



TOWN OF FAIRFAX

STAFF REPORT

February 2, 2022

TO: Mayor and Town Council

FROM: Linda Neal, Principal Planner
Janet Coleson, Town Attorney

SUBJECT: Commercial Cannabis Business Permit, Design Review Permit, and Sign Exception Permit for a cannabis storefront retailer/adult use retail delivery-only business at 1930 Sir Francis Drake Boulevard – Applicant Element 7/Fairfax Remedy

RECOMMENDATION

Hold the public hearing, close the public hearing, and bring the matter back to the Council for discussion/deliberation and provide direction to staff to bring back a resolution approving or denying the Commercial Cannabis Business Permit with accompanying Sign Exception Permit and Design Review Permit to a subsequent meeting.

BACKGROUND

In September and October of 2019, after holding 22 meetings on the subject, the Town Council adopted Ordinance numbers 834 and 835 in response to California voters' legalization of cannabis. Ordinance 834 repealed/amended certain sections of the code (Chapter 17.110 – Medical Marijuana Dispensaries and Chapter 17.138, Medical Marijuana Cultivation) and unified cannabis regulations into one code section 17.110, Cannabis Uses, adopting zoning standards and restrictions for commercial cannabis uses and cannabis cultivation for personal use. Ordinance 835, adopted the month after Ordinance 834, added Town Code section 5.56 to Town Code, Chapter 5, Business Taxes, Licenses, and regulations. Section 5.56 regulates commercial cannabis businesses within Fairfax and restricts the number of permitted cannabis business locations within the Town to two locations.

The Town Council determined the Town could accommodate one more brick and mortar cannabis business location in addition to the existing Marin Alliance for Medicinal Marijuana dispensary already located in Fairfax. During the extensive public hearing process the Council also approved two maps that depicted the areas of Town where locating a medical cannabis retail business/adult use retail delivery only uses would be allowed. The maps show the areas where these business uses could not locate because they would not comply with State Law due to the proximity of the sites to schools and youth centers, and to a Fairfax, tutoring center (end of Attachment B). The first map identifies all the commercial locations (unshaded areas) where a Medical Cannabis Storefront Retailer can locate and be 600 feet from existing schools, youth centers and tutoring centers and the second map

identifies those locations where Cannabis Delivery Only Retailers can locate and be 250 feet from existing schools and youth centers.

At their October 2, 2019, meeting the council adopted Resolution No. 19-34 putting into effect a process and scoring criteria for determining qualifying scores and creating application procedures for Commercial Cannabis Business Permits (CCB) Permits. The process was created to assist the Council in choosing the best applicant fit for the one, remaining, available cannabis business permit. This scoring criteria was implemented as a mechanism to help the Council choose between multiple applicants for the one remaining permit, however, only one application was submitted during the November 1, 2019, through January 6, 2020, application submittal window.

Ordinances 834 and 835 and Resolution No. 19-34 are included with this report as Attachment B along with the maps.

The one application submitted was from Element 7, to operate a cannabis business as “Fairfax Remedy”, managed by Nick Pommier, a resident of San Anselmo, providing medicinal retail cannabis for walk-in patients and adult retail cannabis by delivery only at 1930 Sir Francis Drake Boulevard. The application was deemed complete by the Town Manager after a review, including several requests for additional information and proposed clarifications by staff and the required background checks of the applicants by the Fairfax Police Chief in early September of 2021.

The appellant’s initial submittal materials may be accessed via the following links:

<https://www.townoffairfax.org/meetings/planning-commission-meeting-september-16-2021/#/tab-agenda-packet>

<https://www.townoffairfax.org/meetings/planning-commission-meeting-october-21-2021/#/tab-agenda-packet>

(Right click and click “open hyperlink” to get to the agenda and then scroll down to the 1930 Sir Francis Drake Boulevard item to access report and attachments – the first link if to the 9/16/21 Planning Commission meeting and the second is to the 10/21/21 Planning Commission meeting).

DISCUSSION

The project proposal is for a medical cannabis storefront retailer/adult-use retail delivery only business. Building exterior changes include reconfiguration and reconstruction of the front entry deck, and ADA accessible ramp in conformance with building code and ADA regulations, reorientation of the rear deck steps to accommodate the creation of an accessible parking space and a loading deck, installation of an electric vehicle charging station in the parking lot to the rear of the building, exterior color and materials changes to the building, erection of two business identification signs and replacement of the front window, which had been modified from the original mullioned window style by the previous nail salon, with a window design matching the remaining existing windows restoring the building to its original condition, relocation of the front door to meet ADA accessibility requirements and

removal of the second front door that faces east, replacing the opening with a stucco wall to match the existing building siding. The access driveway will also be widened from approximately 12 feet to 16 feet by removing the narrow landscaping strip on the eastern side of the site with the entrance reoriented to provide small landscape beds at the both the southeastern and southwestern sides of the driveway entrance. A small landscaping bed will be created at the rear of the building between the structure and the new ADA parking space and rear delivery stairs and entrance deck.

The applicants demonstrated that the proposed cannabis business use is not subject to a traffic impact permit by doing a traffic analysis using, at the direction of the Town Traffic Engineer, actual traffic counts from similar cannabis businesses in Santa Rosa and Napa. The counts were compared to the traffic generated by a Fast Casual Restaurant per the Institute of Traffic Engineer's (ITE) traffic generation manual similar to the existing use at 1930 Sir Francis Drake Boulevard, Mana Bowl. The traffic analysis indicated the business will not generate 100 average daily traffic (ADT) beyond that generated by the Mana Bowl use. Therefore, the proposed project is not subject to a Traffic Impact Permit [Town Code §17.056.050(A)(2)]. The traffic study and Town Traffic Engineer's comments on the analysis can be found in attachment e, the 9/16/21 Planning Commission (PC) staff report.

The applicants also provided an analysis of the building, constructed in 1939, by architectural historian Lauren Ackley. Her analysis verified the building is not an outstanding example of any one architectural style and it has been altered from its original design. Her finding was that the proposed ADA alterations would not "compromise any architectural integrity" of the building and the proposed ADA changes are "consistent with the character defining features of the building" which "has always been of utilitarian character" [Attachment e, 9/16/21 PC staff report]. The proposed changes to the building are being made to bring the property and structure into compliance with the Americans with Disabilities Act (ADA) regulations and include an access ramp, relocated front doorway and an ADA compliant parking space. The stucco awning at the front center of the building, identified as Streamline Modern style by the historical architect, which references the contemporary architecture common at the time of construction. The proposed ramp and deck railing for the proposed ADA compliant access improvements is reminiscent of this Streamline Modern style.

More detailed discussions and information on the Design Review Permit for the exterior building changes, landscaping, and parking lot improvements and the Sign Permit exception to have two signs can be found in the 9/16/21 PC staff report which can be accessed through the first link listed above.

BACKGROUND

The Planning Commission discussed the proposal made by Element 7 to open a business, Fairfax Remedy, at their September 16, 2021, and October 21, 2021, meetings. The public hearing occurred on September 16, 2021. After taking public comment and discussing the project, the Commission gave direction to staff to bring back to the October 21, 2021 meeting, a resolution that would enable the Commission to consider denying the project while

also considering the resolution attached to the September 16, 2021 report recommending approval. At the September meeting the Commissioner's also individually rated the Element 7 Proposal and business operations which resulted in a total averaged rating for the business proposal of 80.1. An averaged rating of 80.1 as set forth in Council Resolution No. 19-34, included as part of attachment B, meets the minimum score needed to proceed to the Town Council for consideration.

At the October 21, 2021, Commission meeting the Commission adopted Resolution Number 2021-23 (Attachment A) recommending that the Town Council deny the Design Review Permit and the Sign Exception Permit which are under the Town Council purview per Town Code § 17.110.040(D)(3) and (D)(5) while providing the business a qualifying score for the CCB Permit of 80.1. All three recommendations are before the Council at this meeting for a final decision.

Required Discretionary Permits

The applicants have appealed the Commission's denial of the Formula Business Conditional Use Permit. That appeal will be considered separately. During this agenda item the Council will be considering the Design Review Permit, the Sign Exception Permit and the Commercial Cannabis Business (CCB) Permit. The Commission has recommended that the Town Council deny the Design Review and Sign Exception Permits but gave the business a qualifying score of 80.1 for a CCB Permit. The qualifying score warrants the Council's consideration of the business for the second CCB Permit at the 1930 Sir Francis Drake Boulevard location since the location was previously allowed by the Council through approved cannabis maps depicting permitted and prohibited locations for a cannabis business in Fairfax.

Design Review Permit

Town Code § 17.020.080 indicates that the only determination (finding) required for a design review permit is that the proposed exterior design of the business building complies with the design review criteria set forth in Town Code § 17.020.040(A) through (N) as follows (comments in ***bold, italicized font*** after several criteria are clarification points inserted by staff):

- A. The proposed development shall create a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.
- B. Only elements of design which have significant relationship to exterior appearance of structures and facilities shall be considered; these elements may include height, arrangement on the site, texture, material, color, signs, landscaping and appurtenances.
- C. The proposed development shall be of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.
- D. The proposed development shall conform with all requirements for landscaping, screening, usable open space, and the design of parking and off-street loading areas set forth in this title. ***There are no landscaping or usable open space requirements***

codified for the Central Commercial CC Zone District where 1930 Sir Francis Drake is located.

- E. Where the proposed development is located in an area where a neighborhood plan or precise plan has been adopted by the town, the design of the development shall conform in all significant respects with such plans. ***No neighborhood plans or precise plans have been adopted for this or any adjacent neighborhoods.***
- F. There shall exist sufficient variety in the design of the structures and grounds to avoid monotony in external appearance.
- G. The size and design of the structure shall be considered for the purpose of determining that the structure is in proportion to its building site and that it has a balance and unity among its external features so as to present a harmonious appearance.
- H. The extent to which the structure conforms to the general character of other structures in the vicinity insofar as the character can be ascertained and is found to be architecturally desirable.
- I. The extent to which ornamentation is to be used and the extent to which temporary and second-hand materials, or materials which are imitative of other materials, are to be used.
- J. The extent to which natural features, including trees, shrubs, creeks and rocks, and the natural grade of the site are to be retained.
- K. The accessibility of off-street parking areas and the relation of parking areas with respect to traffic on adjacent streets.
- L. The reservation of landscaping areas for the purpose of separating or screening service and storage areas from the street and adjoining building sites, breaking up large expanses of paved areas, separating or screening parking lots from the street and adjoining building sites, and separating building areas from paved areas to provide access from buildings to open space areas.
- M. In the case of any commercial or industrial structure, the Planning Commission shall consider its proximity to any residential district and consider the effect of the proposed structure upon the character and value of the adjacent residential district area (***Note that this criteria relates to the design character (not the use) of the building described in the purpose section of the Design Review Ordinance – Town Code § 17.020.020, "the purpose of this procedure is to foster a good design character through consideration of aesthetic and functional relationships to surrounding development and in order to further enhance the Town's appearance and the livability and usefulness of properties"***).
- N. The Planning Commission and the Town Council may adopt design guidelines in order to further the objectives of this section and to illustrate design criteria. ***Not applicable – no design guidelines have been adopted by the Town.***

The appellants are not proposing to make any modifications to the existing building except for upgrading the appearance with a blue and white color palette, making minor improvements to the parking lot and landscaping to upgrade the area, and exterior changes to comply with

ADA regulations (relocation of the front access door, reconfiguration of the front access deck and ramp and restriping the rear parking lot to provide an ADA compliant parking space and install an electric car charging station for the electric business delivery vehicle. The existing parking lot for the facility will be striped to provide five parking spaces, including one ADA compliant space and one space for a delivery vehicle, as required by Town Code § 17.110.040(D)(1)(a). The Code requires that five parking spaces be provided for a 575 square-foot building (3-spaces for the first 500 square-feet of gross floor area and one space for each additional 500 square-feet plus one space per delivery vehicle unless an employee vehicle is used to conduct business). Therefore, the appellants have complied with the design review criteria.

