consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.

As the request is simply an extension in time on the existing entitlement and there will be no change in the surface area (14 acres) or depth of disturbance or change in the approved end use of the site as initially approved, is consistent with the operation of the previously adopted environmental determinations, and there is no other proposed change from the project as originally approved, this action has been determined to be exempt from further CEQA review.

If filed by applicant:

- 1. Attach certified document of exemption finding.
- 2. Has a notice of exemption been filed by the public agency approving the project? Yes No

Lead Agency Contact Person: Wes Ervin

Telephone: (530) 538-2408

Signature: _____

Date: _____

- Signed by Lead Agency
- Signed by Applicant



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

Thursday, October 28, 2021

RE: Minor Use Permit UP21-10 for a Change in Alcohol License at Vallarta Grill, Including a Finding of Public Convenience or Necessity

SUMMARY: The Oroville Planning Commission will review and consider approving Minor Use Permit No. UP21-10 to allow the applicant to change Alcoholic Beverage Control (ABC) Licenses from a Type 41 to a Type 47.

RECOMMENDATION: Staff recommends the following actions:

1. **Conduct a Public Hearing** on the proposed project;
2. **Adopt the Notice of Exemption** as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA);
3. **Adopt** the recommended Findings for Use Permit No. UP21-10;
4. **Approve** Use Permit UP21-10 and recommended Conditions of Approval;
5. **Approve** a Letter of Public Convenience or Necessity, since it has been determined by ABC that an overconcentration exists;
6. **Adopt** Resolution No. P2021-18

APPLICANT: Jose A. Sandoval

LOCATION: 2100 5th Avenue (APN 035-430-069)

GENERAL PLAN: MU (Mixed Use)
ZONING: MXC (Corridor Mixed Use)
FLOOD ZONE: Zone X

ENVIRONMENTAL DETERMINATION: Categorically Exempt per Section 15301 of Title 14, California Code of Regulations, Existing Facilities.

REPORT PREPARED BY:

 Connor Musler, Assistant Planner
 Community Development Department

REVIEWED BY:

 Dawn Nevers, Assistant Director
 Community Development Department

DISCUSSION

Jose Sandoval has applied for an amendment to an existing use permit to authorize a change in ABC license types at Vallarta Grill located at 2100 5th Avenue. On May 18, 2017, the Planning Commission approved a Finding of Public Convenience or Necessity for alcohol sales at the Vallarta Grill restaurant. At that time, the applicant was applying for a Type 41 license, authorizing the sale of beer and wine for on-site consumption in the restaurant.

Mr. Sandoval is now applying for a Type 47 “On-Sale General – Eating Place” license, which authorizes the sale of beer, wine, and distilled spirits for on-site consumption. The Type 47 license is being transferred from 5667 Clark Rd, Paradise, CA, the former Casa de Paradiso Mexican Restaurant, to this location. The restaurant is located in Census Tract 0028.00, which includes all areas south and east of the Feather River, north of Oro Dam Blvd, and west of Bridge St. While the Department of Alcoholic Beverage Control (ABC) does not typically require a letter of public convenience or necessity (PCN) for on-site alcohol sales in full-service restaurants, staff is requesting that the commission, should they approve UP 21-10, to also authorize a PCN letter to be sent to ABC since staff are already aware that an overconcentration exists and a PCN letter was previously required with the 2017 approval.

Required Findings for Alcohol Sales (OMC 17.16.160)

Before approving a use permit for alcohol sales, the Planning Commission must consider each of the following issues and make appropriate findings (Staff’s comments are in *italics*, draft findings are in the Resolution):

- 1. The nature of all land uses within 500 feet of the proposed alcoholic beverage sales, and in particular, the location of similar nearby uses and the location of residences, parks, schools and houses of worship.**

The restaurant is located in an existing shopping center containing retail and professional offices. The Boulder Creek Apartments, Cottonwood Estates mobile home park, Feather River Tribal Health, and a building used by Jordan Crossing Ministries are all within 500 feet of the proposed beverage sales. The restaurant has been operating since 2017 with alcoholic beverage available for purchase and does not appear to have cause any issues or conflicts with surrounding uses.

- 2. Appropriate measures to provide proper maintenance of the building exterior, including provisions to keep the premises free of litter and debris.**

The requirement is added to the project conditions. Code enforcement officers will monitor for compliance on an ongoing basis.

3. Lighting of exterior areas, including parking lots, to discourage loitering outside of the building.

The requirement is added to the project conditions. The restaurant is located within a shopping center with common parking facilities.

4. Protection of adjacent properties from noise, odors and undue light and glare, as well as illegal activity.

This requirement is added to the project conditions. Code enforcement officers will monitor for compliance on an ongoing basis.

5. Provision of onsite security, both inside and outside the building, to satisfy any concerns raised by the chief of police.

This requirement is added to the project conditions. Code enforcement officers will monitor for compliance on an ongoing basis.

6. Hours of operation.

Applicant states that the hours of operation are from 10:00 a.m. to 8:00 p.m. seven days a week.

7. Controls on occupancy limits inside of the building and loitering outside of the building.

This requirement is added to the project conditions. Code enforcement officers will monitor for compliance on an ongoing basis.

8. Prevention of adverse effect of the use on the value of adjacent properties.

The subject property is zoned MXC, which is an appropriate location for this requested land use per the City Code, subject to a use permit. The applicant has operated the restaurant out of the location since 2017. The proposed new alcohol license will allow the applicant to expand their offerings and attract new customers to patronize the restaurant and surrounding businesses.

9. Whether approval would result in an undue concentration of these uses, and whether public convenience or necessity would mitigate the issue of undue concentration.

The Police Department and ABC determine if there is an undue concentration in the area. ABC has determined that there is an undue concentration of licenses within this census tract and a letter of public convenience or necessity is required to mitigate the undue concentration.

FISCAL IMPACT

None. The project is subject to all customary fees.

PUBLIC NOTICE

A request for comments was prepared and circulated to the local agencies and surrounding property owners within 500 feet of the property. Additionally, the meeting date, time, and project description were published in the Oroville Mercury Register and posted at City Hall.

ATTACHMENTS

1. Resolution P2021-18
2. Notice of Exemption (CEQA)
3. Application Package
4. 2017 Staff Report

RESOLUTION NO. P2021-18

A RESOLUTION OF THE OROVILLE PLANNING COMMISSION MAKING FINDINGS AND CONDITIONALLY APPROVING MINOR USE PERMIT UP21-10 FOR A CHANGE IN ALCOHOL LICENSE TYPES AT VALLARTA GRILL RESTAURANT LOCATED AT 2100 5TH AVE (APN 035-430-069).

WHEREAS, the Planning Commission approved a letter of public convenience or necessity on May 15, 2017 for alcoholic beverage sales at Vallarta Grill restaurant; and

WHEREAS, the City has received an application for an amendment to the previous approval in order to change their alcoholic beverage license from a Type-41 license to a Type-47 license; and

WHEREAS, The City of Oroville Municipal Code (OMC) Section 17.16.160 specifies that a Use Permit is required to sell alcohol; and

WHEREAS, at a duly noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the use permit described herein, and also considered the City's staff report regarding the change.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION as follows:

1. This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15301 "Existing Facilities."
2. The Planning Commission approves the findings required by Section 17.16.160 of the Oroville City Code, as described in this Resolution;
3. The Planning Commission approves the permit conditions described in this Resolution.
4. The Planning Commission approves a letter of public convenience or necessity to satisfy ABC requirements.

REQUIRED FINDINGS (OMC 17.16.160)

1. **The nature of all land uses within 500 feet of the proposed alcoholic beverage sales, and in particular, the location of similar nearby uses and the location of residences, parks, schools and houses of worship.**

The restaurant is located in an existing shopping center containing retail and professional offices. The Boulder Creek Apartments, Cottonwood Estates mobile home park, Feather River Tribal Health, and a building used by Jordan Crossing Ministries are all within 500 feet of the proposed beverage sales. The restaurant has been operating since 2017 with alcoholic beverage available for purchase and does not appear to have cause any issues or conflicts with surrounding uses.

2. **Appropriate measures to provide proper maintenance of the building exterior, including provisions to keep the premises free of litter and debris.**

The requirement is added to the project conditions. Code enforcement officers will monitor for compliance on an ongoing basis.

3. **Lighting of exterior areas, including parking lots, to discourage loitering outside of the building.**

The requirement is added to the project conditions. The restaurant is located within a shopping center with common parking facilities.

4. **Protection of adjacent properties from noise, odors and undue light and glare, as well as illegal activity.**

This requirement is added to the project conditions. Code enforcement officers will monitor for compliance on an ongoing basis.

5. **Provision of onsite security, both inside and outside the building, to satisfy any concerns raised by the chief of police.**

This requirement is added to the project conditions. Code enforcement officers will monitor for compliance on an ongoing basis.

6. **Hours of operation.**

Applicant states that the hours of operation are from 10:00 a.m. to 8:00 p.m. seven days a week.

7. Controls on occupancy limits inside of the building and loitering outside of the building.

This requirement is added to the project conditions. Code enforcement officers will monitor for compliance on an ongoing basis.

8. Prevention of adverse effect of the use on the value of adjacent properties.

The subject property is zoned MXC, which is an appropriate location for this requested land use per the City Code, subject to a use permit. The applicant has operated the restaurant out of the location since 2017. The proposed new alcohol license will allow the applicant to expand their offerings and attract new customers to patronize the restaurant and surrounding businesses.

9. Whether approval would result in an undue concentration of these uses, and whether public convenience or necessity would mitigate the issue of undue concentration.

The Police Department and ABC determine if there is an undue concentration in the area. ABC has determined that there is an undue concentration of licenses within this census tract and a letter of public convenience or necessity is required to mitigate the undue concentration.

CONDITIONS OF APPROVAL

Approved project: The Planning Commission hereby conditionally approves Use Permit No. 21-10, permitting a change in ABC license from a Type-41 to a Type-47 at Vallarta Grill restaurant located at 2100 5th Avenue (APN: 035-430-069). The subject property has a zoning designation of Corridor Mixed-Used (MXC) and a General Plan land use designation of Mixed Use. Per the OMC Table 17.34.020-1, alcoholic beverage sales are land uses that require a use permit in MXC zones.

General Conditions

1. The applicant shall hold harmless the City, its Council members, Planning Commissioners, officers, agents, employees, and representatives from liability for any award, damages, costs, and/or fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.
2. The project shall remain in substantial conformance with the Conditions of Approval, as adopted by the Oroville Planning Commission. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the

project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the Oroville Planning Commission.

3. The applicant shall annually pay for and obtain a City of Oroville business license.
4. All private facilities, improvements, infrastructure, systems, equipment, common areas, etc. shall be operated and maintained by the applicant in such a manner, and with such frequency, to ensure the public health, safety and general welfare.
5. All costs of operation and maintenance of private facilities, improvements, infrastructure, systems, equipment, common areas, etc. shall be the responsibility of the applicant.
6. Pursuant to Section 17.12.010, the proposed use of the site shall conform to the performance standards of the Oroville Municipal Code to minimize any potential negative effects that the building, structure, lighting or use could have on its surroundings, and to promote compatibility with surrounding uses and areas.
7. The applicant shall ascertain and comply with the requirements of all of City, County, State, Federal, and other local agencies as applicable to the proposed project.
8. The project shall comply with the City's noise ordinance as found in the OMC Chapter 9.20.
9. Pursuant to Section 17.48.010(F) of the City Code, the Planning Commission, upon its own motion, may modify or revoke any use permit that has been granted pursuant to the provisions of this section upon finding any of the following, based on substantial evidence:
 - I. Any of the conditions of the permit have not been satisfied within 1 year after it was granted.
 - II. Any of the terms or conditions of the permit have been violated.
 - III. A law, including any requirement in the Municipal Code Chapter 17, has been violated in connection with the permit.
 - IV. The permit was obtained by fraud.
10. Applicant hereby certifies that any and all statements and information provided as part of the application are true and correct to the best of their knowledge and belief. Any misinformation provided, whether intentional or unintentional, that was considered in the issuance of this permit may be grounds for revocation.
11. Building shall be addressed per City requirements. Building numbers shall comply with City Code 17.20.050(A).
12. A refuse collection enclosure shall be provided in accordance with City Code 17.12.110. All solid waste and recycling containers shall be placed inside the trash enclosure or immediately adjacent to the enclosure.
13. No more than 25% of the window area shall be covered with signs. This includes both permanent and temporary signs used to identify the business, products sold, or services offered.

- 14. The exterior of the building, including windows and doors, shall be maintained, and with such frequency, to ensure the public health, safety and general welfare of the city.
- 15. Windows and doors shall not be boarded up or blocked unless the appropriate approvals are received to ensure the public health, safety and general welfare. This does not include the use of plywood or other material used to cover a window for a temporary period of time that constitutes a safety hazard and/or invites trespassers and malicious mischief.
- 16. Minor changes may be approved administratively by the Community Development Director or designee upon receipt of a written request by the applicant or designee. Changes deemed to be major or significant in nature shall require a formal application for amendment.
- 17. Applicant and/or property owner will take appropriate measures to provide property maintenance of the building exterior, including provisions to keep the premise free of litter and debris.
- 18. Applicant and/or property owner shall ensure adequate lighting of exterior areas, including parking lots, to discourage loitering outside of the buildings.
- 19. Applicant and/or property owner will ensure protection of adjacent properties from noise, odors and undue light and glare, as well as illegal activity.
- 20. Applicant and/or property owner will maintain adequate onsite security, both inside and outside the building, to satisfy any concerns raised by the chief of police or general public. Substantial camera surveillance will suffice.

I HEREBY CERTIFY that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 28th of October 2021, by the following vote:

AYES:
 NOES:
 ABSTAIN:
 ABSENT:
 ATTEST:

APPROVE:

 JACKIE GLOVER, ASSISTANT CITY CLERK

 CARL DURLING, CHAIRPERSON



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

NOTICE OF EXEMPTION

TO : 	Butte County Clerk 155 Nelson Avenue Oroville, CA 95965	FROM : 	City of Oroville 1735 Montgomery Street Oroville, CA 95965
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Project Title: Minor Use Permit UP21-10 for a Change in Alcohol License at Vallarta Grill at 2100 5th Ave

Project Location – Specific: 2100 5th Avenue

Project Location - City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: The project applicant, Jose Sandoval, has applied for a Use Permit for a change in alcohol license at Vallarta Grill restaurant located at 2100 5th Avenue (APN: 035-430-069). The applicants currently are operating with a Type-41 license allowing the sale of beer and wine for on-site consumption and are applying for an ABC Type-47 license to conduct beer, wine, and distilled spirit sales for on-site consumption. The subject property has a zoning designation of Corridor Mixed use (MXC) and a General Plan land use designation of Mixed Use.

Name of Public Agency Approving Project: City of Oroville

Name of Person or Agency Carrying Out Project: Jose Sandoval

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number:
 - General Rule Exemption; Title 14, CCR, §15061(b)(3)
 - Existing Facilities, Title 14, CCR, §15301
- Statutory Exemption: State code number:

Reasons why project is exempt: This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review as follows:

General Rule Exemption; Title 14, CCR, §15061(b)(3)

This project involves a change in ABC licenses at an already existing and operating restaurant. No new construction is proposed and all business activities will be contained within the building, and the proposed use will be subject to comply with all applicable City, County, State, Federal, and other local agencies as applicable, it has been determined that there is no possibility that the use permit request will

have a significant effect on the environment. Thus, this action is exempt from CEQA.

Existing Facilities, Title 14, CCR, §15301

Class 1 categorical exemptions consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures. The project involves a change in ABC licenses at the Vallarta Grill restaurant which has been operating since 2017 with all necessary approval. No proposed expansion of floor area or exterior modification will occur as the applicant is only changing from a Type-41 license to a Type-47 license to increase the restaurant offerings.

If filed by applicant:

- 1. Attach certified document of exemption finding.
- 2. Has a notice of exemption been filed by the public agency approving the project? Yes No

Lead Agency Contact Person: Connor Musler

Telephone: (530) 538-2430

Signature: _____

Date: _____

- Signed by Lead Agency
- Signed by Applicant



City of Oroville

Planning Division - Community Development Department

1735 Montgomery Street
 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530)
 538-2426 www.cityoforoville.org

Item 3.