Sign Ordinance Exception

Town Code § 17.110.040(D)(5) requires each cannabis business to obtain a sign permit and further limits a cannabis business to one window or wall sign not exceeding six square-feet in size.

The Sign Ordinance, Town Code §17.064.050 sets forth the general regulations for all businesses and allows each business, two signs, as long as one is a projecting sign and as long as the total combined square footage of the signs does not exceed one square-foot of signage for each one linear foot of frontage of the building. Town Code § 17.064.100 gives businesses the ability to request exceptions to the sign ordinance regulations and indicates the Commission/Council may grant exceptions to the regulations if the exception is not inconsistent with the purpose and intent of the sign ordinance, and if adherence to the regulations would cause unnecessary hardship if one of the following exists:

1. Exceptional or extraordinary circumstances or conditions, not resulting from any act of the owner or applicant, apply to the location under consideration and not generally to other business or properties in the vicinity;
2. The exception is the minimum necessary to serve its intended use;
3. The application submitted is extraordinary and outstanding in design; or
4. The sign is of historical significance.

The building at 1930 Sir Francis Drake Boulevard has an "L" configuration with the portion of the building coinciding with the top of the "L" measuring only twelve feet wide and this twelve-foot-wide front wall is setback from the front property line six feet. The portion of the building frontage coinciding with the lower portion of the "L" is eleven and one-half feet wide and is set back 16 feet from the front property line with its façade screened from view by the building immediately to the east, Perry's Deli, that fronts on the street with a zero-foot front setback. The sign permit being requested is for two wall signs, one facing Sir Francis Drake Boulevard where it will be visible to pedestrians from the parkade and Broadway, and one facing east on the eastern side wall closest to Sir Francis Drake Boulevard where it will be visible to vehicles traveling west on Sir Francis Drake Boulevard. The total sign square footage being requested

is seven square feet with each sign measuring 3.5-feet, one square foot over the six square foot limit placed on cannabis businesses.

Most of the commercial spaces located within the Town Center have building frontages that far exceed eight feet in width with the building facades located on the property line at the edge of the sidewalk.

The Council should consider if it wants to limit a permitted business use with twelve feet of building frontage, set six feet back from the street to one six square foot sign facing the street. The second wall sign on the eastern facing side wall nearest the street, would be similar and serve a similar purpose to the second projecting sign allowed other permitted businesses uses in Town per Town Code §17.064.050(B).

Commercial Cannabis Business Permit

Council adopted Resolution No. 19-34 setting forth the Commercial Cannabis Business Scoring Criteria and identified three scoring categories including Business Qualifications and Business Plan, Quality of Operating Plan and Public Benefits, to be used in rating a cannabis business application. Each of the categories has a number of detailed items the Planning Commission is to use in rating an application. Resolution No 19-34 and the Scoring Criteria can be viewed in their entirety at the end of Attachment B.

At their final October 21, 2021, meeting on Element 7's proposal, the Planning Commission gave the submitted business plan and information the following collective (averaged) scores:

Scoring Category	Possible Max. Score	Commission Score
Business Qualifications and Business Plan	35 points	28.6 points
Quality of Operating Plan	35 points	27.2 points
Public Benefits	30 points	24.3 points
Total	100 points	80.1 points

Resolution 19-34 sets the minimum qualifying score to enable an applicant to apply for the one remaining Commercial Cannabis Business (CCB) Permit at 80 points. The Fairfax Remedy application submitted by Element 7 has met this minimum score and qualifies for consideration for the one remaining available CCB Permit.

In reviewing this application, the Council should keep in mind the following code sections (TC sections 5.56.070:

- The Town Council will issue the final score on the commercial cannabis business permit application, relying only upon the written application itself, any other written town materials generated in connection with the review, and the applicant presentation and representations at the public hearing. The decision of the Town Council will be

made at a duly noticed public hearing and may be consolidated with any required hearing for design review approval, traffic impact permit and/or sign permits.

- The specific scoring criteria, weighting (points per criteria), minimum qualifying scores and any additional application procedures will be determined by resolution of the Town Council prior to the commencement of the application period and posted publicly on the Town's website
- Issuance of a commercial cannabis business permit does not create a land use entitlement. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, until all of the state and local laws and regulations, including but not limited to the requirements of this chapter and of the permit, have been complied with and the town verifies such compliance. The issuance of a commercial cannabis business permit does not excuse compliance with any other requirement in the Zoning Ordinance or Building Code. Any additional permits required may be obtained after the business permit is issued but before operation.
- The town reserves the discretion to not grant any applications in the interest of the health, safety, or general welfare of the town.

TC § 5.56.080 MINIMUM CRITERIA FOR ISSUANCE OF A PERMIT.

The Town Council shall consider the following criteria for issuance of a cannabis business permit prior to acting on the discretionary design review and sign permits:

(A) The applicant, each owner, and any existing or prospective manager must be at least 21 years of age.

(B) The applicant, each owner, and any existing or prospective manager must not have had a similar type of license or permit previously revoked or denied for good cause within the immediately preceding two years prior to the permit application.

(C) Neither the applicant, any owner, nor any proposed or prospective manager, shall have been convicted of:

(1) Any offense relating to possession, manufacture, sales, or distribution of a controlled substance, with the exception of cannabis-related offenses;

(2) Any offense involving the use of force or violence upon the person of another;

(3) Any offense involving theft, fraud, dishonesty or deceit;

(4) Any offense involving sales of cannabis to a minor or use of a minor to distribute cannabis;

(5) Any common law felony.

For purposes of this division (C), a conviction includes a plea or verdict of guilty or a conviction following a plea of nolo contendere. The above criteria are in addition to any applicable provisions of state law.

The Police Chief has reviewed the background checks for the three business partners and determined that none of them have a record of being convicted of any of the disqualifying criminal offenses described above in the State of California.

FISCAL IMPACT

Not applicable.

ATTACHMENTS

Attachment A – Resolution No 2021-23, A Resolution of the Fairfax Planning Commission Providing Scoring on the Cannabis Business Application and Recommending that the Town Council Deny the Design Review Permit and Sign Permit for a Medical Cannabis Storefront Retailer/Adult-Use Retail Delivery-Only Business Proposed to be Located at 1930 Sir Francis Drake Boulevard

Attachment B – Ordinance 834 and 835 and Council Resolution 19-34, Scoring Criteria, and Allowable Cannabis Storefront/Delivery Only location maps

Attachment C – Planning Commission September 16, 2021, and October 21, 2022, minutes

Attachment D – project plans

Resolution No. 2021-23

A Resolution of the Fairfax Planning Commission Providing Scoring on the Cannabis Business Application and Recommending that the Town Council Deny the Design Review Permit and Sign Permit, for a Medical Cannabis Storefront Retailer/Adult-Use Retail Delivery-Only Business Proposed to be Located at 1930 Sir Francis Drake Boulevard

WHEREAS, the Town of Fairfax received an application to convert the structure at 1930 Sir Francis Drake Boulevard into a combination medical retail storefront and adult use retail delivery cannabis business at 1930 Sir Francis Drake Boulevard from Fairfax Remedy on January 6, 2020 and was deemed complete on August 23, 2021; and

WHEREAS, the submitted application included requests for a Design Review Permit, a Sign Permit, and scoring for a Cannabis Business Application; and

WHEREAS, pursuant to CEQA Guidelines Section the project is exempt per California Code of Regulations, Chapter 3, Article 19, categorical exemption numbers 15301(a), 15303(c), 15304(b).

WHEREAS, the Planning Commission held a duly noticed Public Hearing on September 16, 2021, at which time all interested parties were given a full opportunity to be heard and to present evidence, and then closed the public hearing and provided direction to staff to return at the October meeting with a resolution recommending denial of the applications; and

WHEREAS, based on the plans and supplemental information provided by the applicant as well as testimony at the public hearing, the Planning Commission has determined that the applicant has not met the burden of proof required to support the findings necessary for the Project's Design Review Permit and Sign Permit as described below; and

WHEREAS, the Planning Commission has determined that the applicant has satisfied the criteria to achieve the required numerical total to support the Project's Cannabis Business Application as described below; and

WHEREAS, in accordance with Section 17.020.040 of the Design Review Criteria which the Commission is required to use to evaluate a design review application, the Planning Commission hereby makes the following criteria determinations in recommending to the Town Council that it deny the project Design Review Permit:

(A) The proposed development shall create a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.

The modern design of the access ramp, stairway with the horizontal railings and blue color when viewed together with the simple box-like architecture of the existing building,

does not conform to the general character of the majority of the other commercial buildings in the Town Center commercially zoned areas. The general aspect of the building is not open and inviting to the public. The use of high pressure sodium lighting is also inconsistent with the downtown character.

(K) The accessibility of off-street parking areas and the relation of parking areas with respect to traffic on adjacent streets.

Although the project meets applicable off-street parking requirements, the applicant has provided information that the anticipated employee staffing levels will result in the majority of onsite parking being taken by employees and unavailable for use by customers.