TRAKIT#: PL2109-003

USE PERMIT APPLICATION

(Please print clearly and fill in/provide all that apply)

REQUIRED FOR A COMPLETE APPLICATION		PERMIT TYPE	
<input type="checkbox"/>	Completed and signed Application Forms	<input type="checkbox"/>	New Use Permit: \$2,889.98 (Deposit) + \$173.40(6% Tech Fee) = \$3,063.38
<input type="checkbox"/>	Application Fee Paid	<input checked="" type="checkbox"/>	Amendment to Existing Use Permit: \$1,024.09 + \$61.45 (6% Tech Fee) = \$1,085.54

PROJECT PLANS

All plans and drawings shall be drawn to scale to the extent feasible and shall indicate the full dimensions, contours and other topographic features and all information necessary to make a full evaluation of the project. Please include the following:

- 1. **Site and floor plans**, including the location, square footage and use of all structures.
- 2. **Architectural drawings** showing proposed building elevations.
- 3. Landscape plans showing the types, sizes and location of vegetation to be planted and the irrigation system to be installed
- 4. Plans for the configuration & layout of all off-street parking spaces, including entrances, exits and internal circulation routes.
- 5. Plans for all lighting to be installed on the site, including the location, type, height and brightness of each lighting fixture.
- 6. **Drawings of all signs** that are proposed in association with the project.
- 7. Plans showing the location, sq footage and capacity of any existing or proposed surface storm-water detention facilities.
- 8. Plans showing the location and square footage of any existing or proposed outdoor storage areas.
- 9. Descriptions of any off-site infrastructure improvements to be provided in conjunction with the project.
- 10. Hours of operation for all proposed land uses.
- 11. Number of employees and fleet vehicles for all proposed land uses
- 12. **A letter authorizing the use permit application from the owner of the property.**

I PROVIDE COPIES OF ABC CORRSP. CLASSIFICATION

<input checked="" type="checkbox"/>	Alcohol & Beverage Sales	Nonconforming Uses & Structures	Uses in Industrial Districts
<input type="checkbox"/>	Agricultural Uses	Outdoor Storage	Uses Mini-Storage Overlay(MS-O)
<input type="checkbox"/>	Animal Keeping (Commercial)	Parking Requirement Exceptions	Uses in Residential Districts
<input type="checkbox"/>	Barbed/Razor Wire Fence	Temporary Use	Uses in Special Purpose Districts
<input type="checkbox"/>	Density Bonus & Other Incentives	Uses in a Conditional Overlay (C-O)	Uses not Specified but Allowed
<input type="checkbox"/>	Exceptions to Height Limits	Uses in Commercial & Mixed-Use Districts	Wireless Communication Facilities
<input type="checkbox"/>	Other: (Please Specify)		

APPLICANT'S SIGNATURE

I hereby certify that the information provided in this application is, to my knowledge, true and correct.

Signature: *[Signature]*

Date: 09-14-21

OFFICE USE ONLY

Approved By:

Date:

Payment:

Number:



City of Oroville

Planning Division - Community Development Department

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 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530) 538-2426
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Item 3.

TRAKIT#: PL2109-003

PLANNING DIVISION GENERAL APPLICATION

(Please print clearly and fill in all that apply)

APPLICANT'S INFORMATION		Project's:	ALCOHOL SALES VALLARTA GRILL
Name:	Jose A Sandoval	Name:	
Address:	2160 Humboldt Rd 111	Company:	
Phone:	530 806 6121	Address:	2100 5th Ave
Email:	killeralesandro78@gmail.com	Phone:	530 712 9390
Is the applicant the Owner?	<input checked="" type="checkbox"/>	If applicant is Not the owner, please provide owner /agent authorization on the reverse side.	
Email:			

DEVELOPMENT PROJECTS & OTHER APPLICATIONS (Please check all that apply)

<input type="checkbox"/>	Annexation	<input type="checkbox"/>	Landmark /Modification/Demolition	<input type="checkbox"/>	Tentative Parcel Map
<input type="checkbox"/>	Appeal	<input type="checkbox"/>	Mining and Reclamation Plan	<input type="checkbox"/>	Tentative Subdivision Map
<input type="checkbox"/>	Development Review	<input type="checkbox"/>	Pre-Application	<input checked="" type="checkbox"/>	Use Permit
<input type="checkbox"/>	Final Map	<input type="checkbox"/>	Residential Density Bonus	<input type="checkbox"/>	Variance
<input type="checkbox"/>	General Plan Amendment/Rezone	<input type="checkbox"/>	Temporary Use	<input type="checkbox"/>	Wireless Communication Facilities
<input type="checkbox"/>	Landmark Designation	<input type="checkbox"/>	Tentative Map Extension	<input type="checkbox"/>	Zoning Clearance
<input type="checkbox"/>	Other: (Please Specify)				

ADMINISTRATIVE PERMITS (Please check all that apply)

<input type="checkbox"/>	Adult Oriented Business	<input type="checkbox"/>	Outdoor Storage	<input type="checkbox"/>	Special Event
<input type="checkbox"/>	Home Occupation	<input type="checkbox"/>	Outdoor Display & Sales	<input type="checkbox"/>	Street Closure
<input type="checkbox"/>	Large Family Day Care	<input type="checkbox"/>	Second Dwelling Unit	<input type="checkbox"/>	Tree Removal
<input type="checkbox"/>	Mobile Food Vendor	<input type="checkbox"/>	Sign/Temporary Sign Permit	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Other: (Please Specify) <u>Restaurant</u>				

*Please provide a letter addressed to the Planning Division with a detailed description for the proposed project. Please include any site plans, maps, aerials, photos, and other relevant information that will help us in processing your application.

** Any time a set of plans is required, three (3) sets of drawings shall be submitted, unless otherwise directed.

PROJECT INFORMATION

Project Name:	Proposed Structure(s) (Sq Ft.):
Address:	Existing Structure(s) (Sq Ft.):
Nearest Cross Street:	Water Provider:
Assessor Parcel Number:	School District:
Lot Size (Acres):	Number of Dwelling Units:

APPLICANT'S SIGNATURE

I hereby certify that the information provided in this application is, to my knowledge, true and correct.

Signature:	Date: 09-14-21
------------	----------------

OFFICE USE ONLY

General Plan:	Zoning:	Zoning Conformity:	APN:
File#	Overlay Zoning:	Minimum Setbacks:	FY RY SY

AGENT AUTHORIZATION

To the City of Oroville, Department of Community Development

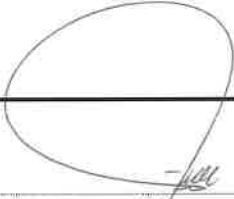
NAME OF AGENT:		PHONE NUMBER:	
COMPANY NAME:		EMAIL:	
ADDRESS:		CITY/ST/ZIP:	

AGENT SIGNATURE:

Is hereby authorized to process this application on my/our property, identified as Butte County Assessor Parcel Number (s):

This authorization allows representation for all applications, hearings, appeals, etc. and to sign all documents necessary for said processing, but not including document (s) relating to record title interest.

Owner(s) of Record (sign and print name)

1)	<u>Jose A Sanboal</u> Print Name of Owner	 Signature of Owner	<u>09-14-21</u> Date
2)	<u>Nivedo Swastegu</u> Print Name of Owner	<u>Nivedo Swastegu</u> Signature of Owner	<u>09-14-21</u> Date
3)	_____ Print Name of Owner	_____ Signature of Owner	_____ Date
4)	_____ Print Name of Owner	_____ Signature of Owner	_____ Date
	<u>2160 Humboldt Rd #111</u> Owner's Mailing Address	<u>Killeralejandro78@gmail</u> Owner's Email	<u>50308066121</u> Owner's Phone #

The Community Development Department operates on a full cost recovery for processing of permits. Staff will charge their time and any expenses associated with processing the application against the initial deposit. Fees that have been captured for the reimbursement of City expenses are non-refundable.

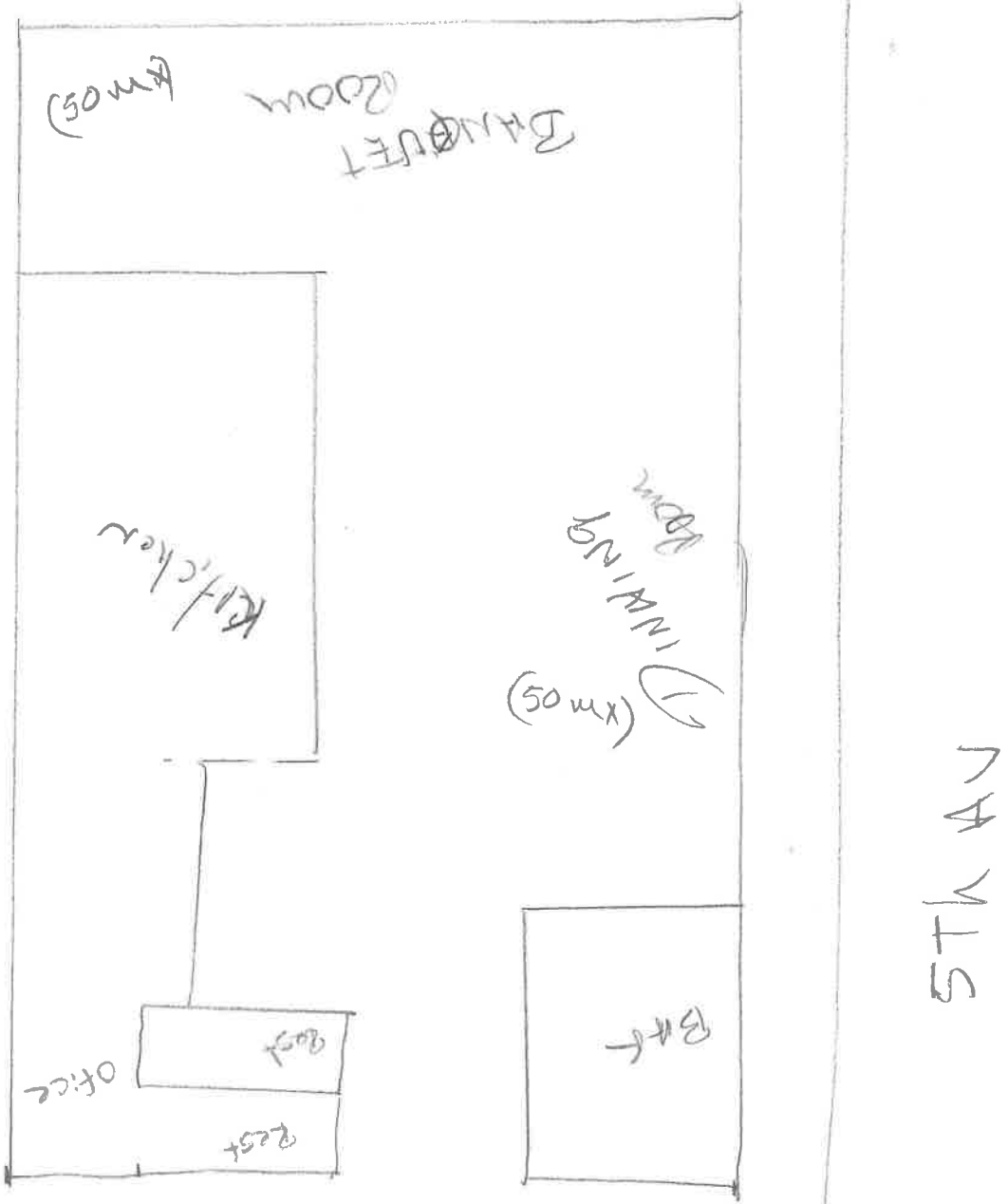
Technology cost recovery fees are non-refundable

PROJECT DESCRIPTION

Present or Previous Use:

Proposed Use:

Detailed Description:



The Community Development Department operates on a full cost recovery for processing of permits. Staff will charge their time and any expenses associated with processing the application against the initial deposit. Fees that have been captured for the reimbursement of City expenses are non-refundable.

Technology cost recovery fees are non-refundable



City of Oroville

Donald Rust
DIRECTOR

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
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(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

May 18, 2017

Vallarta Grill: Finding of Public Convenience or Necessity (Type 41) - The Oroville Planning Commission will review and consider adopting a Finding of Public Convenience or Necessity for a Type-41 "On Sale Beer and Wine – Eating Place" alcoholic beverage license for the property identified as 2100 5th Avenue (APN: 035-430-069), the existing location of the Vallarta Grill restaurant.

APPLICANTS: Jose Alejandro Sandoval-Martinez
2100 5th Avenue
Oroville, CA 95965
(530) 806-6121

LOCATION: 2100 5th Avenue
Oroville, CA 95965
APN: 035-430-069

GENERAL PLAN: Mixed Use
ZONING: Corridor Mixed Use (MXC)
FLOOD ZONE: ZONE X: Areas determined to be outside the 0.2% annual chance floodplain.

ENVIRONMENTAL DETERMINATION: General Rule Exemption; Title 14, CCR, §15061(b)(3)

REPORT PREPARED BY:

REVIEWED BY:

Luis A. Topete, Associate Planner
Community Development Department

Donald Rust, Director
Community Development Department

RECOMMENDED ACTIONS:

City staff recommends that the Planning Commission take the following actions:

ADOPT Resolution No. P2017-10: A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION FINDING AND DETERMINING THAT THE PUBLIC CONVENIENCE OR NECESSITY WOULD BE SERVED BY THE ISSUANCE OF AN ON SALE BEER & WINE – EATING PLACE (TYPE-41) ALCOHOLIC BEVERAGE LICENSE FOR THE PROPERTY IDENTIFIED AS 2100 5TH AVENUE, OROVILLE, CA 95965 (APN: 035-430-069) (**Attachment G**).

SUMMARY

The Oroville Planning Commission will review and consider adopting a Finding of Public Convenience or Necessity for a Type-41 “On Sale Beer and Wine – Eating Place” alcoholic beverage license for the property identified as 2100 5th Avenue (APN: 035-430-069), the existing location of the Vallarta Grill restaurant. A Type-41 license authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). It is required that the licensee operate and maintain the licensed premises as a bona fide eating place. Additionally, the licensee must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises under a Type-41 license. **(Attachment A).**

The issuance of this license would increase the “undue concentration” of on-sale licenses authorized in census tract 0028.00. A total of six on-sale licenses are authorized in the subject census tract **(Attachment B)** with twenty issued (18 Active; 2 Surrendered) as of April, 27 2017 **(Attachment C)**. As an undue concentration of licenses currently exists in the subject census tract, the Business and Professions Code Section 23958.4 requires a finding of public convenience "or" necessity in order for the California Department of Alcoholic Beverage Control (ABC) application to be approved. It is not legally necessary to demonstrate both a finding of convenience “and” necessity.

ANALYSIS

Findings of Public Convenience or Necessity are a tool for local governments and communities that directly ties them into the state liquor licensing process. Current state law limits the issuance of new licenses in geographical regions (census tracts) defined as high crime areas or in areas of “undue concentration” of retail alcohol outlets. However, the law also states these restrictions can be sidestepped in specified circumstances when the Department of ABC or the local jurisdiction makes a determination that the license in question would serve the “public convenience or necessity” by demonstrating that the business operation will provide some kind of benefit to the surrounding community. The applicant’s reasoning that public convenience or necessity will be served is detailed in **Attachment D**.

“Undue concentration” (also referred to as “over concentration”) is defined, with respect to on-sale retail alcoholic beverage license applications, in the Business and Professions Code Section 23958.4 as a ratio of the number of licenses in a census tract compared to the average number of licenses in a county, as a whole. It does not mean that a particular census tract necessarily has too many licenses for the needs of convenience of residents in that tract. “Over concentration” also does not mean that the State, or anyone else, has previously looked at this census tract and determined that it has suffered any adverse effects from the actual number of licenses existing or that it will suffer any adverse effects if a new license is issued.

The California Department of ABC allows six on-sale licenses within this Census Tract (0028.00) where the subject property is located, with twenty issued (18 Active; 2 Surrendered) as of April 27, 2017. As a result, Census Tract 0028.00 is identified as having an undue concentration of on-sale licenses, as defined by Section 23958.4 of the Business and Professions Code. Sections 23958 and 23958.4 of the Business and Professions Code requires ABC to deny the application unless the City determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance of the license.

ENVIRONMENTAL REVIEW

This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3), commonly known as the "general rule." A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This request for a Finding of Public Convenience or Necessity is for the purposes of being able to sell beer and wine as part of an existing restaurant, Vallarta Grill. There are no site or building alterations proposed with this request.

There is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment. Therefore, the project is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) "General Rule Exemption."