WHEREAS, in accordance with Town Code § 17.064.100(B), which sets forth the required findings to allow an exception to sign regulations, the Planning Commission hereby makes the following finding in recommending to the Town Council that it deny the Sign Permit Exception to Town Code 17.110.040(D)(5):

(B) The Planning Commission may grant an exception if it finds that the exception is not inconsistent with the purpose and intent of this chapter and that the strict adherence to the regulation may cause unnecessary hardship if one of the following exists:

- (1) Exceptional or extraordinary circumstances or conditions, not resulting from any act of the owner or applicant, apply to the location under consideration and not generally to other business or properties in the vicinity;**
- (2) The exception is the minimum necessary to serve its intended use;**
- (3) The application submitted is extraordinary and outstanding in design; or**
- (4) The sign is of historical significance.**

The exception is inconsistent with the purpose and intent of this chapter and strict adherence to the regulation will not cause unnecessary hardship. One 6 square-foot sign is adequate to convey to the public the business location and identity, and two signs totally 7.5 square feet are not subject to exceptional/extraordinary circumstances or conditions, are not necessary to serve the sign's information purpose, is not outstanding in design, and is not of historical significance; and

WHEREAS, the Commission finds that they are able to recommend to the Town Council that the applicant has satisfied the criteria to achieve the required minimum numerical total that would enable the Council to consider the requested Cannabis Business Permit; and

WHEREAS, pursuant to Fairfax Municipal Code Section 5.56.070(B) Phase 2 - Application Scoring, and consistent with Council Resolution 19-34, the Commission finds and approves scoring for a Fairfax Commercial Cannabis Business Permit in

connection with the Remedy Fairfax Medical Cannabis Storefront Retail and Adult Use Delivery-Only business application as follows:

Business Qualifications and Business Plan	28.6
Quality of Operating Plan	27.2 points
Public Benefits	24.3 points

Said application achieved a recommended cumulative score of 80.1 points. Accordingly, consistent with subsection 5.56.070 B. 1. and the Scoring Criteria adopted by the Town, the Planning Commission is forwarding Remedy Fairfax to the Town Council for consideration as having achieved the minimum 80-point qualifying score.

WHEREAS, the Commission has reviewed the project based on the information provided in the applicant's supplemental information containing table of contents sections 1 through 15, including 1) Remedy Fairfax Introduction, 2) Cannabis Business Application, 3) Planning Application, 4) Live Scans (accepted and approved by the Fairfax Police Chief and Town Manager in February of 2020), 5) Business Formation Documents, 6) State License Application, 7) Business Plan, 8) Operating Plan, 9) Public Benefits Plan, 10) Sensitive Use Plans, 11) Site and Floor Plans, 12) Signage and Lighting Plan 13) Traffic Study, 14) Security Plan, and 15) Letters of support, the Architectural Plans by SKS architects dated 5/22/20, pages ESP, EC1, A0, A1 and A2 and the landscaping and irrigation plans by Roth/Lamotte Landscape Architecture, pages L0.0, L1.0 and L1.1 dated 5/18/20 and presented to the Commission at the public hearing on 9/16/21.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

1. Based on the findings set forth above, the Planning Commission recommends that the Town Council deny the requested Design Review Permit and Sign Permit, and refers its qualifying application score for the Cannabis Business Permit for Remedy Fairfax at 1930 Sir Francis Drake Boulevard.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 21st day of October 2021, by the following vote:

AYES: Fragoso, Green, Jansen, Kelly, Swift
NOES: Chair Newton
ABSENT: Gonzalez-Parber



Chair Mimi Newton

Attest:



Ben Berto, Director of Planning and Building Services

ORDINANCE NO. 834

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING AND RESTATING FAIRFAX MUNICIPAL CODE, TITLE 17 ("ZONING"), CHAPTER
17.110 ("MEDICAL MARIJUANA DISPENSARIES") AND REPEALING ARTICLE III ("MEDICAL
MARIJUANA CULTIVATION") OF CHAPTER 17.138, TO ADOPT ZONING STANDARDS AND
RESTRICTIONS FOR COMMERCIAL CANNABIS USES AND CANNABIS CULTIVATION FOR
PERSONAL USE**

WHEREAS, in 1996 the voters of the State of California approved the Compassionate Use Act ("CUA") (Health and Safety Code §11362.5) to enable persons residing in California who are in need of marijuana/cannabis for medical purposes to possess and cultivate it without fear of criminal prosecution under specified circumstances; and

WHEREAS, in 2004 the State enacted the Medical Marijuana Program Act ("MMPA") (Health and Safety Code § 11362.7 et seq.), to clarify the scope of the Compassionate Use Act, including the circumstances under which qualified patients and their primary caregivers could associate collectively or cooperatively to cultivate marijuana/cannabis for medical purposes without being subject to criminal prosecution; and

WHEREAS, in 2011, the Town of Fairfax approved Ordinance No. 759 adopting zoning regulations for medical marijuana dispensaries consistent with the CUA and MMPA; and

WHEREAS, the Town of Fairfax is home to the first cannabis dispensary in the country ever to receive a permit to sell medical marijuana; and

WHEREAS, in 2015, the State enacted the Medical Cannabis Regulation and Safety Act ("MCRSA," previously known as the Medical Marijuana Regulation and Safety Act), which adopted comprehensive regulations and licensing for the commercial medical cannabis industry; and

WHEREAS, in 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), which legalized the non-medical use of marijuana by adults over 21 years of age, and created comprehensive regulations and licensing for the adult-use commercial cannabis industry; and

WHEREAS, on June 27, 2017, the State approved Senate Bill 94, which repealed MCRSA, amended the MMPA, and consolidated the State licensing schemes applicable to both medical and adult-use commercial cannabis activity under a single regulatory framework titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act" ("MAUCRSA"); and

WHEREAS, the MAUCRSA recognizes, preserves and does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that regulate state licensed cannabis businesses, including, but not limited to, local zoning and land use requirements, business license requirements, or to completely prohibit the establishment or operation of one or more types of businesses licensed under MAUCRSA within the local jurisdiction (Business and Professions Code, § 26200); and

WHEREAS, the MAUCRSA restricts the location of a commercial cannabis business premises within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day

care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius (Business and Professions Code, § 26054); and

WHEREAS, MAUCRSA provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the State shall be the minimum statewide standards, and a local jurisdiction may establish additional standards, requirements, and regulations (Business and Professions Code, § 26201); and

WHEREAS, the Town Council of the Town of Fairfax recognizes the ongoing potential for adverse impacts on the health, safety, and welfare of its residents and business from primary and secondary effects associated with commercial cannabis business activities, such as increased traffic and parking impacts, offensive odors, increased youth exposure and normalization, increased risk of theft or other crimes, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents, and that there is a need to adopt local zoning regulations to avoid or mitigate adverse impacts on the community which may arise from commercial cannabis activity; and

WHEREAS, the AUMA, as amended by the MAUCRSA, legalizes cultivation of not more than six living cannabis plants by persons 21 years of age or older for personal use; and

WHEREAS, the AUMA, as amended by the MAUCRSA, provides that a local jurisdiction shall not completely prohibit personal cultivation of cannabis inside a private residence or inside an accessory structure to a private residence that is fully enclosed and secure, but that a local jurisdiction may completely prohibit personal cultivation of cannabis outdoors (Health and Safety Code, § 11362.2); and

WHEREAS, numerous court decisions confirm that a municipality has authority to regulate medical marijuana activities, including personal cultivation of medical marijuana under the CUA and the MMPA (*Kirby v. County of Fresno* (2015) 242 Cal.App.4th 940, 964-967; see also, *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729; *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975); and

WHEREAS, the outdoor cultivation of cannabis unregulated by local law poses a risk of adverse effects to the public health, safety and welfare due to the potentially high cash value of the plants and the potential creation of strong odors, aesthetic impacts, noise from equipment and other impacts that can be detectable beyond the property boundaries; and

WHEREAS, the indoor cultivation of cannabis has potential adverse effects to the health and safety; including structural damage due to increased moisture and excessive mold growth and a risk of fire and electrocution due to improper wiring or equipment; and

WHEREAS, on November 1, 2017, the Town Council adopted Urgency Ordinance No. 809 pursuant to Government Code Section 65858, establishing a forty-five (45) day moratorium on all commercial cannabis uses to the extent allowed by law in light of the passage of the AUMA and MAUCRSA; and

WHEREAS, the Town Council extended the moratorium for the full two years authorized under Government Code Section 65858 pursuant to Urgency Ordinance Nos. 812 and 820, to allow the Town to complete its study of potential cannabis regulations; and

WHEREAS, the Town Council, Planning Commission and Town staff have conducted numerous meetings, community outreach, and analyses to determine what types of commercial cannabis uses should be

allowed to establish in the Town and what appropriate regulations should be required, if any, in light of the passage of the AUMA and MAUCRSA; and

WHEREAS, as a result of that study, and in accordance with Business and Professions Code, Sections 26054 and 26200, this Ordinance effects zoning regulations, including buffers for sensitive uses, for the physical establishment of certain commercial cannabis retail uses within Fairfax, while prohibiting all other commercial cannabis uses at this time (including all commercial cultivators, manufacturers, testing laboratories, distributors and microbusinesses), to meet the unique local needs of the community and to protect the public health, safety, and welfare; and

WHEREAS, the Town Council of the Town of Fairfax has determined that reasonable regulations regarding the establishment and operation of cannabis delivery-only retailers (also known as non-storefront retailers) and medicinal cannabis storefront retailers in the Town, subject to a commercial cannabis business permit, will provide an appropriate balance between the Town's interests in fostering retail commercial activities and lawful community access to cannabis, while also protecting the public health, safety, and welfare of Fairfax residents; and

WHEREAS, it is also the desire of the Town Council to update the Town's regulations applicable to cultivation of cannabis for personal medical use and for personal adult-use for consistency with AUMA, as amended by MAUCRSA, and to protect the public health, safety, and welfare; and

WHEREAS, nothing in this Ordinance shall be construed to allow any activity relating to cannabis that is otherwise not expressly allowed in the Fairfax Municipal Code or is illegal under State law, or allow persons to engage in conduct that endangers others or causes a public nuisance; and

WHEREAS, nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. 841 or to permit any activity that is prohibited under said Act except as mandated by State law; and

WHEREAS, the Town Council directed the Planning Commission to consider zoning amendments to address commercial cannabis uses on August 15, 2018; and

WHEREAS, the Planning Commission held eight public hearings, and ultimately voted on April 11, 2019 against the proposed zoning text amendments; and

WHEREAS, the Town Council held a study session on May 1, 2019 and a duly noticed public hearing on June 5, 2019 concerning proposed commercial cannabis regulations, and has received public comment on the matter; and

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

Section 1. **Recitals.** The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. **Code Amendment.** Chapter 17.110, entitled "Medical Marijuana Dispensaries" of Fairfax Municipal Code, Title 17 ("Zoning") is hereby amended and restated as set forth in full on Exhibit "A," attached hereto and incorporated herein by reference.

Section 3. **Code Repeal.** Article III, entitled “Medical Marijuana Cultivation,” of Fairfax Municipal Code, Title 17 (“Zoning”), Chapter 17.138 (“Regulations Applying In Multiple Zoning Districts”) is hereby repealed.

Section 4. **General Plan Consistency.** The Town Council finds and determines that the amendments to the Town’s zoning code would, in fact, conform to the Town’s General Plan on the basis of the following:

- (a) The Ordinance permits limited numbers of certain commercial cannabis retail uses in existing commercial zones. This Ordinance is consistent with Fairfax General Plan Land Use Element Goal LU-5 to “manage future growth while preserving the area’s natural resources” and with Policy LU-5.1.1, which provides that “[n]ew and renewed development shall occur primarily as infill development;” and
- (b) By allowing local cannabis retailers and mitigating the need for residents to utilize cannabis retailers located in other jurisdictions, the Ordinance is also consistent with Fairfax General Plan Conservation Element, Program CON-1.3.1.4: Educate citizens on primary means to reduce GHG emissions, such as transportation choices and supporting the local economy, including locally-grown foods and local businesses, to reduce GHG emissions; and
- (c) The Ordinance allows cannabis retailers to provide cannabis deliveries in Town. This is consistent with Fairfax General Plan Circulation Element Goal C-6, which seeks to “promote less reliance on single-occupant vehicles” because private delivery services can potentially reduce the need for “errand-running” trips, thereby potentially reducing traffic congestion (General Plan, p. C-3); and
- (d) The Ordinance permits personal cultivation of up to six plants of medical or adult-use cannabis per private residence pursuant to State law, subject to reasonable regulations to minimize potential adverse impacts to surrounding neighbors and the general public. Additionally, the Ordinance limits the number of commercial cannabis retail locations to two and limits storefront retailers to medical-use sales only. No other community in Marin County provides for adult-use cannabis storefront retailers and allowing adult-use storefront retailers in Fairfax could create undue traffic, parking impacts and strain on town’s resources and quality of life. By addressing potential neighborhood and community impacts, this Ordinance is consistent with Fairfax General Plan Land Use Element Goal LU-7 to “preserve community and neighborhood character” and with Objective LU-7.2 to “[p]reserve, maintain, and enhance in a sustainable manner, the existing character, scale, and quality of life in Fairfax’s residential neighborhoods;” and
- (e) By limiting the wattage of indoor grow lights and prohibiting the use of gas products in connection with personal cannabis cultivation, the Ordinance is also consistent with Fairfax General Plan Safety Element, Goal S-3, to minimize risk due to fires, and Objective S-3.1.1 to protect people and property from risks associated with urban and wildland fire.

Section 5. **Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each and every section,

subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 6. CEQA. The Town Council hereby determines that this Ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") (California Public Resources Code §21000 et seq.) pursuant to State CEQA Guidelines Section 15061(b)(3) and Business and Professions Code Section 26055(h), each as separate and independent bases. This Ordinance is exempt under the general rule that CEQA only applies to projects, which have the potential for causing a significant effect on the environment. Pursuant to State CEQA Guidelines, Section 15061(b)(3) it can be seen with certainty that the Ordinance will not have a significant effect on the environment because it would permit limited numbers of certain cannabis retailers in zones where medical marijuana dispensaries and other similar uses are currently permitted, and because it would impose reasonable regulations on personal cultivation of cannabis that was legalized under State law. With respect to personal cannabis cultivation, this Ordinance also qualifies for the Class 3 and Class 4 exemptions because the amendments authorize indoor cultivation in existing structures and, for outdoor cultivation, only minor private alterations in the condition of land, water, and/or vegetation akin to new gardening on private residential property. Additionally, Business & Professions Code Section 26055(h) provides that CEQA does not apply to the adoption of an ordinance by a local jurisdiction that requires discretionary review and approval of permits to engage in commercial cannabis activity that includes applicable environmental review. The Town Council hereby directs the Town Manager or his/her designee to prepare and file a Notice of Exemption within five business days following adoption of this Ordinance.

Section 7. Effective Date; Posting. This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

Section 8. Filing with State Licensing Authorities. The Town Clerk shall submit a copy of this ordinance to the Bureau of Cannabis Control as provided by Business and Professions Code, Section 26055.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 7th day of August 2019, and duly adopted at the next regular meeting of the Town Council on the 4th day of September 2019, by the following vote, to wit:

AYES:	ACKERMAN, COLER, GODDARD, LACQUES, REED
NOES:	None
ABSENT:	None
ABSTAIN:	None



Barbara Coler, Mayor

Attest:


Hannah Politzer, Deputy Town Clerk

9-9-19
Date

EXHIBIT “A”

CHAPTER 17.110: CANNABIS USES

§ 17.110.010 PURPOSE.

The purpose of this Chapter is to impose zoning restrictions on various commercial cannabis businesses authorized and/or licensed by the State of California and personal cultivation of cannabis activities authorized pursuant to state law. This section is not intended to give any person or entity independent legal authority to operate a cannabis business, it is intended simply to impose zoning restrictions regarding cannabis businesses that may operate in the Town and personal cannabis cultivation activities pursuant to this Code and state law. This Chapter is in addition to any other business license and regulatory requirements imposed on cannabis businesses by this Code or other applicable state law.

§ 17.110.020 DEFINITIONS.

For purposes of this Chapter, the following definitions apply:

- A. “Adult-use cannabis” or “adult-use” means cannabis or cannabis products intended to be used for non-medical purposes by persons twenty-one years of age or older in conformance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code, Division 10) and the provisions of State law regarding cannabis use and sale (Health and Safety Code, §11362.1 et seq.), as each may be amended from time to time.
- B. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” includes “cannabis” as defined in Business and Professions Code, Section 26001 and in Section 11018 of the Health and Safety Code. “Cannabis” shall not include industrial hemp as defined by Section 11018.5 of the Health and Safety Code.
- C. “Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. For purposes of commercial cannabis cultivation, the term “cannabis cultivation” also includes processing, rolling, storing, packaging, and labeling of non-manufactured cannabis products.
- D. “Cannabis delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Cannabis delivery” also includes the use by a cannabis retailer of any technology platform that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.
- E. “Cannabis distribution facility” means any facility engaged in the procurement, temporary storage, non-retail sales, and transport of cannabis and cannabis products between State-licensed cannabis businesses and any other activity allowed under the State distributor license(s), including, but not limited to, quality control and collection of State cannabis taxes.

- F. “Cannabis manufacturing” means the compounding, blending, extracting, infusing, or otherwise making, preparing or packaging a cannabis product. Cannabis manufacturing includes the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or cannabis products or labels or relabels its container.
- G. “Cannabis microbusiness” means a commercial cannabis business that must engage in at least three of the following commercial cannabis activities: cultivation, manufacturing using nonvolatile solvents, distribution, and/or retail.
- H. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis products include “cannabis products” as defined in Business and Professions Code, Section 26001.
- I. “Cannabis retailer” means a facility or premises where cannabis or cannabis products are offered, either individually or in any combination, for retail sale or other sales or transfer to consumers, including an establishment that delivers cannabis and cannabis products as part of a retail sale. For purposes of this Section, “cannabis retailer” also includes medical cannabis dispensaries, patient collectives and cooperatives operating, or proposing to operate, pursuant to the Compassionate Use Act (Health and Safety Code, § 11362.5) and/or the Medical Marijuana Program (Health and Safety Code, § 11362.7 et seq.), as may be amended. Unless otherwise specified, “cannabis retailer” means both a retailer selling medicinal cannabis and medicinal cannabis products to patients with valid physicians’ recommendations, and a retailer selling adult-use cannabis and cannabis products for adults twenty-one (21) years of age and older. The term “cannabis retailer” includes both storefront retailers and delivery-only retailers unless otherwise specified.
- J. “Cannabis testing laboratory” means a laboratory, facility, entity, or site that offers or performs tests or testing of cannabis or cannabis products.
- K. “Commercial cannabis use” includes all cannabis cultivation, cannabis manufacture, cannabis distribution, cannabis testing laboratories, cannabis retailers, cannabis delivery, and sale of cannabis and/or cannabis products, whether intended for medical or adult-use, and whether or not such activities are carried out for profit. Commercial cannabis uses includes “commercial cannabis activity” as defined in Business and Professions Code, §26001, and includes any activity that requires, or may require in the future, a license from a State licensing authority pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code, Division 10), as may be amended. Commercial cannabis use does not include the activities of a qualified patient or a primary caregiver that are exempt from State licensure pursuant to Business and Professions Code, § 26033.
- L. “Day care center” means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and schoolage child care centers, as defined

Sections 1596.76 and 1596.750 of the Health and Safety Code.

- M. “Delivery-only retailer” means a cannabis retailer that conducts cannabis sales exclusively through cannabis delivery from a fixed, physical location that is closed to the public. Also known as a “non-storefront retailer.”
- N. “Fully enclosed and secure structure” means a space within a dwelling unit that complies with the California Building Code, as adopted in the town (“CBC”); or, if exempt from the permit requirements of the CBC, an accessory structure, on a lot containing a dwelling unit, having a complete roof and enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. In order to qualify as a fully enclosed and secure structure, the walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two-inch by four-inch or thicker studs overlaid with three- eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products, are not considered solid materials.
- O. “Indoor” means within a fully enclosed and secure structure.
- P. “Medicinal cannabis” or “medical use” means cannabis or cannabis products intended to be used for medical purposes in accordance with the Compassionate Use Act of 1996 (California Health and Safety Code §11362.5) and the Medicinal Marijuana Program Act (California Health and Safety Code §11362.7 *et seq.*), as each may be amended from time to time.
- Q. “Outdoor” means any location not within a fully enclosed and secure structure, such as a location exposed to the open air or within a greenhouse.
- R. “Personal cultivation” means cultivation of cannabis for a natural person’s own personal use and possession in accordance with this Code and state law, including but not limited to Health and Safety Code Sections 11362.1 and 11362.2, as may be amended, and such person does not sell or distribute cannabis to any other person. “Personal use” also means and includes cultivation of medical cannabis conducted by a qualified patient exclusively for his or her personal medical use, and cultivation conducted by a primary caregiver for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, in accordance with state law, including Health and Safety Code Sections 11362.7 and 11362.765, as may be amended. Except as herein defined, personal cultivation does not include, and shall not authorize, any cultivation conducted as part of a business or commercial activity, including cultivation for compensation or retail or wholesale sales of cannabis, or by a cannabis cooperative association or any of its members.
- S. “Primary caregiver” shall have the same meaning as the term “primary caregiver” defined in Cal. Health and Safety Code § 11362.7, as may be amended from time to time.
- T. “Private residence” means house, an apartment unit, accessory dwelling unit, a mobile home, or other similar dwelling occupied for residential purposes, or as defined in Cal. Health and Safety Code § 11362.2, as may be amended from time to time.