FISCAL IMPACT

The total fees associated with this request are as follows:

Item	Price	Tech Fee	Total	Paid
Finding of Public Convenience or Necessity	\$158.73	\$9.52	\$164.25	Yes
Filing of Notice of Exemption Butte County Clerks Filing Fee	\$50.00	-	\$50.00	No

ATTACHMENTS

- A – ABC License Types
- B – Licenses Authorized
- C – Issued On-Sale Licenses
- D – Request for Finding of Public Convenience or Necessity
- E – Census Tracts Map
- F – ABC Application
- G – Notice of Exemption
- H – Resolution No. P2017-10

**COMMON ABC LICENSE TYPES
AND THEIR BASIC PRIVILEGES**

LICENSE TYPE	DESCRIPTION
01	BEER MANUFACTURER - (Large Brewery) Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	WINEGROWER - (Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	OFF SALE GENERAL - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	ON SALE BEER - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	ON SALE BEER & WINE – EATING PLACE - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
42	ON SALE BEER & WINE – PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	ON SALE GENERAL – EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
48	ON SALE GENERAL – PUBLIC PREMISES - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	ON SALE GENERAL – SEASONAL - Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.



LICENSE TYPE	DESCRIPTION
51	CLUB - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises.
52	VETERAN'S CLUB - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
57	SPECIAL ON SALE GENERAL - Generally issued to certain organizations who cannot qualify for club licenses. Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guests only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
59	ON SALE BEER AND WINE – SEASONAL - Authorizes the same privileges as a Type 41. Issued for a specific season. Inclusive dates of operation are listed on the license certificate.
60	ON SALE BEER – SEASONAL - Authorizes the sale of beer only for consumption on or off the premises where sold. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. Wine or distilled spirits may not be on the premises. Minors are allowed on the premises.
61	ON SALE BEER – PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer only for consumption on or off the licensed premises. Wine or distilled spirits may not be on the premises. Minors are not allowed to enter and remain (warning signs required). Food service is not required.
67	BED AND BREAKFAST INN - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.
70	ON SALE GENERAL – RESTRICTIVE SERVICE - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to "suite-type" hotels and motels, which exercise the license privileges for guests' "complimentary" happy hour. Minors are allowed on the premises.
75	ON SALE GENERAL – BREWPUB - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. Also authorizes the sale of beer and wine only for consumption off the premises where sold. Minors are allowed on the premises.
80	BED AND BREAKFAST INN – GENERAL - Authorizes the sale of beer, wine and distilled spirits purchased from a licensed wholesaler or winegrower only to registered guests of the establishment for consumption on the premises. Alcoholic beverages shall not be given away to guests, but the price of the alcoholic beverage shall be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds is not permitted. Minors are allowed on the premises.
86	INSTRUCTIONAL TASTING LICENSE —Issued to the holder of and premises of a Type 20 or Type 21 licensee, authorizes the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee.



SPECIAL EVENTS

The Department also issues licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events. The most common are listed below. Other less common ones are found in Business and Professions Code Section 24045.2, et seq.

SPECIAL DAILY BEER AND/OR WINE LICENSE - (Form ABC-221) Authorizes the sale of beer and/or wine for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to non-profit organizations. (Rule 59, California Code of Regulations)

DAILY ON SALE GENERAL LICENSE - (Form ABC-221) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to political parties or affiliates supporting a candidate for public office or a ballot measure or charitable, civic, fraternal or religious organizations. (Section 24045.1 and Rule 59.5 California Code of Regulations)

CATERING AUTHORIZATION - (Form ABC-218) Authorizes Type 47, 48, 51, 52, 57, 75 and 78 licensees (and catering businesses that qualify under Section 24045.12) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events. Type 47, 48 and 57 licensees may cater alcoholic beverages at any ABC-approved location in the State. Type 51 and 52 licensees may only cater alcoholic beverages at their licensed premises. All licensees wishing to cater alcoholic beverages must obtain prior written authorization from the Department for each event. At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399 and Rule 60.5 California Code of Regulations)

EVENT AUTHORIZATION - (Form ABC-218) Authorizes Type 41, 42, 47, 48, 49, 57, 75 and 78 licensees to sell beer, wine and distilled spirits for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. *The licensee shall obtain prior approval of the local law enforcement agency.* At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises (including any license conditions) and violations of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399)

WINE SALES EVENT PERMIT - (Form ABC-239) Authorizes Type 02 licensees to sell bottled wine produced by the winegrower for consumption off the premises where sold and only at fairs, festivals or cultural events sponsored by designated tax exempt organizations. The licensee must notify the city and/or county where the event is being held and obtain approval from ABC for each event (Form ABC-222). The licensee must also comply with all restrictions listed in Business and Professions Code Section 23399.6.

Note:

1. "Minor" means any person under 21 years of age.
2. Consult Section 25663(b) regarding age of employees in off-sale premises; consult Sections 25663(a) and 25663.5 regarding age of employees in on-sale premises.
3. In certain situations, ABC may place reasonable conditions upon a license, such as restrictions as to hours of sale, employment of designated persons, display of signs, restrictions on entertainment or dancing, etc. If a license has been conditioned, it will be endorsed as such on the face of the license. (Conditional licenses, Sections 23800-23805.)
4. Licensees whose license allows minors on the premises may have a "house policy" restricting minors from entering certain areas of the premises or prohibiting minors in the premises during certain hours.
5. This handout contains only abbreviated information. Contact your local ABC office for full information before doing anything which may jeopardize your license. Also available from the ABC: Quick Summary of Selected ABC Laws (form ABC-608); Alcoholic Beverage Control Act (complete laws); Rules & Regulations; and P-90 (describes privileges of non-retail licenses).

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
NUMBER OF LICENSES AUTHORIZED
BY CENSUS TRACT

Item 3.

County Name	County Population	County Ratio On Sale	County Ratio Off Sale	Census Tract #	Census Tract Population	On Sale	Off Sale
AMADOR	37,707	346	686	2.00	4,672	13	6
AMADOR	37,707	346	686	3.01	5,871	16	8
AMADOR	37,707	346	686	3.03	5,073	14	7
AMADOR	37,707	346	686	3.04	3,946	11	5
AMADOR	37,707	346	686	4.01	5,020	14	7
AMADOR	37,707	346	686	4.02	4,740	13	6
AMADOR	37,707	346	686	5.00	2,995	8	4
BUTTE	224,601	674	1,080	1.02	3,900	5	3
BUTTE	224,601	674	1,080	1.03	3,902	5	3
BUTTE	224,601	674	1,080	1.04	5,636	8	5
BUTTE	224,601	674	1,080	2.01	4,052	6	3
BUTTE	224,601	674	1,080	2.02	3,723	5	3
BUTTE	224,601	674	1,080	3.00	4,410	6	4
BUTTE	224,601	674	1,080	4.01	1,771	2	1
BUTTE	224,601	674	1,080	4.02	7,030	10	6
BUTTE	224,601	674	1,080	5.01	4,333	6	4
BUTTE	224,601	674	1,080	5.02	4,204	6	3
BUTTE	224,601	674	1,080	6.01	3,304	4	3
BUTTE	224,601	674	1,080	6.03	3,130	4	2
BUTTE	224,601	674	1,080	6.04	4,217	6	3
BUTTE	224,601	674	1,080	7.00	4,694	6	4
BUTTE	224,601	674	1,080	8.00	5,295	7	4
BUTTE	224,601	674	1,080	9.01	2,142	3	1
BUTTE	224,601	674	1,080	9.03	6,117	9	5
BUTTE	224,601	674	1,080	9.04	6,071	9	5
BUTTE	224,601	674	1,080	10.00	4,801	7	4
BUTTE	224,601	674	1,080	11.00	4,572	6	4
BUTTE	224,601	674	1,080	12.00	3,556	5	3
BUTTE	224,601	674	1,080	13.00	4,169	6	3
BUTTE	224,601	674	1,080	14.00	5,797	8	5
BUTTE	224,601	674	1,080	15.00	5,297	7	4
BUTTE	224,601	674	1,080	16.00	5,266	7	4
BUTTE	224,601	674	1,080	17.02	5,739	8	5
BUTTE	224,601	674	1,080	17.03	2,852	4	2
BUTTE	224,601	674	1,080	17.04	3,060	4	2
BUTTE	224,601	674	1,080	18.00	5,640	8	5
BUTTE	224,601	674	1,080	19.00	3,373	5	3
BUTTE	224,601	674	1,080	20.00	5,184	7	4
BUTTE	224,601	674	1,080	21.00	4,599	6	4
BUTTE	224,601	674	1,080	22.00	5,156	7	4
BUTTE	224,601	674	1,080	23.00	5,331	7	4
BUTTE	224,601	674	1,080	24.00	5,157	7	4
BUTTE	224,601	674	1,080	25.00	4,930	7	4
BUTTE	224,601	674	1,080	26.01	2,324	3	2
BUTTE	224,601	674	1,080	26.02	3,455	5	3
BUTTE	224,601	674	1,080	27.00	5,478	8	5
BUTTE	224,601	674	1,080	28.00	4,275	6	3
BUTTE	224,601	674	1,080	29.00	3,060	4	2
BUTTE	224,601	674	1,080	30.01	3,140	4	2
BUTTE	224,601	674	1,080	30.02	3,531	5	3
BUTTE	224,601	674	1,080	31.00	4,396	6	4
BUTTE	224,601	674	1,080	32.00	4,234	6	3





**California Department of Alcoholic Beverage
Control
For the County of BUTTE - (On-Sale Licenses)
and Census Tract = 0028.00**

Report as of 4/27/2017

License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) 171309	ACTIVE	47	7/11/1985	9/30/2017	REYES, ALBERTO N 1560 HUNTOON ST OROVILLE, CA 95965	CASA VIEJA		0404
2) 218244	ACTIVE	41	5/10/1988	4/30/2017	Census Tract: 0028.00 OROPEZA, FELIPE JOSEPH 2280 MYERS ST OROVILLE, CA 95966	FRANCISCOS RESTAURANT		0404
3) 230621	ACTIVE	47	3/28/1991	1/31/2018	Census Tract: 0028.00 TAYLOR, ROBERT M 1445 MYERS ST OROVILLE, CA 95965	COPA DE ORO	505 S VILLA REAL , 201A ANAHEIM HILLS, CA 92807	0404
4) 343977	ACTIVE	41	9/9/1998	8/31/2017	Census Tract: 0028.00 WONG, BRIAN Y 2051 ROBINSON ST OROVILLE, CA 95965	TONG FONG LOW		0404
5) 444890	ACTIVE	47	1/23/2008	12/31/2017	Census Tract: 0028.00 APPLE AB ENTERPRISES INC 2160 FEATHER RIVER BLVD OROVILLE, CA 95965	APPLEBEES BAR & GRILL	400 REDCLIFF DR REDDING, CA 96002- 0116	0404
6) 446430	ACTIVE	41	12/22/2006	11/30/2017	Census Tract: 0028.00 BARNES, GAIL JEAN 515 MONTGOMERY ST OROVILLE, CA 95965-4510	CORNUCOPIA RESTAURANT	PO BOX 6267 OROVILLE, CA 95966- 1267	0404
7) 468423	SUREND	48	7/14/2008	6/30/2017	Census Tract: 0028.00 SMITH, SHILO WILLIAM ELLIOT 1933 MONTGOMERY ST, # A OROVILLE, CA 95965-4952	MONTGOMERY STREET PUB		0404
8) 470515	SUREND	47	1/20/2009	1/31/2018	Census Tract: 0028.00 DAVID F DEAKINS CONSTRUCTION COMPANY 2191 HIGH ST OROVILLE, CA 95965-4917	WESTERN PACIFIC BREWNG & DINING		0404
9) 538641	ACTIVE	41	9/3/2014 5:15:48 PM	8/31/2017	Census Tract: 0028.00 ORO BULLDOG LLC 450 ORO DAM BLVD E OROVILLE, CA 95965-5715	LA ESMERALDA MARKET	2012 CHAMBERS CIRCLE BRENTWOOD, CA 94513	0404
10) 543131	ACTIVE	47	9/16/2014 9:54:05 AM	9/30/2017	Census Tract: 0028.00 PARKERVORT FARMS INC 2053 MONTGOMERY ST OROVILLE, CA 95965-4947	MINERS ALLEY BREWNG COMPANY	P O BOX 5395 OROVILLE, CA 95966- 4928	0404
11) 556821	ACTIVE	40	7/24/2015 2:24:06 PM	6/30/2017	Census Tract: 0028.00 VASUDEVA, ASHOK KUMAR 2401 5TH AVE OROVILLE, CA 95965	VASU GAS & FOOD		0404
12) 564225	ACTIVE	48	2/23/2016 2:18:14 PM	1/31/2018	Census Tract: 0028.00 JOHNSON, COREY D 2021 BALDWIN AVE OROVILLE, CA 95966-5311		32 WILDA CT IONE, CA 95640	0404
13) 564886	ACTIVE	47	1/29/2016 3:01:23 PM	12/31/2017	Census Tract: 0028.00 ORO BULLDOG LLC 2450 ORO DAM BLVD E, STE 1A OROVILLE, CA 95966	PATIO THE	2012 CHAMBERS CIR BRENTWOOD, CA 94513-2601	0404
14) 566337	ACTIVE	41	3/25/2016 1:31:41 PM	2/28/2018	Census Tract: 0028.00 SAETEURN, LAI THA 1124 ORO DAM BLVD E, STE F OROVILLE, CA 95965-5844	QUICKLY, PHO KING BEST	29 LA FORET DR OROVILLE, CA 95966- 3817	0404
15) 567336	ACTIVE	41	4/29/2016	3/31/2017	Census Tract: 0028.00 RAMOS, LETICIA	LA CASA DE RAMOS	22802 SANFORD ST	0404

		10:20:41 AM		2100 5TH AVE OROVILLE, CA 95965					
16)	<u>575189</u>	ACTIVE	41	11/9/2016 9:21:44 AM	10/31/2017	Census Tract: 0028.00 SAELEE, CHIO MEUY 2025 BIRD ST OROVILLE, CA 95965	NORI ASIAN KITCHEN AND GRILL	0404	
17)	<u>578307</u>	ACTIVE	41	3/15/2017 1:31:40 PM	2/28/2018	Census Tract: 0028.00 ZHU, MINGXIA 2359 MYERS ST, STE E OROVILLE, CA 95966-5318	GOURMET KITCHEN CHINESE RESTAURANT	0404	
18)	<u>578383</u>	ACTIVE	42	2/7/2017 2:11:26 PM	9/30/2017	Census Tract: 0028.00 NELSON, COLIN THOMAS 1440 MYERS ST, STE A OROVILLE, CA 95965	BUTTE COUNTY WINE COMPANY	0404	
19)	<u>83884</u>	ACTIVE	41	1/30/1980	12/31/2017	Census Tract: 0028.00 SISCO ENTERPRISES INC 1124 ORO DAM BLVD E OROVILLE, CA 95965	ROUND TABLE PIZZA	500 WEAST AVE CHICO, CA 95926- 7238	0404
20)	<u>9226</u>	ACTIVE	51	9/7/1955	6/30/2017	Census Tract: 0028.00 EAGLES LODGE OROVILLE AERIE 196 2010 MONTGOMERY ST OROVILLE, CA 95965	EAGLES LODGE OROVILLE AERIE 196	PO BOX 306 OROVILLE, CA 95965	0404
						Census Tract: 0028.00			

--- End of Report ---

For a definition of codes, view our [glossary](#).

April 27, 2017

To whom it may concern:

This letter is addressing the current application for the sale of Beer and Wine for our restaurant Vallarta Grill. The restaurant is located at 2100 5th Ave Oroville CA, 95965. The hours of business are 9 a.m. – 9 p.m. Serving breakfast, lunch, and dinner.

We have currently been open close to a month and the business has been doing well considering it is very new to the community. It is hard to say the number of patrons we serve per day as it varies daily. An estimate would be at least 50 daily.

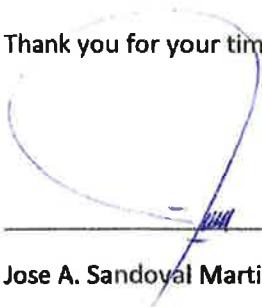
The restaurant has Mexican/American food and like with any restaurant consumers like to enjoy a beer with their meal. We currently do not plan on having any type of live entertainment other than for a few hours during the day for a grand opening event on a weekend not disturbing surrounding businesses. Currently we do feel that the business would have more of a profit with the sale of beer mainly as consumers have been asking when we will be selling it when they try to order.

The business has already brought in a lot of clientele especially with the surrounding businesses. If we make a higher profit we will be able to help the community with sponsoring different events and programs such as little league, school fundraisers etc. We have an area in the restaurant that could accommodate bigger groups for business meetings or social gatherings for big groups.

This restaurant is quick and very good. We offer dine in and take out for our on the go customers. It is very convenient with the location, cleanliness, and making the quickness of the food delivery a priority very convenient.

So please take this letter and our restaurant into consideration. These license is really the only thing missing to making our family business a complete success.

Thank you for your time,



Jose A. Sandoval Martinez

INFORMATION AND INSTRUCTIONS -

SECTION 23958.4 B&P

Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.

- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
- Part 2 is to be completed by the applicant, and returned to ABC.
- Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME Lucas Seleto Adams

2. PREMISES ADDRESS (Street number and name, city, zip code) Brian Espinoza, Jose. Sandoval-Martinez, Rivedo Suastegui,

2100 5th Ave, Oroville 95965 3. LICENSE TYPE 1/1

4. TYPE OF BUSINESS

<input checked="" type="checkbox"/> Full Service Restaurant	<input type="checkbox"/> Hofbrau/Cafeteria	<input type="checkbox"/> Cocktail Lounge	<input type="checkbox"/> Private Club
<input type="checkbox"/> Deli or Specialty Restaurant	<input type="checkbox"/> Comedy Club	<input type="checkbox"/> Night Club	<input type="checkbox"/> Veterans Club
<input type="checkbox"/> Cafe/Coffee Shop	<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Tavern: Beer	<input type="checkbox"/> Fraternal Club
<input type="checkbox"/> Bed & Breakfast:	<input type="checkbox"/> Theater	<input type="checkbox"/> Tavern: Beer & Wine	<input type="checkbox"/> Wine Tasting Room
<input type="checkbox"/> Wine only	<input type="checkbox"/> All		

<input type="checkbox"/> Supermarket	<input type="checkbox"/> Membership Store	<input type="checkbox"/> Service Station	<input type="checkbox"/> Swap Meet/Flea Market
<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Department Store	<input type="checkbox"/> Convenience Market	<input type="checkbox"/> Drive-in Dairy
<input type="checkbox"/> Drug/Variety Store	<input type="checkbox"/> Florist/Gift Shop	<input type="checkbox"/> Convenience Market w/Gasoline	
<input type="checkbox"/> Other - describe:			

5. COUNTY POPULATION

6. TOTAL NUMBER OF LICENSES IN COUNTY On-Sale Off-Sale

7. RATIO OF LICENSES TO POPULATION IN COUNTY On-Sale Off-Sale

8. CENSUS TRACT NUMBER 280

9. NO. OF LICENSES ALLOWED IN CENSUS TRACT 6 On-Sale Off-Sale

10. NO. OF LICENSES EXISTING IN CENSUS TRACT 19 On-Sale Off-Sale

11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)

Yes, the number of existing licenses exceeds the number allowed

No, the number of existing licenses is lower than the number allowed

12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?

Yes (Go to Item #13) No (Go to Item #20)

13. CRIME REPORTING DISTRICT NUMBER

14. TOTAL NUMBER OF REPORTING DISTRICTS

15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS

16. AVERAGE NO. OF OFFENSES PER DISTRICT

17. 120% OF AVERAGE NUMBER OF OFFENSES

18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT

19. IS THE PREMISES LOCATED IN A HIGH-CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)

Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17

No, the total number of offenses in the reporting district is lower than the total number in item #17

20. CHECK THE BOX THAT APPLIES (check only one box)

a. If "No" is checked in both item #11 and item #19, Section 23958.4 B&P does not apply to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.

b. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the applicant to complete Section 2 and bring the completed form to ABC when filing the application or as soon as possible thereafter.

c. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The completed form will need to be provided to ABC in order to process the application

Governing Body/Designated Subordinate Name: (Signature)

FOR DEPARTMENT USE ONLY
PREPARED BY (Name of Department Employee)

PART 2 - TO BE COMPLETED BY THE APPLICANT (If box #20b is checked)

21. Based on the information on the reverse, the Department may approve your application if you can show that public convenience or necessity would be served by the issuance of the license. Please describe below the reasons why issuance of another license is justified in this area. You may attach a separate sheet or additional documentation, if desired. Do not proceed to Part 3.

Lined area for handwritten response to item 21.

22 APPLICANT SIGNATURE

23 DATE SIGNED

PART 3 - TO BE COMPLETED BY LOCAL OFFICIALS (If box #20c is checked)

The applicant named on the reverse is applying for a license to sell alcoholic beverages at a premises where undue concentration exists (i.e., an over-concentration of licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code). Sections 23958 and 23958.4 of the Business and Professions Code requires the Department to deny the application unless the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance.

Please complete items #24 to #30 below and certify or affix an official seal, or attach a copy of the Council or Board resolution or a signed letter on official letterhead stating whether or not the issuance of the applied for license would serve as a public convenience or necessity.

24 WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?

Yes No

See Attached (i.e., letter, resolution, etc.)

25 ADDITIONAL COMMENTS, IF DESIRED (may include reasons for approval or denial of public convenience or necessity)

Lined area for handwritten response to item 25, crossed out with a diagonal line.

26 CITY/COUNTY OFFICIAL NAME

27 CITY/COUNTY OFFICIAL TITLE

28 CITY/COUNTY OFFICIAL PHONE NUMBER

29 CITY/COUNTY OFFICIAL SIGNATURE

30 DATE SIGNED

In a letter to the Department of Alcoholic Beverage Control, it should be explained how the Public Convenience or Necessity would be served by the issuance of this license. The letter should include, but not be limited to;

- 1) Statements regarding the intended hours of operation, number of patrons served, variety and volume of service / merchandise other than alcoholic beverages that would be sold / provided.
- 2) Indicate the food type and hours of service, where applicable any entertainment to be provided (Live, recorded, films, amusement devices). Include your means of controlling potential law enforcement problems relating to the conduct of your business, the population group from clientele would be drawn (neighborhood, daytime workers, evening entertainment, students etc.).
- 3) Include the existence or lack of other businesses in the immediate area within approximately 1,000 feet radius of the applied for premises which provide similar services and or product. Describe the uniqueness of your type of business that would justify the issuance of an alcoholic beverage license to a premises located in an over-concentrated census tract.
- 4) Describe the benefits your business will bring to the surrounding community by the issuance of an alcoholic beverage license to said premises.
- 5) Describe the convenience that your business will bring to the community.
- 6) Describe the necessity that your business will fulfill by issuance of an alcoholic beverage license to a premises in an over concentrated census tract



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

Donald Rust
DIRECTOR

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

NOTICE OF EXEMPTION

TO: Butte County Clerk
25 County Center Drive
Oroville CA, 95965

FROM: City of Oroville
1735 Montgomery Street
Oroville, CA, 95965

Project Title: Vallarta Grill: Finding of Public Convenience or Necessity (Type 41)

Project Location – Specific: 2100 5th Avenue (APN: 035-430-069)

Project Location - City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: The project applicant, Jose Alejandro Sandoval-Martinez, has applied for a Finding of Public Convenience or Necessity for a Type-41 "On Sale Beer and Wine – Eating Place" alcoholic beverage license for the property identified as 2100 5th Avenue (APN: 035-430-069), the existing location of the Vallarta Grill restaurant.

Name of Public Agency Approving Project: City of Oroville – Community Development Department

Name of Person or Agency Carrying Out Project: Jose Alejandro Sandoval-Martinez

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number:
- Statutory Exemption: State code number:
- Other: General Rule Exemption; Title 14, CCR, §15061(b)(3)

Reasons why project is exempt: This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3), commonly known as the "general rule." A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This request for a Finding of Public Convenience or Necessity is for the purposes of being able to sell beer and wine as part of an existing restaurant, Vallarta Grill. There are no site or building alterations proposed with this request.

There is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment. Therefore, the project is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) "General Rule Exemption."

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? Yes No

Lead Agency Contact Person: Luis A. Topete

Telephone: (530) 538-2408

Signature: _____

Date: _____

- Signed by Lead Agency
- Signed by Applicant

RESOLUTION NO. P2017-10

A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION FINDING AND DETERMINING THAT THE PUBLIC CONVENIENCE OR NECESSITY WOULD BE SERVED BY THE ISSUANCE OF AN ON SALE BEER & WINE – EATING PLACE (TYPE-41) ALCOHOLIC BEVERAGE LICENSE FOR THE PROPERTY IDENTIFIED AS 2100 5TH AVENUE, OROVILLE, CA 95965 (APN: 035-430-069)

WHEREAS, pursuant to applicable provisions of the Business and Professions Code of the State of California, the Department of Alcoholic Beverage Control is charged with the responsibility of reviewing applications and issuance of licenses for the sale and/or manufacture of alcoholic beverages in the State of California; and

WHEREAS, Section 23958 of the Business and Professions Code provides that the Department of Alcoholic Beverage Control shall deny an application for a license or for a transfer of a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4 of said Business and Professions Code; and

WHEREAS, Section 23958.4 of the Business and Professions Code provides that, notwithstanding the limitations of Section 23958, the Department of Alcoholic Beverage Control may issue a license if the local governing body of the area in which the applicant premises are located determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance; and

WHEREAS, the applicant has petitioned the Department of Alcoholic Beverage Control for a Type-41 “On Sale Beer and Wine – Eating Place” alcoholic beverage license for the property identified as 2100 5th Avenue (APN: 035-430-069), the existing location of the Vallarta Grill restaurant; and

WHEREAS, the subject business is located in Census Tract 0028.00 with a population such that the Department of Alcoholic Beverage Control authorizes up to six on-sale licenses before an undue concentration would exist, and there are currently twenty licenses issued (18 Active; 2 Surrendered); and

WHEREAS, the City of Oroville has prepared a Letter of Public Convenience or Necessity provided as EXHIBIT “A” attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION as follows:

SECTION 1. The foregoing recitals are incorporated herein and made a part hereof.

SECTION 2. That the public convenience or necessity would be served by the issuance of a Type-41 “On Sale Beer and Wine – Eating Place” alcoholic beverage license for the property identified as 2100 5th Avenue (APN: 035-430-069), the existing location of the Vallarta Grill restaurant.

SECTION 3. The Planning Commission finds and has determined that the use and operation of the site as proposed will assist in the generation of additional sales tax revenues to the City, as well as, assist in the creation and maintenance of additional jobs and economic opportunities for the residents of the City.

SECTION 4. This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3), commonly known as the “general rule.” A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This request for a Finding of Public Convenience or Necessity is for the purposes of being able to sell beer and wine as part of an existing restaurant, Vallarta Grill. There are no site or building alterations proposed with this request.

There is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment. Therefore, the project is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) "General Rule Exemption."

SECTION 5. The request for a Finding of Public Convenience or Necessity Determination is hereby approved.

SECTION 6. The Zoning Administrator is hereby authorized to sign and transmit Exhibit A to the Department of Alcoholic Beverage Control on behalf of the City.

I **HEREBY CERTIFY** that the foregoing resolution was duly introduced and passed at a special meeting of the Planning Commission of the City of Oroville held on the 18th of May, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

DONALD L. RUST, SECRETARY

DAMON ROBISON, CHAIRPERSON

EXHIBIT
A – Letter of Public Convenience or Necessity



City of Oroville

Donald Rust
DIRECTOR

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

May 19, 2017

State of California
Department of Alcoholic Beverage Control
1900 Churn Creek Rd, Suite 215
Redding, CA 96002

RE: LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR A TYPE-41 "ON SALE BEER & WINE – EATING PLACE" ALCOHOLIC BEVERAGE LICENSE FOR THE PROPERTY IDENTIFIED AS 2100 5TH AVENUE, OROVILLE, CA 95965 (APN: 035-430-069)

To Whom It May Concern:

This letter shall serve to notify the California Department of Alcoholic Beverage Control that on May 18, 2017, the City of Oroville Planning Commission adopted a finding of public convenience or necessity and authorized the Zoning Administrator to sign this letter conveying the City's support for issuing an alcoholic beverage license (Type-41 "On Sale Beer and Wine – Eating Place") for the property located at 2100 5th Avenue (APN: 035-430-069), the existing location of the Vallarta Grill restaurant. The City of Oroville supports the efforts of community businesses to expand the local economy and finds no cause to oppose the requested license.

If there are any questions regarding the matters described in this letter, please contact Donald Rust, Director of Community Development, by phone at (530) 538-2433 or by e-mail at drust@cityoforoville.org

Sincerely,

Donald Rust, Director
Community Development Department



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

October 28, 2021

State of California
Department of Alcoholic Beverage Control
1900 Churn Creek Rd, Suite 215
Redding, CA 96002

RE: LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR A TYPE-47 "ON SALE GENERAL – EATING PLACE" ALCOHOLIC BEVERAGE LICENSE FOR THE PROPERTY IDENTIFIED AS 2100 5TH AVENUE, OROVILLE, CA 95965 (APN: 035-430-069)

To Whom It May Concern:

This letter shall serve to notify the California Department of Alcoholic Beverage Control that on October 28, 2021, the City of Oroville Planning Commission adopted a finding of public convenience or necessity and authorized the Zoning Administrator to sign this letter conveying the City's support for issuing an alcoholic beverage license (Type 47 "On Sale General – Eating Place") for the above property, the location of Vallarta Grill Restaurant operated by Jose A. Sandoval. The City of Oroville supports the efforts of community businesses to expand the local economy and finds no cause to oppose the requested license.

If there are any questions regarding the matters described in this letter, please contact Wes Ervin, Planner, by phone at (530) 538-2408 or by e-mail at wervin@cityoforoville.org

Sincerely,

Dawn Nevers, Assistant Director
Community Development Department



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

Thursday, October 28, 2021

RE: General Plan Amendment and Rezone of Plumas Avenue School at 440 Plumas Avenue to Public-Quasi Public

SUMMARY: The Oroville Planning Commission will review and consider recommending that the City Council approve General Plan Amendment (GPA) 21-03 and Zoning Code Amendment (ZC) 21-07 for a parcel identified as 440 Plumas Ave (APN 031-172-082), the location of the Plumas Avenue School.

RECOMMENDATION: Staff recommends the following actions:

1. **Conduct a Public Hearing** on the proposed project;
2. **Adopt the Notice of Exemption** as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA);
3. **Recommend that the City Council approve General Plan Amendment GPA 21-03**
4. **Recommend that the City Council approve Zoning Code Amendment ZC 21-07**
5. **Adopt** Resolution No. P2021-20

APPLICANT: City of Oroville

LOCATION: 440 Plumas Avenue (APN 031-172-082)

GENERAL PLAN: MLDR (Medium Low Density Residential)

ZONING: RL (Large Lot Residential)

FLOOD ZONE: Zone X

ENVIRONMENTAL DETERMINATION: Categorically Exempt per Section 15061 (General Rule Exemption), 15303c (New Construction or Conversion of Small Structures), and 15332 (Infill Development Projects) of Title 14, California Code of Regulations, General Rule Exemption.

REPORT PREPARED BY:

REVIEWED BY:

 Connor Musler, Assistant Planner
 Community Development Department

 Dawn Nevers, Assistant Director
 Community Development Department

DISCUSSION

The City has initiated this General Plan Amendment (GPA 21-03) to Public and Zone Change (ZC 21-07) to Public or Quasi-Public. The property is home to the Plumas Avenue Elementary School and this change from residential zoning to public is consistent with the other public schools within the City. The site should have been zoned as proposed but was most likely overlooked when the City adopted the 2030 General Plan in 2015.

Staff became aware of the improper zoning upon receiving an inquiry from the school district's architect seeking to construct a 7,500 square foot pre-engineered metal building for the school ground maintenance crew. An expansion to the school and its facilities is allowed, subject to a use permit, however, a public zoning designation for a public school allows the most flexibility for the district when using the site.

ENVIRONMENTAL

This project is exempt from CEQA under Section 15061, 15303(c), and 15332 of Title 14, California Code of Regulations. First, the amendment actions themselves have no possibility of causing a physical change to the environment and are exempt under the General Rule Exemption. The City also has an active application in for a 7,500 square foot pre-engineered metal building. The metal building is exempt from CEQA under Section 15303(c) exempting structures not exceeding 10,000 square feet in urbanized areas from environmental review. Staff also note that this parcel has been utilized by a school since at least 2004 so most new projects would be considered infill under Section 15332 and/or would be ministerial and permitted by right.

FISCAL IMPACT

None. The City has initiated this change.

PUBLIC NOTICE

A request for comments was prepared and circulated to the local agencies and surrounding property owners within 300 feet of the property. Additionally, the meeting date, time, and project description were published in the Oroville Mercury Register and posted at City Hall.