- U. “Qualified patient” means and includes both a “qualified patient” and a “person with an identification card” as each term is defined in Cal. Health and Safety Code § 11362.7, as amended from time to time.
- V. “School” means a place of instruction at the primary, secondary or high school level for at least four grades within a range from transitional kindergarten or kindergarten through 12 (whether public, private, or charter), but does not include any place where instruction is conducted primarily in a private home.
- W. “State commercial cannabis license” means a state license issued under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code, Division 10), as may be amended, and includes both an A-license and an M-license, as well as a testing laboratory license.
- X. “Storefront retailer” means a cannabis retailer that conducts cannabis sales at a business premises that is open to the public, and may also conduct cannabis delivery as part of a retail sale.
- Y. “Sell,” “sale,” and “to sell” include any transaction, whereby, for any consideration title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from who the cannabis or cannabis product was purchased.
- Z. “Tutoring center” means a place that provides instruction supplemental to that provided by a school, requires compensation, and offers such instruction to at least ten clients who do not reside on the premises, for at least 37 weeks a year. A tutoring center may be located in a residence as long as the residence is in a commercial zone.
- AA. “Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades where 10 or more video games or game machines or devices are operated, and where minors are legally permitted to conduct business, or similar amusement park facilities. This definition shall not include any private martial arts, yoga, ballet, music, art studio or similar studio of this nature nor shall it include any private gym, athletic training facility, pizza parlor, dentist office, doctor’s office primarily serving children, or a location which is primarily utilized as an administrative office for youth programs or organizations.

§ 17.110.030 COMMERCIAL CANNABIS ACTIVITIES PROHIBITED UNLESS SPECIFICALLY AUTHORIZED BY THIS CHAPTER

- A. All commercial cannabis uses as defined herein (other than as provided under Business and Professions Code Sections 26054(c) and (d), 26080(b), and 26090(e)) are prohibited from establishing or operating in all zoning districts within the Town of Fairfax except and unless expressly permitted by and in conformance with the provisions of this Chapter and/or Chapter 5.56.

- B. All commercial cannabis uses permitted by this Chapter must, prior to establishing and operating any such commercial cannabis use, obtain and maintain at all times (1) a valid state commercial cannabis license, (2) a commercial cannabis business permit pursuant to Title V, Chapter 5.56 of this Code and (3) any other local or regulatory licenses or permits required by this Code or state law.

17.110.040 CANNABIS RETAIL USES.

- A. Cannabis retailers may be permitted subject to the approval of a commercial cannabis business permit pursuant to Chapter 5.56 of this Code, and provided there shall be no more than two (2) cannabis retailer locations at any one time in the following use categories, or in any combination thereof:

1. Medical-use cannabis storefront retailer(s); and/or
2. Delivery-only retailer(s), which may be medical-use, adult-use or both.

This limit shall include any medical marijuana dispensary that was legally operating as of April 3, 2018, and continues to operate, and which may be permitted to conduct adult-use cannabis deliveries pursuant to Section 17.110.050 (“Adult-Use Cannabis Deliveries By Certain Existing Medical Marijuana Dispensaries”), below. In the event that the existing medical marijuana dispensary ceases to operate in accordance with a legally-issued permit, another a permit may be issued for another operator or location such that at all times, two (2), but not more than two (2), retail locations may hold permits to legally operate. One retail location may consist of side-by-side licensed premises as defined in 16 California Code of Regulations, Section 5025, in order to permit the licensing and operation of both a medical use storefront retailer and adult-use delivery-only retailer by a single operator.

- B. Cannabis retailers may be permitted in the following zones:

1. Medical-Use Cannabis Storefront Retailers: Highway Commercial (CH) and Central Commercial (CC).
2. Cannabis Delivery-Only Retailers: Highway Commercial (CH), Central Commercial (CC) and Limited Commercial (CL).

- C. Cannabis retailers shall not be allowed within the specified distances to the following uses that are in existence at the time the cannabis use is established. Specifically, a cannabis retailer shall not locate or establish:

1. Medical-Use Cannabis Storefront Retailers: Within a 600-foot radius of a school, or youth center. (See Business and Professions Code, § 26054.) Within a 300 foot radius of a daycare center or tutoring center.
2. Cannabis Delivery-Only Retailers: Within a 250-foot radius of a school. or youth center. Pursuant to California Business and Professions Code Section 26054(b), as may be amended, the Town finds that no setback or radius is necessary for cannabis delivery-only

retailers near day care centers or other potentially sensitive uses, beyond the radii contained herein.

The distances specified in this Section shall be the horizontal distance measured in a straight line from the property line of the specified use to the closest property line of the lot on which retailer is to be located without regard to intervening structures. (See Business and Professions Code, § 26054(b); Health and Safety Code, § 11362.768(c).)

D. Cannabis retailers shall meet all standards for development in the underlying zoning district, in the Town's General Plan, and in any applicable specific plans or master plans, and in addition:

1. Parking shall be provided in accordance with the following:
 - i. Medical-Use Cannabis Storefront Retailers: Town Code § 17.052.030(F) for retail and personal service stores at a rate of three spaces for the first 500 square of gross floor area and one space for each additional 500 square feet thereafter, plus one space per delivery vehicle unless an employee vehicle is used to conduct deliveries.
 - ii. Cannabis Delivery-Only Retailers: Town Code § 17.052.030(K) for industrial uses, including wholesale and storage: one space per two employees of the maximum shift, plus one space per delivery vehicle unless an employee vehicle is used to conduct deliveries.
2. Size of facility. The size of the facility shall not exceed 1,500 square feet exclusive of restroom facilities and common areas.
3. If an application for a proposed cannabis retailer requires compliance with Chapter 17.020 ("Design Review Regulations"), then notwithstanding any provision of Chapter 17.020 to the contrary, the Planning Commission shall provide a recommendation on such design review application and final approval authority shall vested in the Town Council. The Town Council's review and decision shall in all respects comply with the criteria set forth in Chapter 17.020.
4. If an application for a proposed cannabis retailer requires a traffic impact permit pursuant to Chapter 17.056 ("Traffic Impact Permit"), then notwithstanding any provision of Chapter 17.056 to the contrary, the Town Council shall not be required to approve the methodology used in the traffic study pursuant to Section 17.056.070.
5. If an application for a proposed cannabis retailer requires a sign permit pursuant to Chapter 17.064 ("Signs"), then notwithstanding any provision of Chapter 17.064 to the contrary, the Planning Commission shall make a recommendation on such sign permit, and final approval authority shall vested in the Town Council. The Town Council's review and decision shall in all respects comply with the criteria set forth in Chapter 17.064, except signage shall be limited to a single window or wall sign and in no circumstances shall any signage for a cannabis retailer exceed six square feet in area.

§ 17.110.050 ADULT-USE CANNABIS DELIVERIES BY CERTAIN EXISTING MEDICAL MARIJUANA DISPENSARIES.

- A. A medical marijuana dispensary that was legally operating as of April 3, 2018 and is permitted by the Town to operate a medical marijuana delivery service, may operate as a permitted use in any commercial district, an adult-use cannabis delivery-only service from its then existing premises, subject to each of the following conditions:
1. The dispensary shall, prior to conducting any adult-use cannabis deliveries, obtain and maintain at all times:
 - (a) A valid state cannabis license authorizing adult-use cannabis deliveries issued by the appropriate state licensing authority pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (California Business and Professions Code, Division 10);
 - (b) A commercial cannabis business permit pursuant to Title 5, Division II, Chapter 5.56 of this Code; and
 - (c) Any other state and local licenses or permits required by this Code or state law.
 2. All cannabis deliveries must conform to State laws and regulations adopted pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act except as set forth herein regarding the State buffer zone.
 3. No adult-use customers shall be permitted to access or remain in the business premises of a medical marijuana dispensary.
 4. No adult-use cannabis retail sales shall be permitted to occur at the premises of a medical marijuana dispensary.
- B. Pursuant to California Business and Professions Code Section 26054(b), as may be amended, the Town finds that no setback or radius is necessary for the conduct of adult-use cannabis deliveries by an eligible, existing medical marijuana dispensary pursuant to this Section, beyond the zoning regulations contained herein.
- C. This Section is not intended to give any person or entity independent legal authority to operate an adult-use cannabis non-storefront retail delivery service, it is intended only to clarify the zoning restrictions regarding certain existing medical marijuana dispensaries that may conduct adult-use cannabis deliveries in the Town pursuant to this Code and state law. This Section is in addition to any other business license and regulatory requirements imposed on medical marijuana dispensaries and non-storefront retail cannabis delivery services by this Code or other applicable state law.

§ 17.110.060 - § 17.110.090 RESERVED.

§ 17.110.100 PERSONAL CULTIVATION OF CANNABIS.

Personal cultivation of cannabis shall comply with the following:

A. No more than six cannabis plants per private residence are allowed to be cultivated, whether indoors or outdoors upon the grounds of a private residence, regardless of the number of individuals residing at the residence. However, outdoor cultivation shall not exceed 6 plants per lot, regardless of the number of private residences located upon the lot.

B. *Outdoor Cultivation.* Outdoor personal cultivation of cannabis shall comply with the following standards:

1. Outdoor cannabis plants shall be located a minimum of five feet from property lines.
2. Outdoor cannabis plants shall be located only in the rear and side yards of a lot, and are not permitted to be located in front yards of any lot.
3. No cannabis plants cultivated shall be visible from a public right-of-way or any other public place by normal unaided vision.
4. No cannabis plants cultivated shall exceed seven feet in height.
5. The area used for cannabis cultivation shall be contained within a locked space (e.g. enclosed within a locked gate).
6. Any lot upon which cannabis plants are cultivated shall have fencing of no more than six feet in height surrounding the lot or that portion of the lot upon which the plants are cultivated. In no event shall netting or plastic screening be used in conjunction with cannabis cultivation.
7. Outdoor cultivation is prohibited on parcels within 200 feet of any school or day care center.

C. *Indoor Cultivation.* Indoor personal cultivation of cannabis shall comply with the following standards:

1. Plants shall be contained within a locked space of a fully enclosed and secure structure, as defined, either within the primary residence or within an accessory structure on the same lot as the primary residence.
2. Indoor grow lights shall not exceed 1,200 watts and comply with the California Building, Electrical, Plumbing and Fire Codes as adopted by the town. Gas products (CO₂, butane, propane, natural gas, kerosene, etc.) or generators may not be used indoors or outdoors.
3. All electrical equipment used in the cultivation or processing of cannabis (e.g. lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to electrical equipment used in the cultivation or processing of cannabis is prohibited.

4. All cannabis cultivation areas shall be in compliance with the current, adopted edition of the California Building Code as regards mechanical ventilation.
5. Shall not be conducted in a manner that results in the creation of mold or mildew inside the residence or the accessory structure.

D. *General.* All personal cultivation of cannabis, whether indoors or outdoors, shall comply with the following generally applicable standards:

1. A copy of documentation of qualified patient status must be maintained at any location at which medical cannabis cultivation occurs. If cultivation is to be conducted by a primary caregiver, documentation of the legally-required relationship shall be maintained at the location where medical cannabis cultivation occurs.
2. The residence shall maintain fully functional and usable kitchen, bathrooms, and bedrooms for their intended use, and the premises shall not be used primarily or exclusively for cannabis cultivation.
3. No cannabis cultivation area shall be maintained or operated in such a way as to adversely affect the health or safety of the nearby residents in any manner, including but not limited to by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes. A public nuisance may be deemed to exist, if such cultivation activity produces: (a) odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public, (b) repeated responses to the residence from law enforcement officers, (c) repeated disruption to the free passage of persons or vehicles in the neighborhood, (d) excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public, or (e) any other impacts on the neighborhood which are disruptive of normal activity in the area.
4. Any cannabis cultivation that would require a license or permit from the State of California per the Medical and Adult-Use Regulation and Safety Act (Cal. Business and Professions Code, Division 10) is prohibited within the Town of Fairfax.

§ 17.110.110 MEDICAL CANNABIS ADMINISTRATIVE EXCEPTION.

- A. Any qualified patient or primary caregiver may seek a medical cannabis administrative exception to Section 17.110.100, subdivisions (A) or (B)(7).
- B. Any request for a medical cannabis administrative exception shall be submitted to the Town Manager, along with documentation, such as a physician's recommendation or verification of more than one qualified patient living in the residence, demonstrating why the standard required by Section 17.110.100, subdivisions (A) or (B)(7), is not feasible.
- C. The Town Manager may grant a medical cannabis administrative exception only if the following findings can be made:

1. The individual requesting the exception can demonstrate a medical need for the exception, as evidenced by the written recommendation of a treating physician;
 2. The requested exception shall not constitute a public nuisance, as set forth in § 17.110.100(D).
 3. For indoor cultivation, the Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers, code-compliant electrical systems or one-hour firewall assembly.
 4. The cultivation of no more than ten (10) cannabis plants shall be authorized through a medical cannabis administrative exception.
- D. The Town Manager, or his or her designee, shall prepare a written approval or denial of any request for an exception within ten business days of its submission to the Town. Approval of the requested exception may be made subject to conditions designed to lessen the impact of the exception on neighboring uses and the community generally.
- E. Any exception granted under this section shall be personal to the party to whom such exception was granted and shall not run with the land or otherwise be transferable.
- F. Notwithstanding any other provision of the Town Code, any person aggrieved by the decision of the Town Manager, or his or her designee, with respect to an exception requested under this § 17.110.110 may appeal said decision within ten days of the date of the decision to the Planning Commission. Upon review, the Planning Commission shall issue the requested exception if it meets the requirements of subdivision (C) above, and subject to any conditions imposed per subdivision (D) above.

§ 17.110.120 ENFORCEMENT.

- A. *Public nuisance.* The violation of this Chapter is hereby declared to be a public nuisance and may be enforced pursuant to the provisions of Chapter 1.12 of the Fairfax Town Code.
- B. *Seizure and destruction of cannabis.* To the extent authorized by state law, all cannabis seized by the Town Police in the enforcement of this Chapter shall be seized, retained and destroyed in the same manner and subject to the same procedures as are provided in California Health and Safety Code §§ 11472 through 11479, for cannabis possessed in violation of Division 10 of the Health and Safety Code.
- C. *Right of entry.* The Code Enforcement Officer, Building Official, Planning Director, Chief of Police, Fire Inspector, or a designee is authorized to enter upon and inspect private properties to ensure compliance with the provisions of this Chapter. Reasonable advance notice of any such entry and inspection shall be provided and, before entry, consent shall be obtained in writing from the owner or other person in lawful possession of the property. If consent cannot for any reason be obtained, an inspection warrant shall be obtained from a court of law prior to any such entry and

inspection. In those cases where consent is denied, the Town may seek to recover the costs it incurs in obtaining a warrant from the property owner and/or person in lawful possession of the property.

- D. *Abatement.* The Town Attorney, in the name of and on behalf of the town and/or the people of the town, may bring a civil action in a court of competent jurisdiction to enforce any provision of this Chapter, or to restrain or abate any violation of the provisions of this Chapter as a public nuisance.
- E. *Penalties not exclusive.* The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any others and none of these penalties and remedies prevent the town from using any other remedy at law or in equity which may be available to enforce this Chapter or to abate a public nuisance.

§ 17.110.130 LIABILITY.

The provisions of this Chapter shall not be construed to protect the property owner(s) of record, or their lessees, tenants or other participants engaged in the personal cultivation of cannabis or commercial cannabis uses from prosecution pursuant to any state or federal laws regulating or prohibiting such activities. The property owner(s) of record, or their lessees, tenants and other participants, assumes any and all risk and all liability that may arise or result under state and federal laws from the cultivation of cannabis or commercial cannabis activities conducted on such property.

ORDINANCE NO. 835

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING FAIRFAX MUNICIPAL CODE, DIVISION II, CHAPTER 5.56, ENTITLED
“CANNABIS BUSINESSES,” TO REGULATE COMMERCIAL CANNABIS BUSINESSES
WITHIN THE TOWN OF FAIRFAX**

WHEREAS, on June 27, 2017, the State of California approved Senate Bill 94, which consolidated the State licensing schemes applicable to both medical and adult-use commercial cannabis activity under a single regulatory framework titled the “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (“MAUCRSA”); and

WHEREAS, the MAUCRSA sets forth a comprehensive framework to regulate commercial cannabis activity from seed to sale, which includes product labeling, a track-and-trace program, and other consumer protections, which mitigates against some of the potential adverse impacts to public health, safety and welfare due to commercial cannabis activities; and

WHEREAS, the Town of Fairfax is home to the first cannabis dispensary in the country ever to receive a permit to sell medical marijuana; and

WHEREAS, the Town Council of the Town of Fairfax recognizes ongoing potential for adverse impacts on the health, safety, and welfare of its residents and business from secondary effects associated with commercial cannabis business activities, such as increased traffic and parking impacts, offensive odors, increased youth exposure and normalization, increased risk of theft or other crimes, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents, and that there is a need to adopt local regulations to avoid and mitigate adverse impacts on the community which may arise from commercial cannabis businesses; and

WHEREAS, the MAUCRSA recognizes, preserves and does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that regulate state licensed cannabis businesses, including, but not limited to, local zoning and land use requirements, business license requirements, or to completely prohibit the establishment or operation of one or more types of businesses licensed under MAUCRSA within the local jurisdiction (Business and Professions Code, § 26200); and

WHEREAS, the MAUCRSA provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the State shall be the minimum statewide standards, and a local jurisdiction may establish additional standards, requirements, and regulations (Business and Professions Code, § 26201); and

WHEREAS, the Town Council, Planning Commission and Town staff have conducted numerous meetings, community outreach, and analyses to determine what types of commercial cannabis businesses should be allowed in the Town, if any, and appropriate regulations, in light of the passage of the AUMA and MAUCRSA in the State of California; and

WHEREAS, as a result of that study, and in accordance with Business and Professions Code, Section 26200, this Ordinance effects business permitting regulations for the establishment and operation of certain commercial cannabis retail uses within Fairfax as the best course of action for the Town’s citizens and the community at large; and

WHEREAS, the Town Council of the Town of Fairfax has determined that reasonable regulations regarding the establishment and operation of delivery-only retail businesses (also known as non-storefront retailers) and medicinal cannabis storefront retailers in the Town, as permitted in the Town’s Zoning Code,

will provide an appropriate balance between the Town's interests in fostering certain retail commercial activities and community access to cannabis while also protecting the public health, safety, and welfare of Fairfax residents; and

WHEREAS, nothing in this Ordinance shall be construed to allow any activity relating to cannabis that is otherwise not expressly allowed in the Fairfax Municipal Code or is illegal under State law, or allow persons to engage in conduct that endangers others or causes a public nuisance; and

WHEREAS, nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 841 or to permit any activity that is prohibited under said Act except as mandated by State law; and

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

Section 1. **Recitals.** The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. **Code Amendment.** Chapter 5.56, entitled "Cannabis Businesses," of the Fairfax Municipal Code, Title 5 ("Business Taxes, Licenses and Regulations"), Division II ("Specific Business Regulations") is hereby amended and restated as set forth in full on Exhibit "A," attached hereto and incorporated herein by reference.

Section 3. **Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 4. **CEQA.** The Town Council hereby determines that this Ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") (California Public Resources Code §21000 et seq.) pursuant to State CEQA Guidelines Section 15061(b)(3) and Business and Professions Code Section 26055(h), each as separate and independent bases. Pursuant to State CEQA Guidelines, Section 15061(b)(3) it can be seen with certainty that the Ordinance will not have a significant effect on the environment because it would require a regulatory permit and impose operating criteria on cannabis retailers where medical marijuana dispensaries and other similar uses are currently permitted. Additionally, Business & Professions Code Section 26055(h) provides that CEQA does not apply to the adoption of an ordinance by a local jurisdiction that requires discretionary review and approval of permits to engage in commercial cannabis activity that includes applicable environmental review. The Town Council hereby directs the Town Manager or his/her designee to prepare and file a Notice of Exemption within five business days following adoption of this Ordinance.

Section 5. **Effective Date; Posting.** This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

Section 6. **Filing with State.** The Town Clerk shall submit a copy of this ordinance to the Bureau of Cannabis Control as provided by Business and Professions Code, Section 26055.

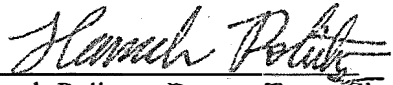
The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 7th day of August 2019, and duly adopted at the next regular meeting of the Town Council on the 4th day of September 2019, by the following vote, to wit:

AYES: ACKERMAN, COLER, GODDARD, LACQUES, REED
NOES: None
ABSENT: None
ABSTAIN: None



Barbara Coler, Mayor

Attest:



Hannah Politzer, Deputy Town Clerk

9-9-19

Date

EXHIBIT “A”

Fairfax Municipal Code

CHAPTER 5.56: CANNABIS BUSINESSES

ARTICLE I: COMMERCIAL CANNABIS BUSINESS PERMITS

5.56.010 Purpose and intent.

It is the purpose and intent of this Chapter to regulate commercial cannabis activities located within the Town of Fairfax in order to promote the health, safety, and general welfare of residents and businesses within the Town. Commercial cannabis activities shall comply with all provisions of the Fairfax Municipal Code, State law, and all other applicable local codes and regulations, including all applicable land use and zoning regulations imposed on cannabis activities.

5.56.020 Definitions.

The definitions for commercial cannabis business uses and activities in this Chapter shall be as defined in Section 17.110.020 of the Municipal Code. In addition, for purposes of this Chapter, the following words and phrases whenever used in this Chapter shall have the meanings defined in this Section:

- A. “Adult use” shall refer to cannabis goods intended to be sold for nonmedical use by persons twenty-one years of age or older in conformance with the MAUCRSA and the provisions of State law regarding cannabis use and sale (California Health & Safety Code, §11362.1 et seq.).
- B. “Application period” shall be the time stated in the notice of availability during which the Town will accept applications for commercial cannabis business permits for one or more categories of commercial cannabis activities.
- C. “Cannabis business” means the actual or intended conduct of commercial cannabis activity, as defined by MAUCRSA, or of one or more commercial cannabis use(s), as defined by this Code.
- D. “Cannabis goods” means cannabis, including dried flower, cannabis products, and products containing cannabis.
- E. “Chief of Police” shall refer to the Town of Fairfax Chief of Police or the person designated by the Chief of Police.
- F. “Day” shall refer to calendar days.
- G. “Financial interest” shall have the same meaning as that term is defined in 16 California Code of Regulations, Section 5004, as may be amended from time to time.
- H. “Manager” shall mean a person can or does have or share ultimate control over the day-to-day operations of a business.