ATTACHMENTS

1. Resolution P2021-20
2. Notice of Exemption (CEQA)
3. Map of Affected Parcel
4. Proposed Maintenance Building Plans

RESOLUTION NO. P2021-20

A RESOLUTION OF INTENTION BY THE OROVILLE PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL ADOPT GENERAL PLAN AMENDMENT 21-03 AND ZONING CODE AMENDMENT ZC 21-07 TO CHANGE THE LAND USE DESIGNATION AND ZONING OF 440 PLUMAS AVE (APN 031-172-082) TO PUBLIC QUASI-PUBLIC

WHEREAS, the City of Oroville has determined that this parcel has been used exclusively for a public school; and

WHEREAS, public schools in the City are generally zoned Public or Quasi-Public (PQ); and

WHEREAS, the City has initiated this general plan amendment and rezone to allow this school to have the same rights and privileges as those afforded to other public schools in the City; and

WHEREAS, at a duly noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the changes described herein, and also considered the City's staff report regarding the change.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION as follows:

1. This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15301 "Existing Facilities."
2. The Planning Commission recommends that the City Council adopt General Plan Amendment (GPA) 21-03 and Zoning Change (ZC) 21-07.
3. The Planning Commission recommends that the City Council direct the preparation and adoption of one or more ordinances as necessary to amend the City of Oroville Zoning Map to affect the necessary zoning changes.
4. For any new development, the property owner and any subsequent owners must obtain all required permits from the City and any responsible agencies, and implement the conditions of those permits.

I HEREBY CERTIFY that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 28th of October 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

JACKIE GLOVER, ASSISTANT CITY CLERK

CARL DURLING, CHAIRPERSON



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

NOTICE OF EXEMPTION

: TO	Butte County Clerk	: FROM	City of Oroville
	155 Nelson Avenue Oroville, CA 95965		1735 Montgomery Street Oroville, CA 95965

Project Title: General Plan Amendment (GPA) 21-04 and Zoning Change (ZC) 21-07 for Plumas Avenue Elementary School

Project Location – Specific: 440 Plumas Avenue

Project Location - City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: The City of Oroville has initiated a General Plan Amendment and Zoning Change to change the land use designation to public and zoning designation to public quasi-public for a site utilized by Plumas Avenue Elementary School. The site has been utilized for a public school for some time and was improperly zoned residential during the 2030 General Plan update.

Name of Public Agency Approving Project: City of Oroville

Name of Person or Agency Carrying Out Project: City of Oroville

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number:
 - General Rule Exemption; Title 14, CCR, §15061(b)(3)
 - In-Fill Development Projects, Title 14, CCR, §15332
- Statutory Exemption: State code number:

Reasons why project is exempt: This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review as follows:

General Rule Exemption; Title 14, CCR, §15061(b)(3)

A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. It has been determined that there is no possibility

that the change to public zoning will have a significant effect on the environment. The property has been utilized as a public school for decades now, has no value as habitat, and is surrounded by residential and commercial uses. Thus, this action is exempt from CEQA.

New Construction or Conversion of Small Structures; Title 14, CCR §15303(c)

Class 3 categorical exemptions consist of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. While the changing of the land use designation and zoning does not constitute new construction in itself, the City has an active application for a 7,500 square foot pre-engineered metal building. This building falls below the maximum 10,000 square feet in floor area in non-environmentally sensitive urbanized areas, thus the future metal building will be exempt from CEQA.

In-Fill Development Projects; Title 14, CCR, §15332

Class 32 categorical exemptions consists of projects characterized as in-fill development. Any subsequent development will be considered as infill due to the location, history, and surrounding uses of the site. Any subsequent development will also be individually evaluated for its potential to generate significant impacts. The site is within City limits, has no value as habitat, will not result in any significant effects, and can be adequately served by all required utilities.

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? Yes No

Lead Agency Contact Person: Connor Musler

Telephone: (530) 538-2430

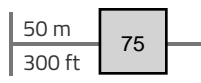
Signature: _____

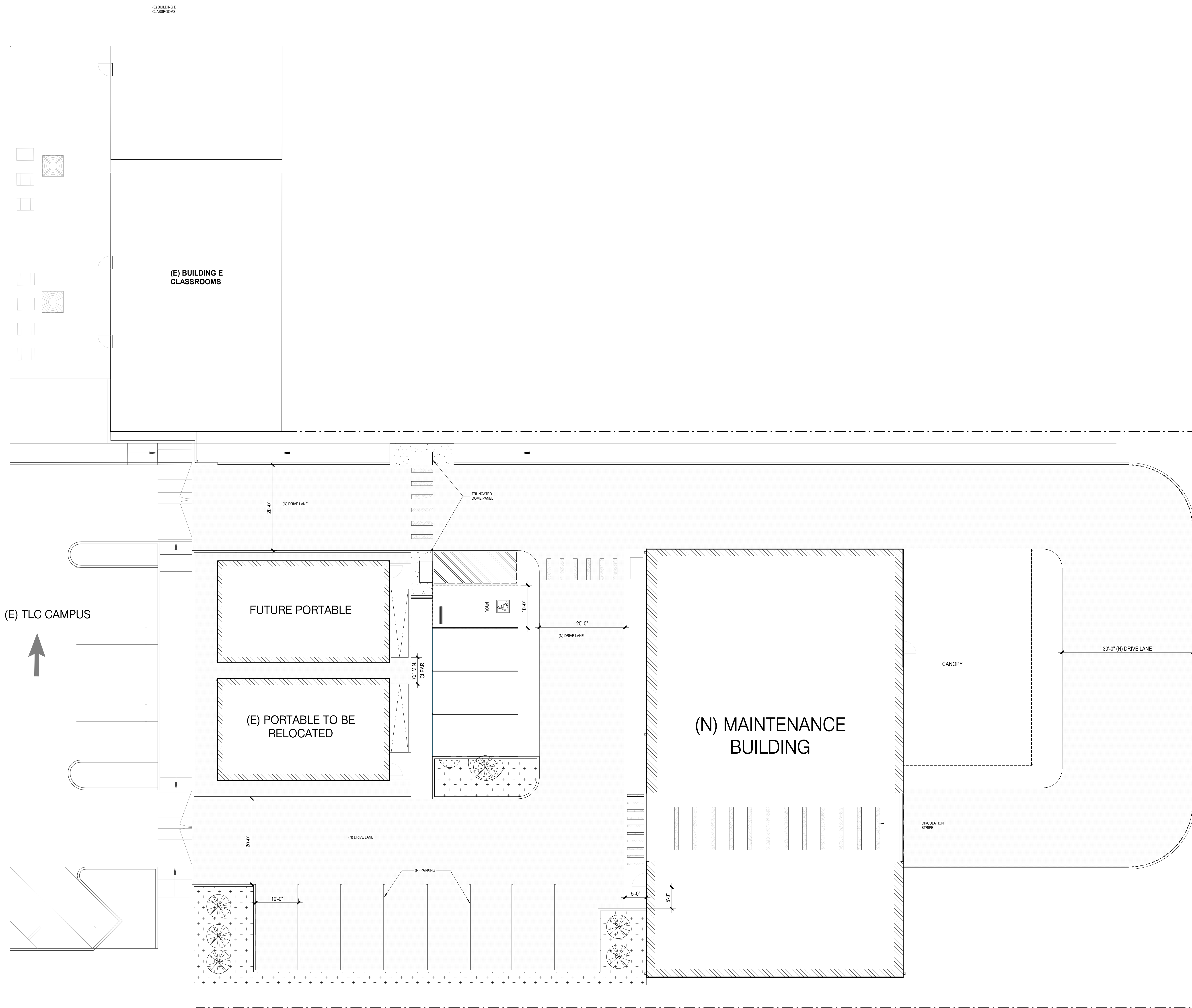
Date: _____

- Signed by Lead Agency
- Signed by Applicant



- Address
- + Railroads
- Oroville City Limits
- Sphere of Influence
- Planning Area
- Parcels





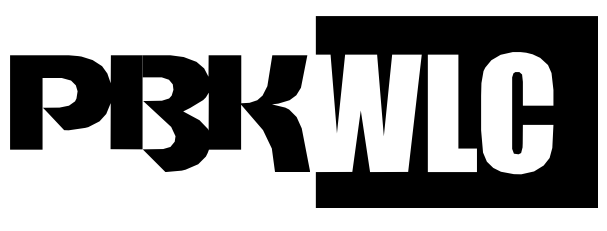
KEYNOTE LEGEND

SITE PLAN NOTES

1. REFER TO CIVIL DOCUMENTS
2. COORD. ALL SPOT ELEVATIONS AND DIMENSIONS WITH CIVIL, LANDSCAPE, AND/OR STRUCTURAL DOCUMENTS
3. PROVIDE AND INSTALL POSITIVE DRAINAGE AWAY FROM ALL BUILDINGS OF 1% MINIMUM, 2% MAXIMUM AT ALL EXTERIOR PAVED PEDESTRIAN AREAS, INCLUDING BUT NOT LIMITED TO, SIDEWALKS, PATIOS, STAIRS, PAVING, U.N.O.
4. PROVIDE AND INSTALL POSITIVE DRAINAGE AWAY FROM ALL BUILDINGS OF 5% FOR A HORIZ. DISTANCE OF 10 FEET AT ALL EXTERIOR NON-PAVED AREAS U.N.O.
5. REFER TO CIVIL DOCUMENTS FOR CONCRETE SIDEWALK EXPANSION JOINTS AND CONCRETE SIDEWALK CONTROL JOINTS
6. VERIFY AND CONFIRM ALL JOINT LAYOUTS AT ALL CONCRETE SIDEWALKS WITH ARCH. PRIOR TO POURING OF CONCRETE
7. PROVIDE AND INSTALL CONCRETE SIDEWALK EXPANSION JOINTS AT AREAS NOT SPECIFICALLY INDICATED AT 50 FEET ON-CENTER MAX. U.N.O.
8. PROVIDE AND INSTALL CONCRETE SIDEWALK CONTROL JOINTS AT AREAS NOT SPECIFICALLY INDICATED AT DISTANCES EQUIVALENT TO SIDEWALK WIDTH, BUT NOT TO EXCEED 10 FEET ON-CENTER MAX.
9. VERIFY ALL SITE SIGNAGE LOCATIONS WITH ARCH. PRIOR TO INSTALLATION OF SITE SIGNAGE

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

Not for permitting or construction



ARCHITECT PBK-WLC, Inc.
SACRAMENTO
2520 Venture Oaks Way, Suite 440
Sacramento, CA 95833
916-662-9494 P

NEW MAINTENANCE BUILDING
THERMALITO UNION ELEMENTARY SCHOOL DISTRICT
Thermalito Day Schools
2060 8th Street
Orville, CA 95965



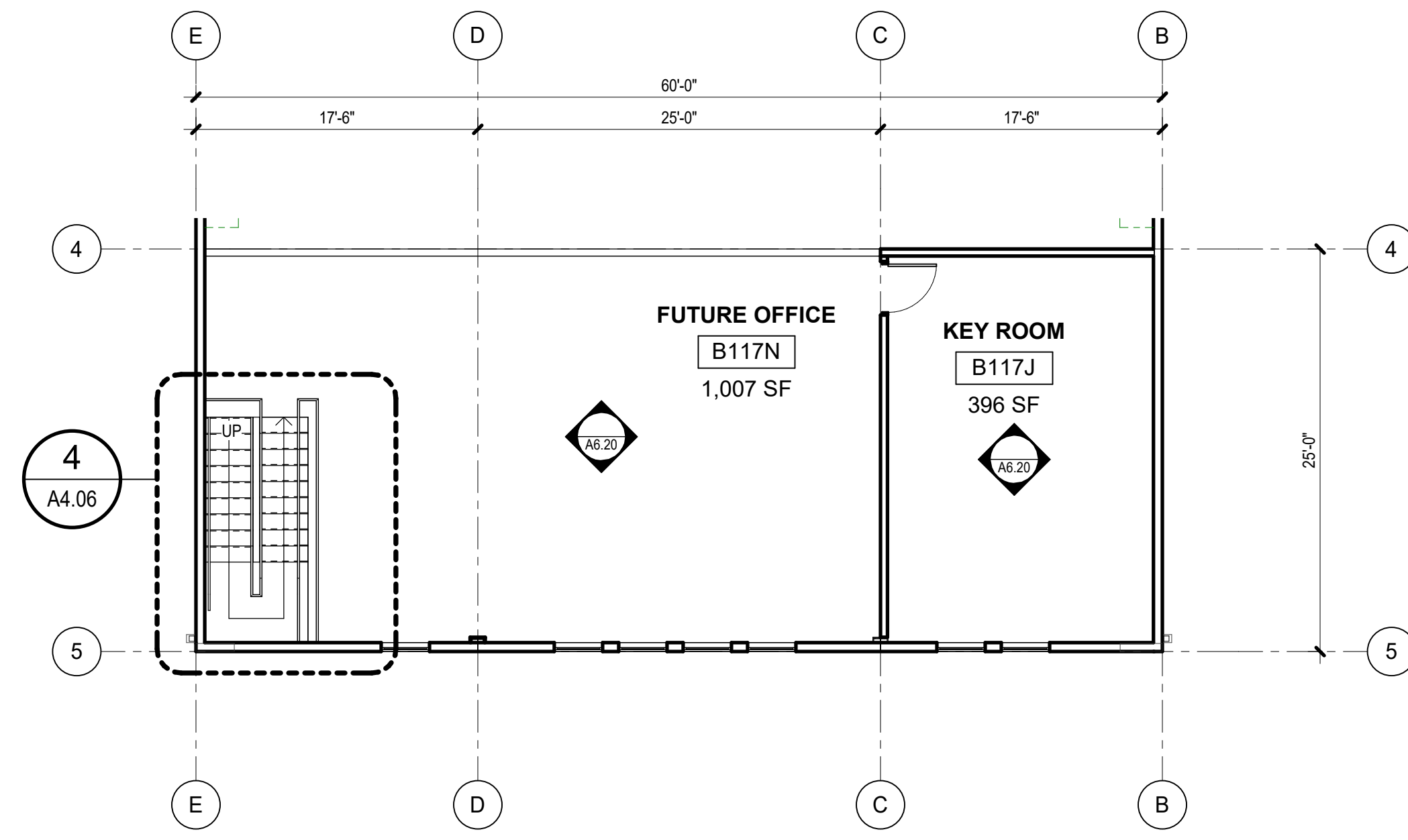
G	H	J
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KEY PLAN