- I. “MAUCRSA” shall mean the Medical and Adult-Use Cannabis Regulation and Safety Act (California Business & Professions Code, Division 10), as may be amended from time to time.
- J. “Medical use” shall refer to cannabis goods intended to be sold for medicinal use by a qualified patient in California who possesses a physician’s recommendation pursuant to the Compassionate Use Act of 1996 (California Health & Safety Code §11362.5), the Medicinal Marijuana Program Act (California Health & Safety Code §11362.7 *et seq.*) and MAUCRSA, as each may be amended from time to time.
- K. “Owner” shall have the same meaning as that term is defined in 16 California Code of Regulations, Section 5003, as may be amended from time to time.
- L. “Person” shall mean any natural person, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- M. “Planning department” means the Department of Planning and Building Services of the Town of Fairfax.
- N. “Police department” means the Police Department of the Town of Fairfax.

5.56.030 Prohibited commercial cannabis activities.

- A. All medicinal and adult-use commercial cannabis uses or other activities requiring a State commercial cannabis license under the MAUCRSA are prohibited, except as expressly allowed by this Chapter and Chapter 17.110.
- B. The foregoing prohibition shall not apply to:
 - a. Conduct specified in California Business & Professions Code Sections 26054(c) and (d), 26080(b), or 26090(e).
 - b. Cannabis delivery originating from a retailer located outside of the Town, which is not prohibited or regulated by this Chapter.
- C. Cannabis temporary events, as provided under California Business & Professions Code Section 26200, are prohibited in the Town of Fairfax.

5.56.040 Permit requirements.

- A. Any person seeking to establish or operate a medicinal or adult-use cannabis business from a premises located in the Town must first obtain and maintain a commercial cannabis business permit in accordance with this Chapter prior to establishing and/or operating.
- B. Commercial cannabis business permits may be issued to no more than two (2) cannabis retail locations at any one time in the following activity categories, or in any combination thereof:
 - 1. Medical-use only storefront retailer; and/or

2. Delivery-only retailer(s) (non-storefront retailer), which may be medical-use, adult-use or both.

The existing medical marijuana dispensary that has been legally and continually operating as of April 3, 2018 shall be counted as one location. In the event that the existing medical marijuana dispensary ceases to operate in accordance with a legally-issued permit, another permit may be issued for another operator or location such that at all times, two (2), but not more than two (2), retail locations may hold permits to legally operate. One retail location may consist of side-by-side licensed premises as defined in 16 California Code of Regulations, Section 5025, in order to permit the operation of both a medical use storefront retailer and adult-use delivery-only retailer by a single operator.

- C. When the number of commercial cannabis business permit locations falls below the limit set forth above, the Town Manager (or his or her designee) shall post a notice of availability that the Town will be accepting applications for commercial cannabis business permit(s). The notice shall include the dates during which applications will be accepted, information regarding application requirements and directions, and the contact information for questions. The notice shall be posted on the Town's website and on the three public places in the Town of Fairfax designated for official postings.

5.56.060 Permit application.

- A. All applications for a commercial cannabis business permit shall be filed with the Town Manager or designee, using forms provided by the Town, within the application period that is established by the Town Manager, and which period may be extended from time to time. It is the responsibility of the applicant to provide a complete application and all information required for approval of the permit. The application shall be made under penalty of perjury. At a minimum, each application shall contain:
 1. A complete identification of the applicant including name, address and phone number to which notice of action on the application and correspondence is to be mailed;
 2. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement;
 3. Names, residence and business addresses of each and every owner. If one or more owners is a statutory entity or other business form, the name of the entity shall be set forth exactly as shown in its formation and organizing documents together with the names, residence and business addresses of each of the owners and other persons with a financial interest in the entity;
 4. The names, residence and business addresses of each and every manager;

5. The name, residence and business address of the owner of the property, who shall indicate in writing his/her/its consent to cannabis business being conducted on the property by signing the application in the space provided;
6. A complete list of every individual who has a financial interest in the commercial cannabis business, who is not an owner, as defined;
7. A site plan, floor plan, and elevations of the property where the business will operate, and indicate whether any exterior building improvements, including façade improvements or exterior signage is proposed. If exterior building improvements or signage is proposed, then compliance with Chapters 17.020 and 17.064 is required, and the applicant shall submit its application for any design review approval and/or sign permits concurrently with the application for the commercial cannabis business permit;
8. An operations plan for the business and the name under which it is to be operated;
9. A traffic study for the proposed location, if a traffic impact permit is required under Chapter 17.056. If required, the applicant shall submit its application for the traffic impact permit concurrently with the application for the commercial cannabis business permit;
10. Evidence of compliance with the California Environmental Quality Act (California Public Resources Code §21000 et seq.);
11. Whether or not any person referred to in subsection (1), (3), (4), (5) or (6) has had a license, permit or use permit for the same or any similar business suspended or revoked anywhere, and, if so, the circumstances of such suspension or revocation;
12. The proposed hours of operation;
13. The applicant's certificates of automobile and general commercial liability insurance coverage and evidence of workers' compensation insurance (if required) related to the operation of the commercial cannabis business;
14. An executed release of liability and indemnity agreement in the form set forth by the Town; and
15. Such other related information or documentation consistent with this Code and state law as the Town Manager may require.

The residential addresses required in subsections (3), (4) and (5), as well as the name(s) of managers listed in subsection (4), shall be kept private and not made available to the public.

- B. An application shall be accompanied by an application review fee, as established by resolution of the Town Council from time to time. This application review fee shall not include fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or other charge imposed by this Code or other governmental agencies.

5.56.070 Review and action on applications.

The processing of new permit applications will include the following phases:

A. Phase 1 – Prescreening and Criminal History:

1. Upon close of the application period, Town staff shall review each complete application for general compliance with the Town’s municipal code, and shall reject any application which does not meet such requirements or is incomplete. Rejected applications shall not be scored. The Town shall also disqualify any application that contains any false or misleading information.

2. All exterior building improvements, including façade improvements and proposed signage, shall be reviewed for conformance with the Town’s zoning and land use standards. If required, the applicant shall apply for any design review approval, traffic impact permit and/or sign permit necessary under Chapters 17.020, 17.056 and/or 17.064 concurrently with the application for the commercial cannabis business permit. The prescreening approval may be conditioned upon the applicant submitting complete application materials for design review, traffic impact and/or sign permits. All applications will be required to comply with environmental review pursuant to the California Environmental Quality Act (“CEQA”) (California Public Resources Code §21000 et seq.).

3. Each applicant shall submit to the Chief of Police a recent photograph of the applicant (if an individual), each owner and current or prospective manager. The applicant, owner(s) and manager(s) shall also submit fingerprints pursuant to “Livescan” procedures and pay all costs associated with such submittal. Upon receipt of the Livescan results, the Chief of Police shall review and report if the criminal history of the applicant, owner(s) and manager(s) satisfies the minimum criteria pursuant to Section 5.56.080.

4. The applicant prescreening decisions will be made by the Town Manager within 60 days of the close of the application period or receipt of Livescan results, whichever is later. Only applicants who receive approval of the prescreening review may proceed to the next phase of the selection process.

B. Phase 2 – Application Scoring:

1. Upon approval of the prescreening review, the Town Manager or designee shall refer the application to the Planning Commission for preliminary scoring of the application(s) and recommendation to the Town Council. A public hearing on a commercial cannabis business permit application(s) may be consolidated with any required hearing for design review approval, traffic impact permit and/or sign permits.

2. The Town Council will issue the final score on the commercial cannabis business permit application, relying only upon the written application itself, any other written Town materials generated in connection with the review, and the applicant presentation and representations at the public hearing. The decision of the Town Council will be made at a

duly noticed public hearing and may be consolidated with any required hearing for design review approval, traffic impact permit and/or sign permits.

3. The specific scoring criteria, weighting (points per criteria), minimum qualifying scores and any additional application procedures will be determined by resolution of the Town Council prior to the commencement of the application period and posted publicly on the Town's website.

4. If the number of applicants who receive minimum qualifying scores at Phase 2 exceeds the maximum number of permits available, then applicants will be selected and issued a commercial cannabis business permit based on highest score.

5. Qualified applicants that are not selected will be placed on a qualified applicant list. Applicants placed on the qualified applicant list will be notified when future applications are accepted. A qualified applicant will remain eligible for three years.

- C. Issuance of a commercial cannabis business permit does not create a land use entitlement. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, until all of the State and local laws and regulations, including but not limited to the requirements of this Chapter and of the permit, have been complied with and the Town verifies such compliance. The issuance of a commercial cannabis business permit does not excuse compliance with any other requirement in the Zoning Ordinance or Building Code. Any additional permits required may be obtained after the business permit is issued but before operation.
- D. The Town reserves the discretion to not grant any applications in the interest of the health, safety, or general welfare of the Town.

5.56.080 Minimum criteria for issuance of a permit.

- A. The applicant, each owner, and any existing or prospective manager, must be at least twenty-one years of age.
- B. The applicant, each owner, and any existing or prospective manager, must not have had a similar type of license or permit previously revoked or denied for good cause within the immediately preceding two years prior to the permit application.
- C. Neither the applicant, any owner, nor any proposed or prospective manager, shall have been convicted of:
1. Any offense relating to possession, manufacture, sales, or distribution of a controlled substance, with the exception of cannabis-related offenses;
 2. Any offense involving the use of force or violence upon the person of another;
 3. Any offense involving theft, fraud, dishonesty or deceit;

4. Any offense involving sales of cannabis to a minor or use of a minor to distribute cannabis;
5. Any common law felony.

For purposes of this subsection (C), a conviction includes a plea or verdict of guilty or a conviction following a plea of nolo contendere. The above criteria are in addition to any applicable provisions of state law.

5.56.090 Operating requirements.

A. State and Local Licenses. The permittee shall obtain and maintain a State commercial cannabis license for the equivalent State cannabis commercial activity. The permittee shall obtain and maintain all other required State and local licenses, permits, or approvals as required.

B. MAUCRSA Compliance. The permittee shall meet all operating requirements of the MAUCRSA, and any regulations promulgated thereunder.

C. Criminal History. No permittee, its owners, managers, employees, or volunteer workers, shall have been convicted of an offense listed Section 5.60.080(C).