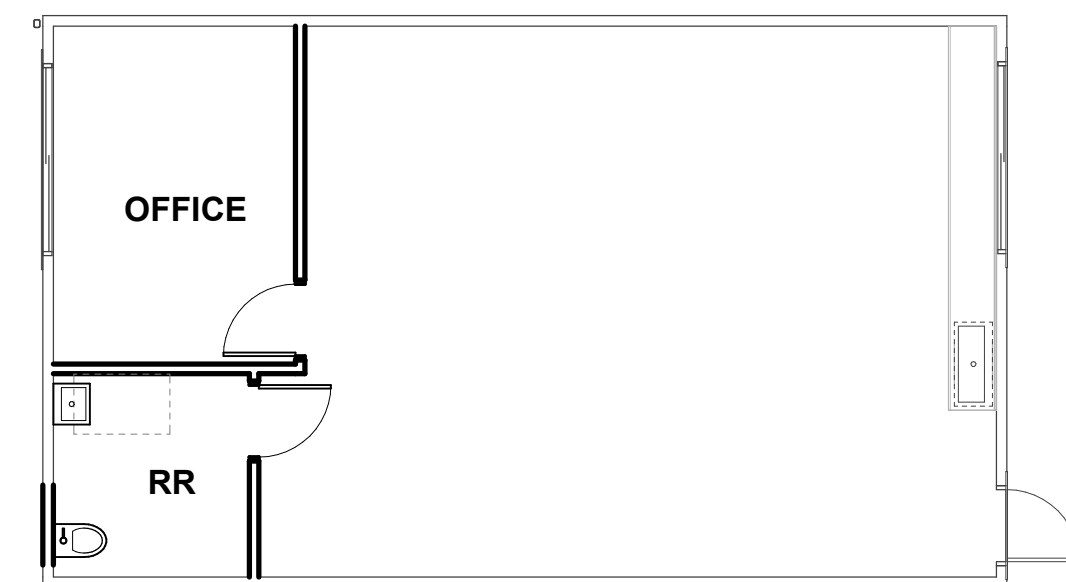
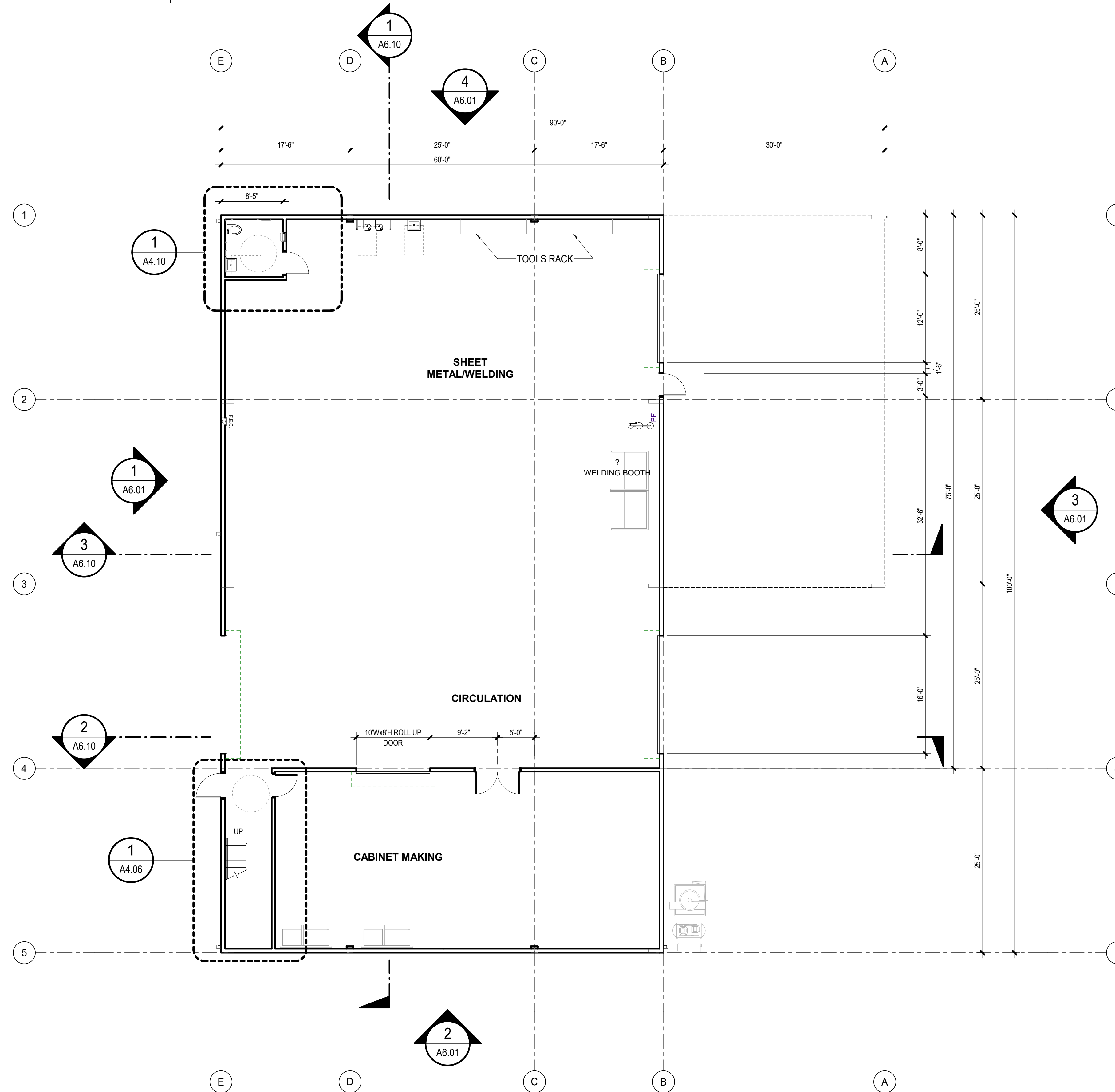
CLIENT		
THERMALITO UNION ELEMENTARY SCHOOL DISTRICT		
PROJECT P2120800AR		
DATE	02/30/2021	
DRAWN BY: DR	CHECKED BY: CK	
REVISIONS		
#	DESCRIPTION	DATE

SITE PLAN

This document is for plan review only



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



(E) PORTABLE TO BE RELOCATED

1 FP01 - FLOOR PLAN
SCALE: 1/8" = 1'-0"

KEYNOTE LEGEND



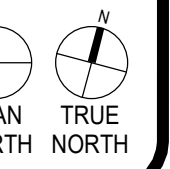
ARCHITECT PBK-WLC, Inc.
SACRAMENTO
2520 Venture Oaks Way, Suite 440
Sacramento, CA 95833
916-662-9494 P

NEW MAINTENANCE BUILDING
THERMALITO UNION ELEMENTARY SCHOOL DISTRICT
Thermalito Day Schools
2060 8th Street
Orville, CA 95965

CLIENT LOGO

G	H	J
D	E	F
A	B	C

KEY PLAN



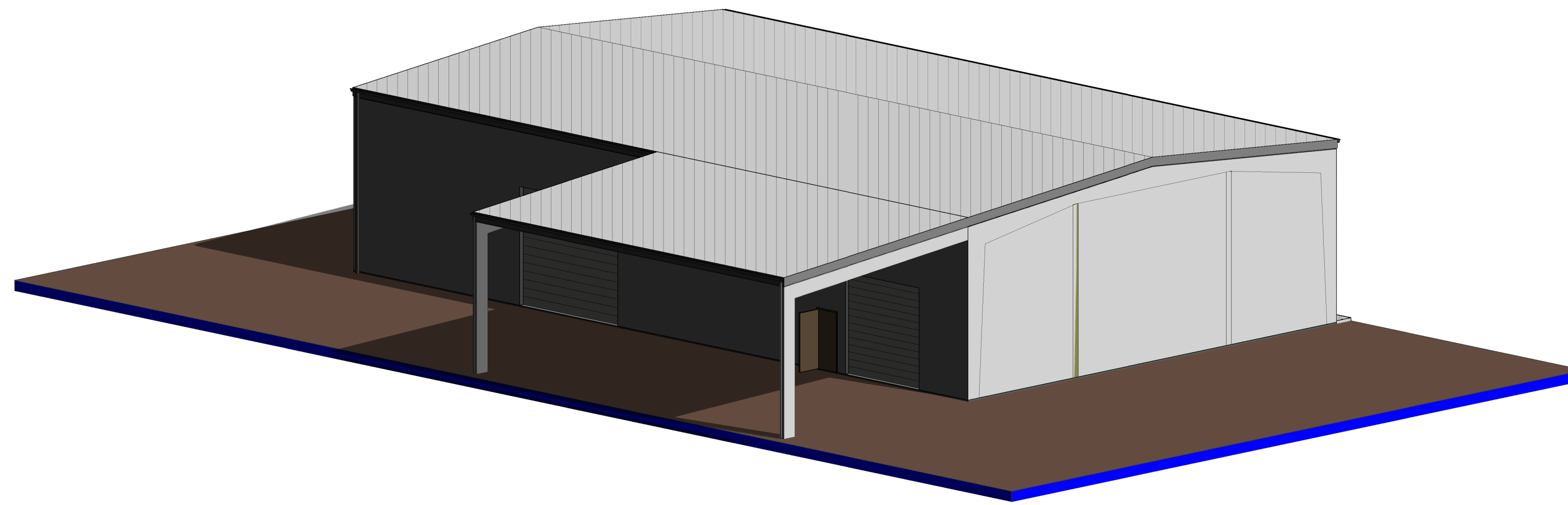
CLIENT	
THERMALITO UNION ELEMENTARY SCHOOL DISTRICT	
P2120800AR	
DATE	02/30/2021
DRAWN BY	DR
CHECKED BY	CK
REVISIONS	
#	DESCRIPTION

FLOOR PLAN

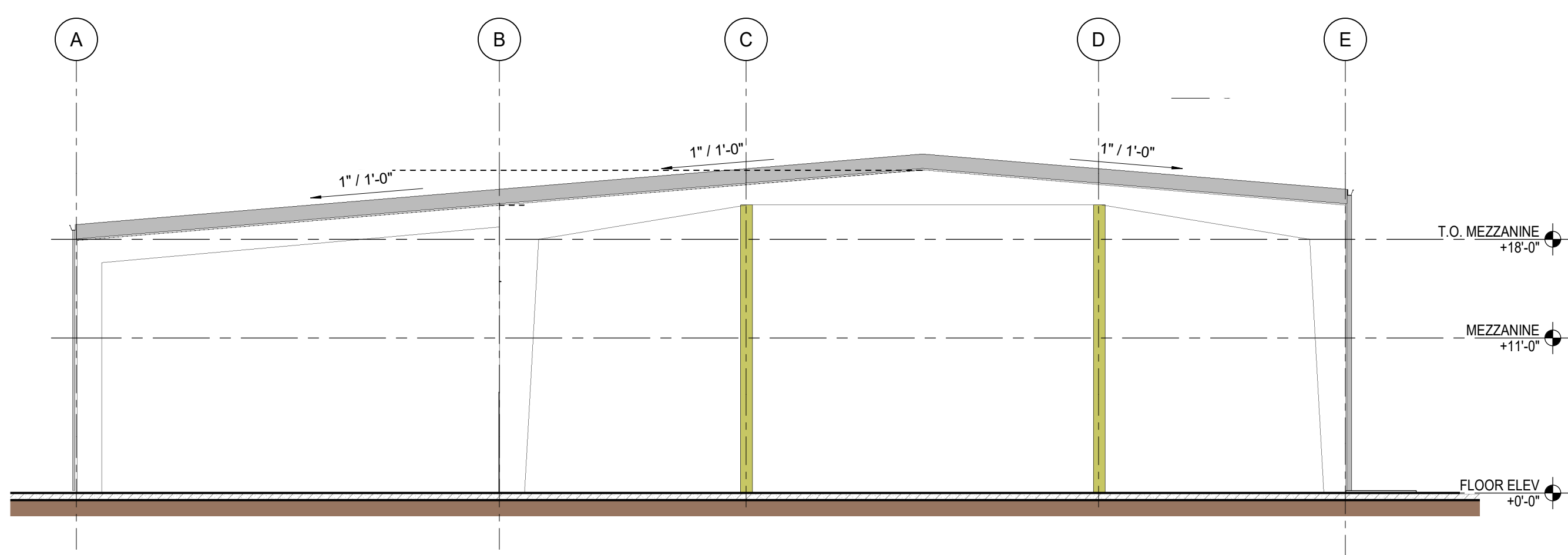
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Not for permitting or construction

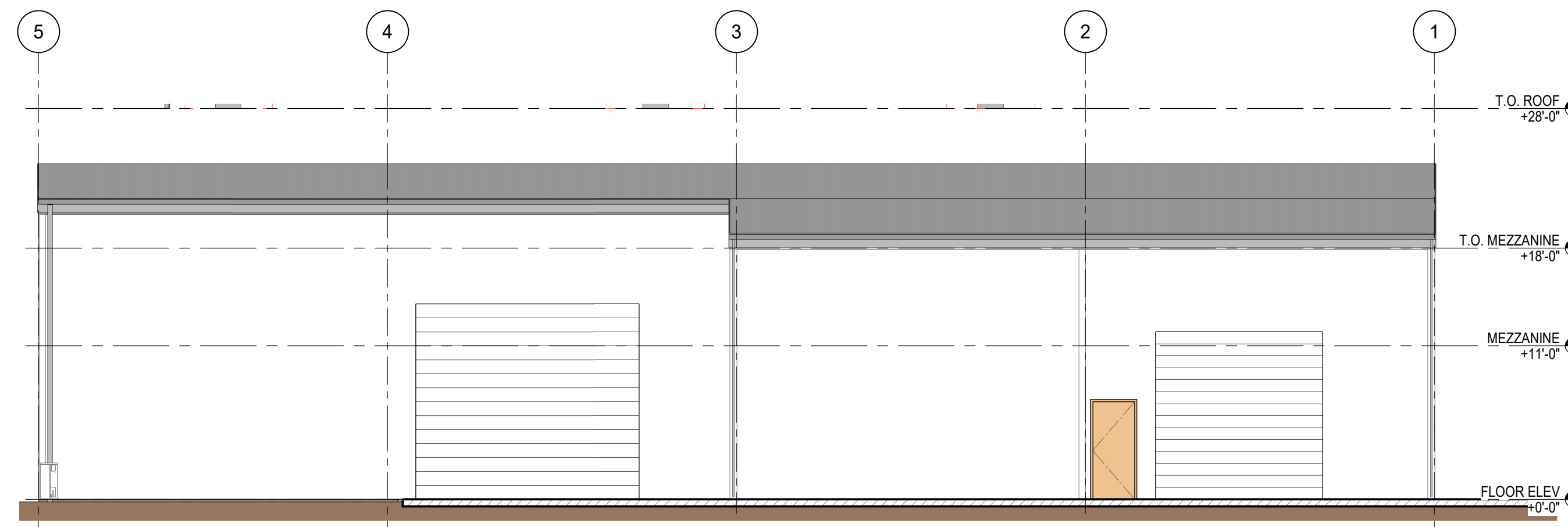
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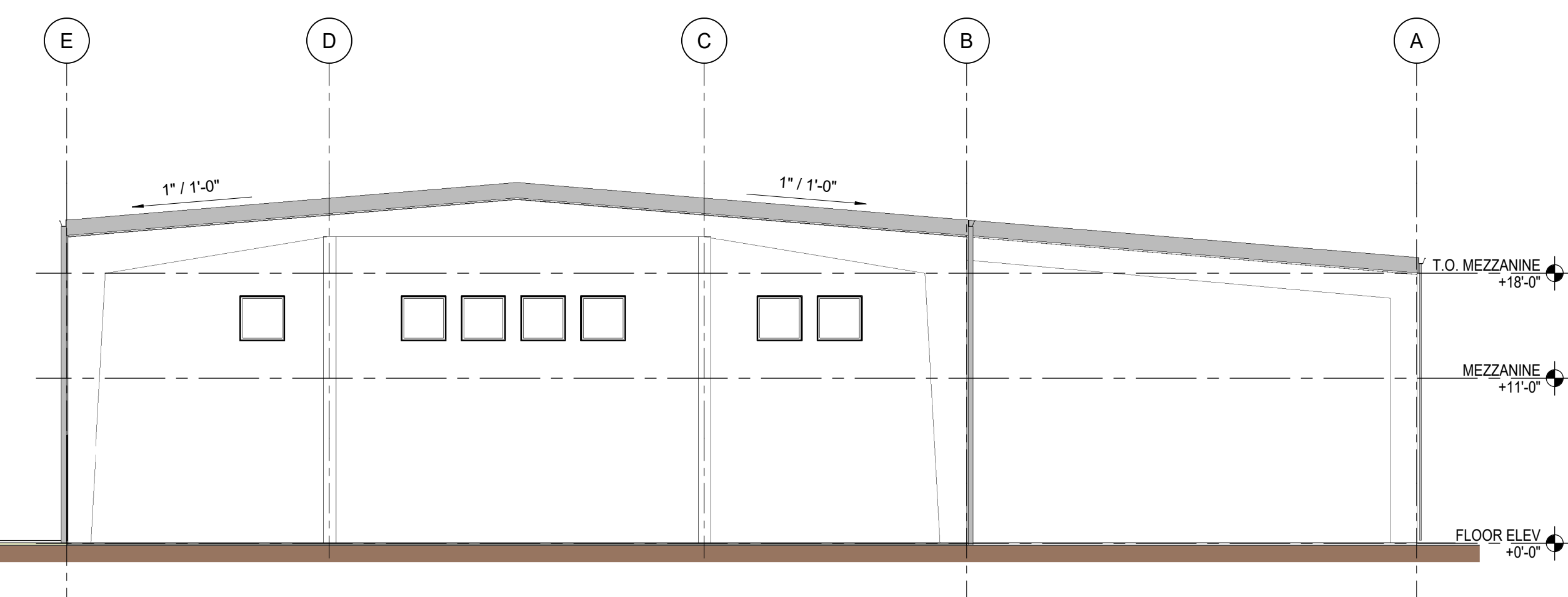
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SCALE:



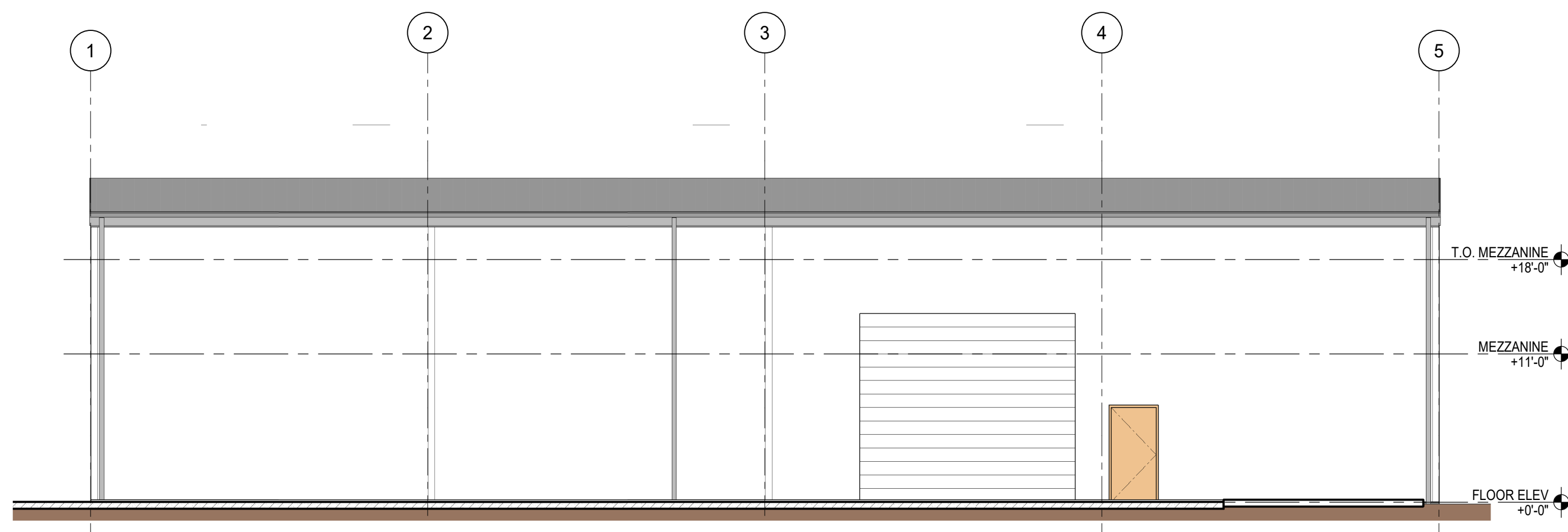
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3 EAST ELEVATION
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2 SOUTH ELEVATION
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1 WEST ELEVATION
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KEYNOTE LEGEND



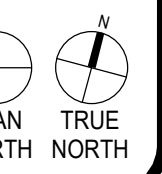
ARCHITECT PBK-WLC, Inc.
SACRAMENTO
2520 Venture Oaks Way, Suite 440
Sacramento, CA 95833
916-662-9494 P

NEW MAINTENANCE BUILDING
THERMALITO UNION ELEMENTARY SCHOOL DISTRICT
Thermalito Day Schools
2060 8th Street
Orville, CA 95965

CLIENT LOGO

G	H	J
D	E	F
A	B	C

KEY PLAN



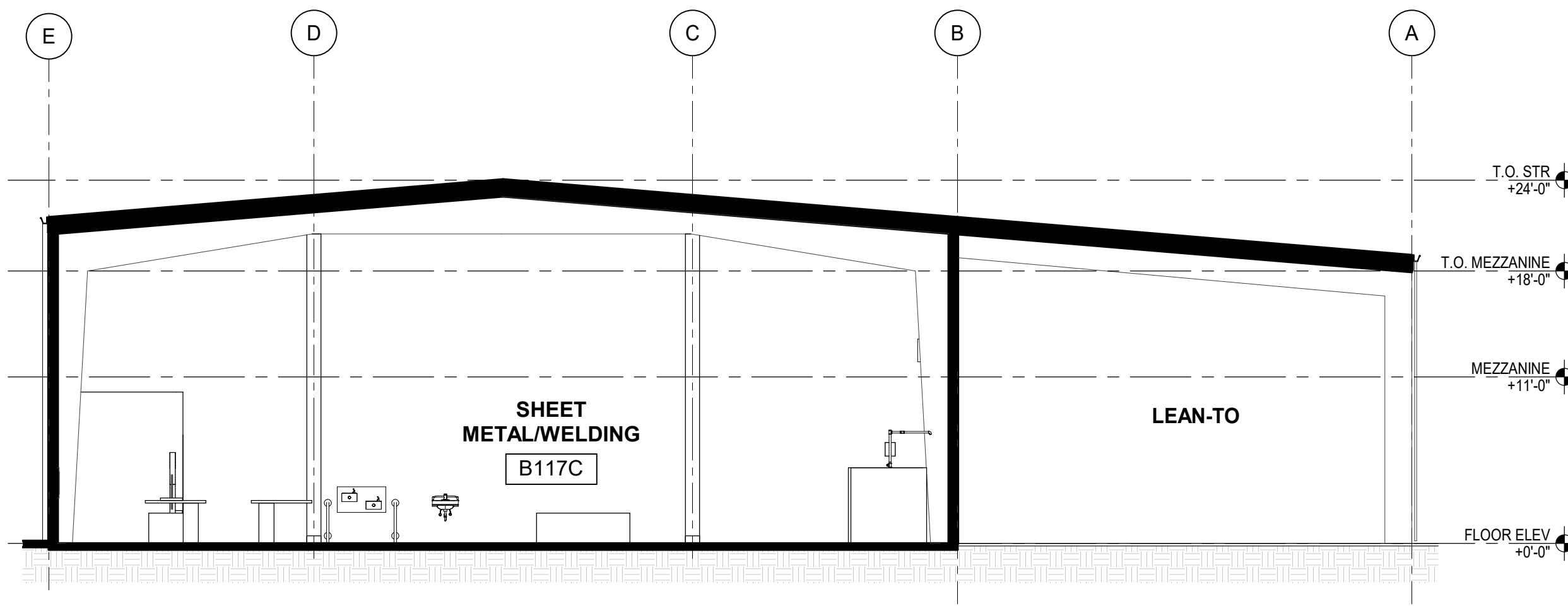
CLIENT		
THERMALITO UNION ELEMENTARY SCHOOL DISTRICT		
PROJECT: P2120800AR		
DATE	02/30/2021	
DRAWN BY	DR	CHKED BY: CK
REVISIONS		
#	DESCRIPTION	DATE

EXTERIOR ELEVATIONS

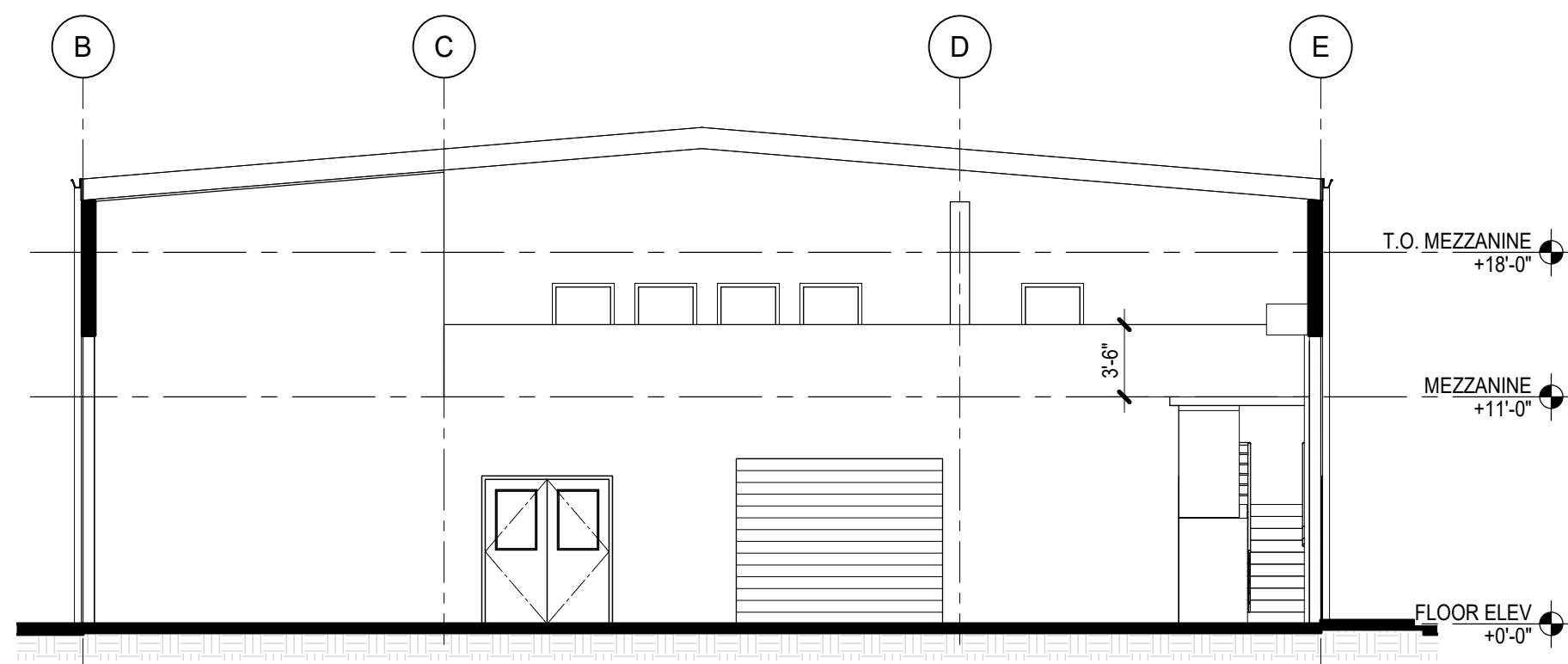
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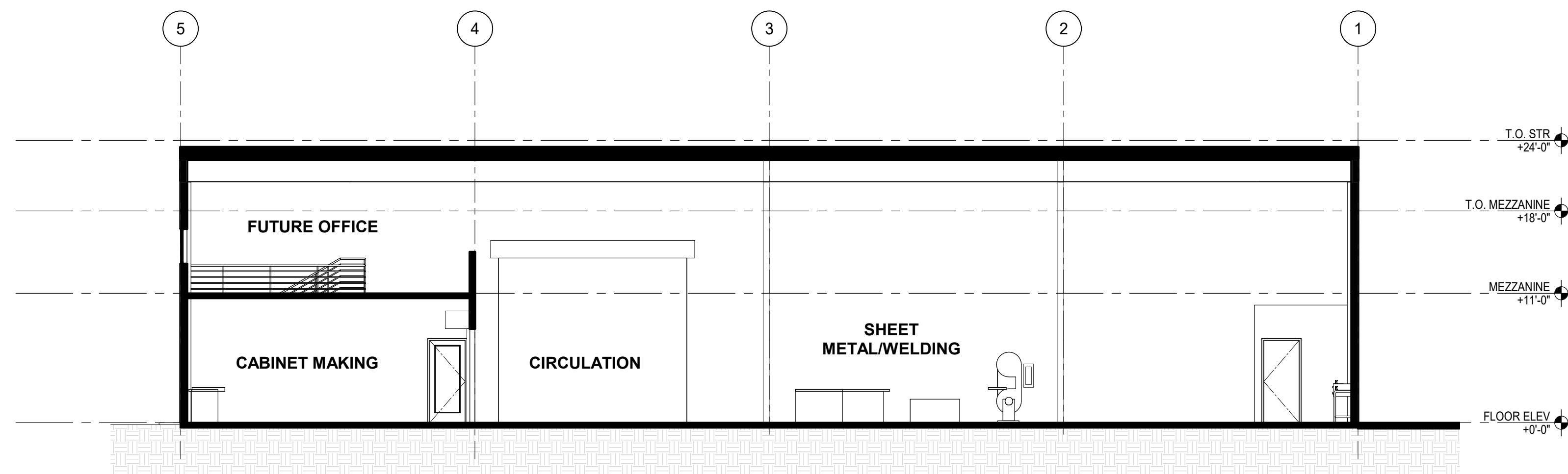
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3 BS02 - BUILDING SECTION 02
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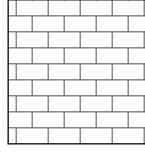

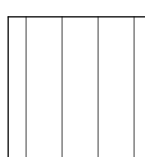

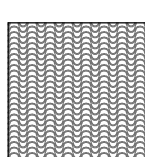


2 Section 1
SCALE: 1/8" = 1'-0"



1 Section 3
SCALE: 1/8" = 1'-0"

EXTERIOR MATERIALS LEGEND

-  EXTERIOR CEMENT PLASTER
-  CAST-IN-PLACE CONCRETE
-  CONCRETE UNIT MASONRY
-  SIDING
-  METAL STANDING SEAM ROOF PANELS
-  ASPHALT ROOFING SHINGLES
-  CONCRETE ROOFING TILES

KEYNOTE LEGEND



ARCHITECT PBK-WLC, Inc.
SACRAMENTO
2520 Venture Oaks Way, Suite 440
Sacramento, CA 95833
916-662-9494 P

NEW MAINTENANCE BUILDING
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Thermalito Day Schools
2060 8th Street
Orville, CA 95965

CLIENT LOGO

G	H	J
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KEY PLAN
PLAN NORTH TRUE NORTH

CLIENT	
THERMALITO UNION ELEMENTARY SCHOOL DISTRICT	
PROJECT: P2120800AR	
DATE	02/30/2021
DRAWN BY	DR
CHECKED BY	CK
REVISIONS	
#	DESCRIPTION

BUILDING SECTIONS

This document is for plan review only



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

Thursday, October 28, 2021

RE: ZC21-06 Fences, Walls, and Screening Municipal Code Amendments

SUMMARY: The Oroville Planning Commission will review and consider recommending that the City Council revise OMC 17.12.020 relating to the City’s regulations of fences, walls and screening.

RECOMMENDATION: Staff recommends the following actions:

1. **Conduct a Public Hearing** on the proposed code change;
2. **Adopt** Resolution No. P2021-19 Recommending that the City Council Approve the Specified Changes to OMC Section 17.12.020

APPLICANT: City of Oroville

LOCATION: City-Wide

GENERAL PLAN: N/A

ZONING: N/A

FLOOD ZONE: N/A

ENVIRONMENTAL DETERMINATION: This zoning change is not a project under CEQA since it has no possibility of having a direct or indirect effect on the environment.

REPORT PREPARED BY:

 Connor Musler, Assistant Planner
 Community Development Department

REVIEWED BY:

 Dawn Nevers, Assistant Director
 Community Development Department

DISCUSSION

The City’s current Fence, Walls and Screening regulations, found in Oroville Municipal Code (OMC) Section 17.12.020, outlines the requirements for the placement, height, and design of fences within the City’s zoning districts. When reviewing this code section, staff realized that there were inconsistencies with other sections of the municipal code; necessary changes to protect the general health,

safety, and public welfare of the city; and room to provide greater clarity on fence placement and height.

Some key changes to note include:

Removed Inconsistencies with the Adopted Building Code: The City's building code allows fences up to 7 feet in height without a building permit. Anything constructed in excess of 7 feet requires an applicant to apply for and receive a building permit. However, the City's fence ordinance states that the height of any fence or wall in residential districts shall not exceed 6 feet and in public areas anything over 6 feet is subject to development review. In order to maintain consistency with our adopted building code, staff have made 7 feet the maximum allowed height for fences.

Changes for Public Safety: The City's fence ordinance as adopted allows a solid fence up to 6 feet tall in the front yard, provided that it is set back at least 5 feet from the property line and the setback area landscaped. This can result in properties being surrounded by a tall solid fence, creating a potential public safety issue for first responders who cannot see who or what may be behind the fence or a clear way to access the property.

To address this, staff revised the maximum allowed height in the front setback area to be 42 inches (3.5 ft). Any fence over 42 inches in the front setback area is subject to approval of an administrative permit, must be setback at least 5 feet from the property line, the setback area must be landscaped and maintained, and must include a clearly marked entrance and path to the building's primary entrance. At the October 14, 2021 Development Review Committee (DRC) meeting, the committee recommended that the maximum height in the front yard be 42 inches to simplify the requirements for property owners and staff. Under the new proposed regulations, if a property owner wishes to construct a fence over 42 inches, the fence must be constructed outside of the required front yard setback or at the point equal to the primary building's front façade, whichever is less.

Fence Placement and Height: The fence ordinance can be difficult to understand for some due to the various height, placement, and design restrictions associated with fencing. To provide greater clarity for homeowners, developers, and other individuals, staff have included a maximum height table in the new code and created a fence placement diagram detailing standard scenarios of where fences can and cannot be placed.

FISCAL IMPACT

None.

ATTACHMENTS

- A. Draft Fence Code Change
- B. Resolution P2021-19

RESOLUTION NO. P2021-19

A RESOLUTION OF INTENTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT THE PROPOSED AMENDMENTS TO THE OROVILLE MUNICIPAL CODE SECTION 17.12.020 RELATING TO THE CITY’S REGULATIONS OF FENCES, WALLS AND SCREENING

WHEREAS, the City of Oroville staff recommends a change to Section 17.12.020 of the City of Oroville Zoning Code relating to the City’s regulations of fences, walls and screening; and

WHEREAS, the changes to the fences, walls and screening section include revisions to maximum allowed height, fence placement, and other changes to maintain consistency and clarity with other applicable sections of the municipal code; and

WHEREAS, at a duly noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the code changes described herein, and considered the City’s staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE PLANNING COMMISSION AS FOLLOWS:

SECTION 1. The Planning Commission determines:

- A. That the proposed amendments are consistent with the General Plan; and
- B. The proposed amendments are consistent with other applicable provisions of the Municipal Code and compatible with the uses authorized in the applicable zoning districts for which the revisions are proposed.

SECTION 2. The Planning Commission hereby recommends that the City Council approve the Zoning Code Amendment ZC21-06 to the Oroville Municipal Code as set forth in Attachment A, an update to the City’s regulations of fences, walls and screening.

PASSED AND ADOPTED by the Planning Commission of the City of Oroville at a regular meeting on October 28, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

Jackie Glover, Assistant City Clerk

Carl Durling, Chairperson

SECTION 17-12.020 FENCES, WALLS AND SCREENING

17-12.020 Fences, walls and screening

- A. **Applicability.** No fence shall hereafter be erected, constructed, altered or maintained except as provided by this section. The requirements of this section shall apply to all fences and walls in all districts, excluding the walls of any building, and shall apply regardless of the construction material used.
- B. **Sight Distance Area.** No fence shall obstruct the required sight distance area for an intersection as shown in Figure 17.12.020-1.

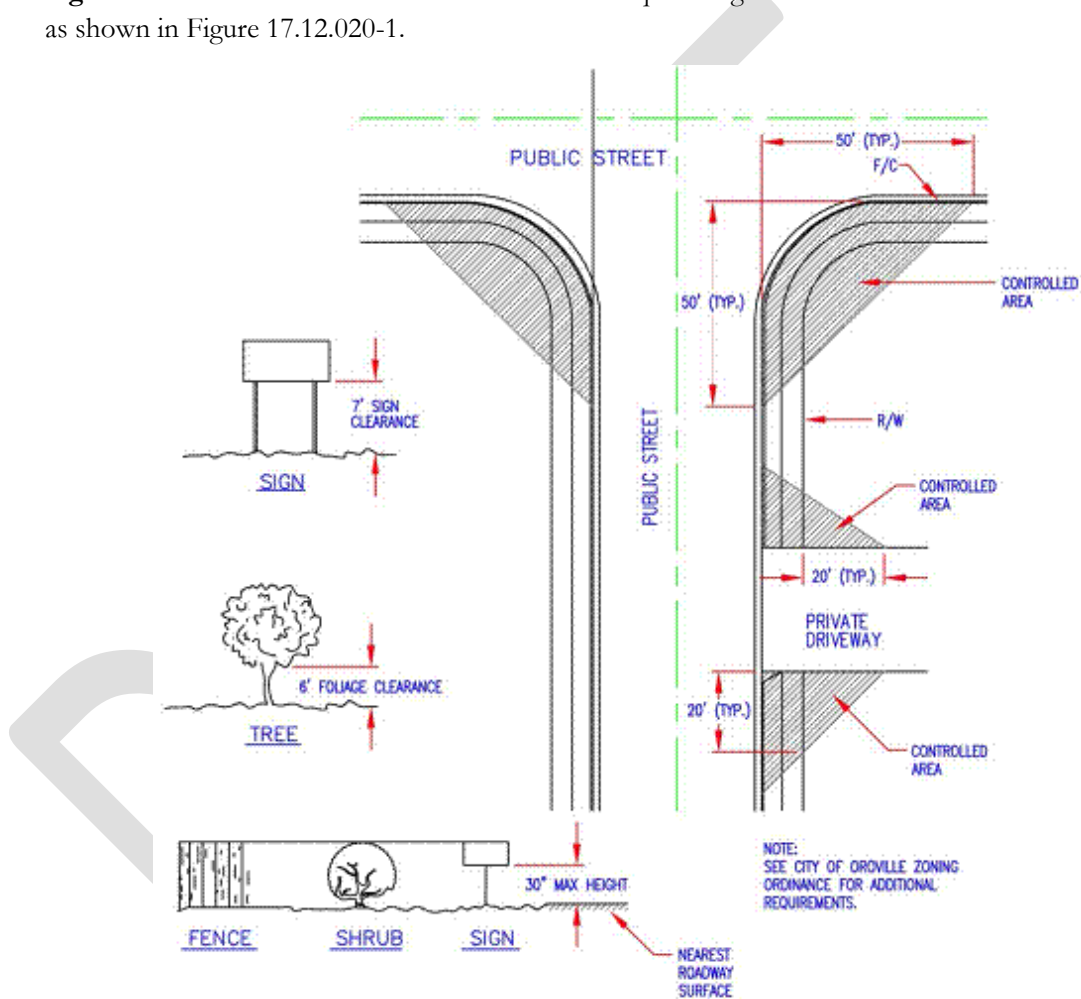


Figure 17.12.020-1: Sight Distance Area

C. **Fence Height Measurement.** Exceptions to the standards of this section may be granted by the Planning Commission if warranted for safeguarding the public health, safety and welfare.

1. The height of a fence at any point shall be measured from the base of the fence directly below that point. ~~If a fence is constructed atop a retaining wall, the fence's height shall be measured from the adjacent grade on the high side of wall.~~ If a retaining wall is combined with a fence or wall, the combined height may reach a maximum height of 11 feet above grade (7 foot maximum fence with a 4 foot maximum retaining wall) along the streetside and rear property lines without a building permit, as shown in Figure 17.12.020-2.

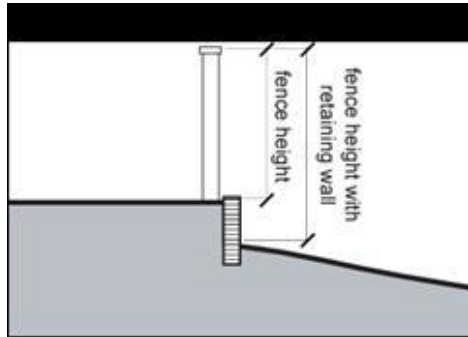


Figure 17.12.020-2: Fence Height **Measurement**

- D. **Public Areas.** Fences that enclose school grounds, public playgrounds and parks, tennis courts, public swimming pools, museums, or other public areas may be erected to a height in excess of 67 feet, subject to development review.
- E. **Swimming Pools.** Fencing shall be provided around all swimming pools, spas and similar areas, in accordance with the requirements of the city building code.
- F. **Nonresidential development.** Any nonresidential development shall meet the following fencing requirements:
 1. The site shall include a solid fence or decorative masonry wall along each property line abutting a residential district. The fence shall be between 6 and 7 feet tall
 2. Where a street separates the site from a property that is in a residential district, the site shall include one of the following along the property line that faces the street:
 - a. A solid fence or decorative masonry wall, between 6 and 7 feet tall, that is located behind any required planting area, and that has a decorative architectural treatment on any side facing a street, parking lot or adjoining residential district; or
 - b. A planting area with evergreen landscaping that restricts visibility into the site. The planting area shall be installed and maintained in accordance with Section 17.12.050.
 3. Loading areas shall be fenced and screened as provided in Section 17.12.080.
 4. Outdoor storage areas shall be fenced and screened as provided in Section 17.16.140.

5. All mechanical, electrical and external communication equipment, including air conditioners, refrigeration units, satellite dishes and microwave towers, shall be screened from public view. Screening of roof-mounted equipment shall be architecturally integrated into the building design.

5. A building permit is required for any fence over 7 feet in height.

G. Residential and Mixed-Use Development.

1. In all residential districts, the height of a fence or wall is shown in Table 17.12.020-1, unless authorized in compliance with the requirements of this subsection (G). See also Figure 17.12.020-3 for details on placement and heights of fences and walls.

Table 17.12.020-1: Fences and Walls in Residential Districts

<u>Location</u>	<u>Maximum Height</u>
<u>Within required front yard setback</u>	<u>42 inches^[1]</u>
<u>Within interior side or rear yard setback</u>	<u>7 feet^[2]</u>
<u>Within street side setback</u>	<u>42 inches^[3]</u>
<u>Within a controlled area vision triangle</u>	<u>30 inches^[4]</u>
<u>Outside of a required setback</u>	<u>7 feet^[2]</u>
<p><u>Notes:</u></p> <p>^[1] <u>Height can be increased above 42 inches to a maximum height of 7 feet if constructed outside of the required front yard or at the point equal to the building’s front façade, whichever is less.</u></p> <p>^[2] <u>Height can be increased above 7 feet with a building permit.</u></p> <p>^[3] <u>Fences above 42 inches and to a maximum height of 7 feet without a building permit must be placed at least 5 feet behind property line, outside of any public right-of-way easement, and must be landscaped in this setback area.</u></p> <p>^[4] <u>See Figure 17.12.020-1</u></p>	

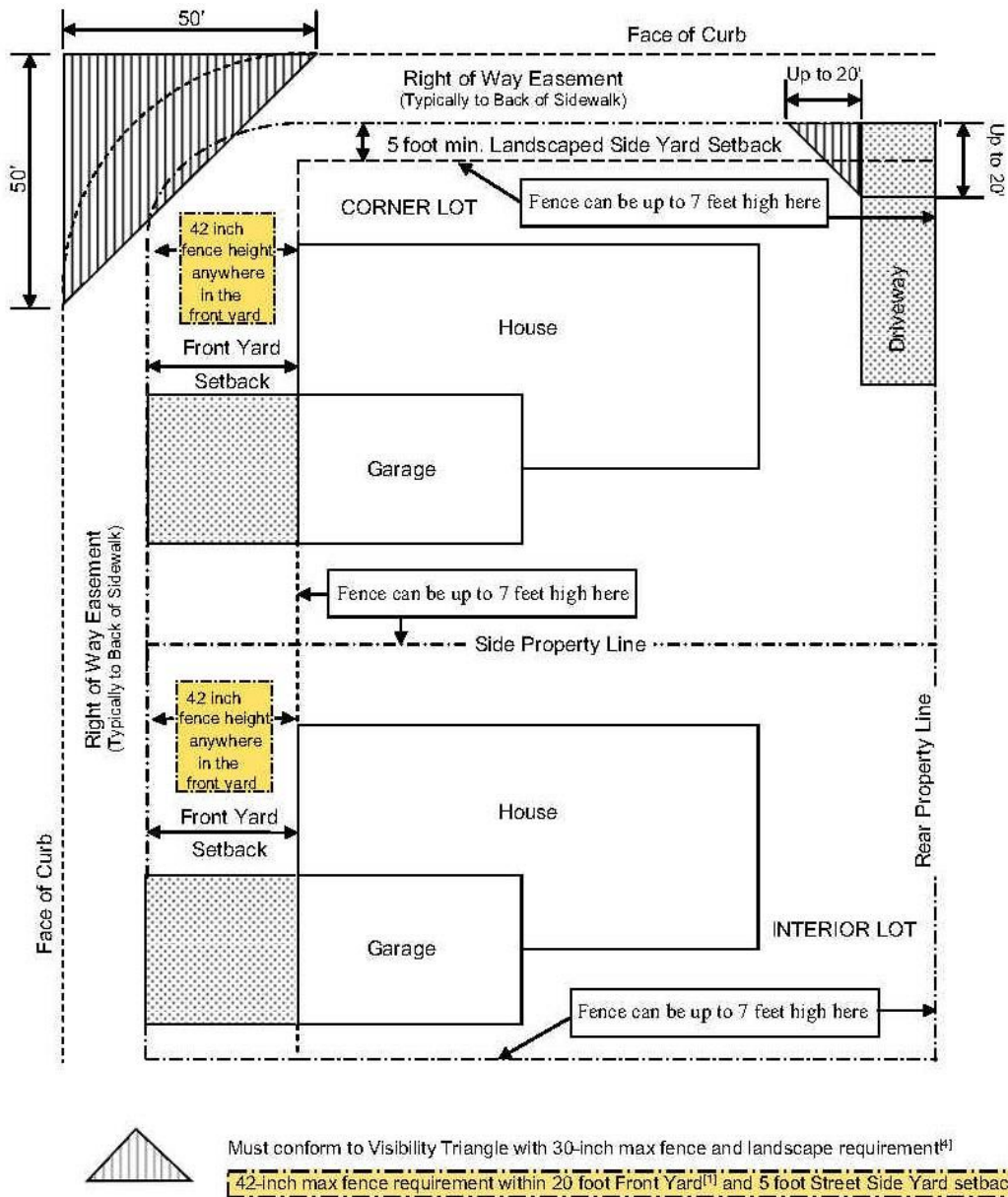


Figure 17.12.020-3: Fence Height and Placement

2. Fences, walls, or combination of fence and wall within the required front setback area shall not exceed 42 inches. If the fence, wall, or combination of fence and wall is constructed outside of the required front setback area, or at the point equal to the building's front façade, whichever is less, then the fence is allowed a maximum height of 7 feet.

Fences, walls, or combination of fence and wall within the required front setback area may be constructed in excess of 42 inches with the issuance of an administrative permit and any applicable building permits. Any fence, wall, or combination of fence and wall taller than 42 inches shall be setback at least 5 feet from the

~~property line and include a clearly marked entrance and path to the building's primary entrance. This setback area shall be landscaped and maintained in accordance with the requirements of Section 17.12.050.~~

- ~~2.3. A decorative arch, trellis, or other entry feature along a street frontage may exceed the height limit shown in Table 17.12.020-1. The decorative features shall be limited to 10 feet in width and 10 feet in height.~~

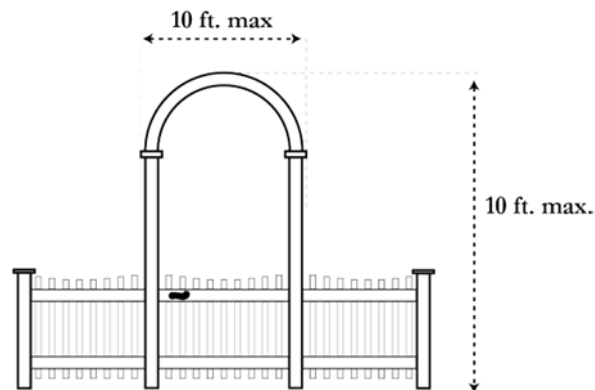


Figure 17.12.020-4: Decorative Features

- ~~3.4. All fences in residential districts greater than 42 inches in height constructed within the street side yard setback adjacent to a public street shall be set back at least 5 feet from any property line that abuts a public street. This setback area shall be landscaped in accordance with the requirements of Section 17.12.050.~~
- ~~a. All multiple family residential and mixed-use projects shall be fenced along the rear property line.~~

~~4.5.~~

- ~~5. All multiple family residential projects shall include a fence or decorative masonry wall along the rear and side property lines. The fence or decorative masonry wall shall be between 6 and 7 feet tall.~~

- ~~a. Development of a single project on more than one parcel shall require fencing or decorative masonry wall along the project perimeter side and rear property lines.~~

- ~~6. For mixed-use development, the site shall include a solid fence or decorative masonry wall along each side and rear property line abutting a residential district. The fence or decorative masonry wall shall be between 6 and 7 feet tall.~~

- ~~a. Development of a single project on more than one parcel shall require fencing or decorative masonry wall along the project perimeter side and rear property lines.~~

- ~~a.7. A building permit is required for any fence or wall over 7 feet in height.~~

H. Retaining Walls.

1. All retaining walls shall be constructed with split-face masonry, cast-in-place concrete, interlocking block or a similar material. Retaining walls shall not be constructed of wood.

2. Any retaining wall that is visible from a public street or public open space shall have a decorative architectural treatment on the wall face.
3. A building permit is required for any retaining wall over 4 feet in height.

I. **Electric Fences.**

1. In residential districts that have a minimum lot area of at least 20,000 square feet, electrically charged fences shall be permitted if they are necessary to contain livestock. Any electrically charged fence shall be set back at least 20 feet from any lot line unless there is also a solid fence along the lot line.
2. In all other districts, no electrically charged fences shall be permitted.

J. **Barbed or Razor Wire.** Fences may be constructed with sharp-pointed materials, such as barbed or razor wire, only as follows:

1. In residential districts that have a minimum lot area of at least 20,000 square feet, fences may be constructed with barbed or razor wire if they are necessary to control livestock. Any fence that is constructed with barbed or razor wire shall be set back at least 20 feet from any lot line unless there is also a solid fence along the lot line.
2. In all other residential districts, and on sites that abut a residential district or are separated by a street from a residential district, no fences may be constructed with barbed or razor wire.
3. In industrial districts, fences may be constructed with barbed or razor wire if the wire is at least 6 feet above grade.
4. In commercial and special purpose districts, fences may be constructed with barbed or razor wire only upon approval of a use permit. Before granting the use permit, the planning commission shall find, based on substantial evidence, that the barbed or razor wire is necessary in order to provide adequate security for the site and there is no reasonable alternative.

4-K. **Temporary Fences.** Nothing in this chapter shall be deemed to prohibit the erection of a temporary fence around construction projects in compliance with the California Building Code and other applicable provisions of the Oroville Municipal Code.

K-L. **Permits.** Permits shall be obtained for the erection, construction, alteration and maintenance of fences as specified in the city building code and this code section. (Ord. 1749 § 4; Ord. 1763 §§ 4, 5; Ord. 1819 § 3, 2017; Ord. 1820 § 2, 2017)