D. The permittee shall ensure that its operations conform to the following requirements in addition to the State regulations, which shall include:

1. Signage and notices.
 - i. All signage shall meet the Town Zoning Code's sign requirements.
 - ii. A notice shall be clearly and legibly posted in the business premises indicating that smoking, ingesting or consuming cannabis on the premises is prohibited.
 - iii. Signs on the premises shall not obstruct the entrance or windows in any amount.
 - iv. Address identification shall comply with Fire Department illuminated address signs requirements.
2. Entrances. The primary entrance shall be located and maintained free of barriers, landscaping and similar obstructions so that it is visible from public streets, sidewalks or driveways.
3. Records. A current register of all employees and volunteer workers shall be maintained.
4. Odor Control. An odor absorbing ventilation and exhaust system shall be installed so that odor generated inside the business is not detected outside the property lines or lease area boundaries, or anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the cannabis business.
5. Consumption. Cannabis and cannabis products shall not be consumed (whether eaten, smoked, vaporized, applied or other method of ingestion) on the premises of the cannabis business, including parking areas, or in a delivery vehicle.

6. Operating Hours. A permittee may operate between the hours of 9:00 a.m. to 9:00 p.m., up to seven days a week.
7. Display of permit. Each commercial cannabis business permit shall be prominently displayed at the business premises in a location readily visible to Town officials, such as a lobby or entryway, and on any business website or advertisement.
8. Contact Person. A permittee shall provide the Town with the name and phone number of an on-site community relations staff person or designee to whom one can provide notice if there are operating concerns. The permittee shall make every good faith effort to encourage neighborhood residents to call this person to try to solve operating concerns before any calls or complaints are made to the Town.
9. State License Application. The permittee shall submit to the Planning Department within seven (7) days of submission to the State cannabis licensing authority, a copy of any State commercial cannabis license application, renewal application and/or any business modification request or notification submitted to the State licensing authority (for retail, the Bureau of Cannabis Control) related to the permitted business.
10. Inspections. The Fairfax Code Enforcement and Police Department shall have the right, without warrant, to inspect the premises for which the permit was obtained on the following conditions:
 - i. The scope of the inspection is limited to determining compliance with this Chapter;
 - ii. The inspection shall be conducted not more often than once every six months, except in the event of a complaint by a member of the public;
 - iii. The inspection shall be conducted during regular business hours; and
 - iv. The inspection shall be conducted at a time and in a manner that will minimize business interruption.
11. State and Local Law Compliance. The permittee shall comply with all state and local laws, rules and regulations, including payment of all applicable fees and taxes and payment of any future-adopted cannabis taxes.
12. Notification of State and Local Law Violations. A permittee shall immediately report to the Chief of Police any of the following:
 - i. Arrests of any employees, directors, managers, owners or volunteer workers for an offense other than a misdemeanor traffic offense.
 - ii. Any disciplinary action taken by a State licensing authority regarding the permittee's State commercial cannabis license and submit a copy of any notice or order.

- iii. The occurrence of any event that constitutes a violation of this Chapter or State law related to the conduct of the commercial cannabis business.
- 13. The permittee shall be responsible for all violations of this Chapter and MAUCRSA or its implementing regulations, whether committed by the permittee, its owners, or any employee, volunteer worker, director, manager or other agent of the permittee, for violations that occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.

5.56.100 Term of permit and renewal procedure.

- A. Permits issued under this Chapter shall be valid for 24 months from the date of issuance. The permit may be renewed annually.
- B. Permits may be renewed by the Town Manager unless the permit is suspended or revoked in accordance with the provisions of this Chapter or if the application for renewal fails to comply with the provisions of this Chapter.
- C. Applications for renewal shall be made at least 90 days before the expiration date of the permit and shall be accompanied by the nonrefundable application review fee. Applications for renewal shall be acted upon by the Town Manager and the Town Manager shall notify the permittee within 60 days of his or her decision. Applications for renewal made less than 90 days before the annual expiration date shall not stay the expiration date of the permit.
- D. A permittee shall be responsible for paying an annual permit fee, as established by resolution of the Town Council from time to time. This deposit shall cover the full cost borne by the Town to administer the permit program and all responsibilities established in this Chapter.

5.56.110 Permit suspension and revocation.

- A. The Town Manager may suspend or revoke a commercial cannabis business permit if any of the conditions identified in this Section exist. On determining that grounds for permit suspension or revocation exist, the Town Manager shall serve the permittee with written notice of the proposed suspension or revocation. The notice shall state the ground or grounds upon which the decision is based, the effective date of the decision, the right of the permittee to appeal the decision to the Town Council, and that the Town Manager's decision will be final if no written appeal is timely submitted to the Town in accordance with Section 5.56.140. The notice is effective within fifteen (15) days from the date of service of the notice. If an appeal is timely and properly filed, then the effective date of the notice is stayed.
- B. A permittee is subject to suspension or revocation of the permit, or subject to other appropriate disciplinary action, for any of the following causes arising from the acts or omissions of the permittee, or an employee, volunteer worker, agent, owner, director or manager of a commercial cannabis business:

1. The permittee has made a false, misleading or fraudulent statement or omission of facts in the application for a permit, or in any report or record required to be filed with the City.
 2. The commercial cannabis business has been operated as a nuisance, as defined in Fairfax Municipal Code or as defined in State law.
 3. A violation of any provision of this Chapter, or any other provision of the Municipal Code.
 4. There has been one or more violations of State law, including but not limited to violations of MAUCRSA or its implementing regulations.
- C. Upon revocation, no new permit may be issued for the applicant or any other business entity in which the applicant is a partner or owner of ten percent or more of the business for a period of five years from the date of revocation.

5.56.120 Expiration.

A permit shall expire if not in active use for a period of six months at any time after the date of issuance. "Active use" means conducting the commercial cannabis activity authorized by the permit following receipt of a certificate of occupancy, if required. This period may be extended if the permit has applied for a State commercial cannabis license that has been delayed through no fault of the permittee. Expired permits may not be renewed but the permit holder may apply again when a permit vacancy occurs.

5.56.130 Transfer of permits.

A commercial cannabis business permit issued under this Chapter is valid only as to the permittee and approved site, and is therefore nontransferable to other persons or locations. A commercial cannabis business permit is not property and has no value. A commercial cannabis business permit may not be transferred, sold, assigned or bequeathed expressly or by operation of law. Any attempt to directly or indirectly transfer a commercial cannabis business permit shall be deemed to constitute a voluntary surrender of such permit and such permit shall therefore be automatically rendered null and void. Except, however, if the permittee is a partnership, corporation, limited liability company or other entity, and one or more of the owners should die, one or more of the surviving owners may acquire, by purchase or otherwise, the interest of the deceased owner without affecting a surrender or termination of such permit and in each case the permittee shall thereafter be deemed to be the surviving owner(s). Additionally, a commercial cannabis business permit may be endorsed to add an additional owner, provided such prospective new owner satisfies the requirements for applicants, including but not limited to, a criminal history check and the qualifications listed in Section 5.56.080, as approved by the Town Manager.

5.56.140 Appeals.

- A. Within fifteen (15) days after the date of service of a decision of the Town Manager to revoke, suspend, deny renewal of a permit, or deny prescreening review, the permittee or applicant may appeal such action by filing a written appeal with the Town Clerk.

- B. The notice of appeal shall be in writing and signed by the person making the appeal, or his or her legal representative, and shall contain the following:
1. The name, address, telephone number of the appellant.
 2. A true and correct copy of the notice of the decision issued by the Town Manager from which the appellant is appealing.
 3. A specific statement of the reasons and grounds for making the appeal in sufficient detail to enable the Town Council to understand the nature of the controversy, the basis of the appeal, and the relief requested, not to exceed five pages.
 4. All documents or other evidence pertinent to the appeal that the appellant requests the Town Council to consider at the hearing.
- C. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the Town Council from time to time.
- D. Failure of the Town Clerk to receive a timely and proper appeal, or the requisite fee, constitutes a waiver of the right to appeal the decision of the Town Manager and a failure to exhaust all administrative remedies. In this event, the Town Manager's decision is final and binding.
- E. In the event a notice of appeal is timely filed, the Town Manager's decision is stayed until a final order has been rendered and issued by the Town Council. If a notice of appeal is not timely filed, in the event of a decision of nonrenewal, the permit expires at the conclusion of the term of the permit and in the event of a suspension or revocation, the suspension or revocation is effective upon the expiration of the period for filing a written notice of appeal.
- F. Upon receipt of a timely notice of appeal, the Town Clerk shall set the matter for a hearing before the Town Council. The Town Council shall preside over the hearing on appeal, hear the matter de novo and conduct the hearing pursuant to the procedures set forth by the Town. The Town Manager bears the burden of proof to establish the grounds for his or her decision by a preponderance of the evidence. The issuance of the Town Manager's decision constitutes prima facie evidence of grounds for the nonrenewal, suspension, or revocation.
- G. The appeal shall be held within a reasonable time after the filing of the notice of appeal, but in no event later than ninety (90) days from the date of such filing. The Town shall notify the appellant in writing of the date, time and location of the hearing at least ten (10) days prior to the date of the hearing.
- H. At the hearing the appellant may present witnesses and evidence relevant to the decision appealed. Appeal hearings are informal, and the formal rules of evidence and discovery applicable in a court of law shall not apply to the hearing. However, rules of privilege shall

be applicable to the extent they are permitted by law, and irrelevant, immaterial and repetitious evidence may be excluded.

- I. After the conclusion of the appeal hearing, the Town Council shall determine if any grounds exists for the Town Manager's decision.
 1. If the Town Council determines that no facts exist to support the Town Manager's decision, the Town Manager's notice of decision shall be deemed cancelled.
 2. If the Town Council determines that any facts exist to support the Town Manager's notice of decision, the decision shall be upheld.

The Town Council shall issue a written final order. The decision of the Town Council shall be final and shall be served on the appellant. The decision shall contain the following statement: "The decision of the Town Council is final and binding. Judicial review of this decision is subject to the time limits set forth in California Code of Civil Procedure section 1094.6."

5.56.150 Service of Town notices.

Except as otherwise expressly required by a provision of this Chapter, any notice required by this Chapter may be served by personal delivery to any applicant or permittee, or by first class mail. The date of service shall be the date it is personally delivered or placed in a U.S. Postal Service receptacle. Any notice issued to any applicant or permittee may be sent to the mailing address as listed on the application submitted to the Town. Failure of any applicant or permittee to receive a properly addressed notice by mail shall not invalidate any action, decision, determination or proceeding under this Chapter.

5.56.160 Enforcement.

- A. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. A failure to obtain a commercial cannabis permit required by this Chapter shall be punishable in accordance with the Fairfax Municipal Code and State law.
- B. All remedies prescribed under this Chapter shall be cumulative and the use of one or more remedies by the Town shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.
- C. Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.
- D. Any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is declared a public nuisance and may be summarily abated by the Town.

- E. The violation of any provision of this Chapter shall be and is declared to be contrary to the public interest and shall, at the discretion of Town Manager, create causes of action, including but not limited to, for injunctive relief.
- F. In addition to the civil and administrative remedies set forth above, any person that violates the provisions of this Chapter may be subject to administrative penalties as set forth by the Fairfax Municipal Code, Chapter 1.10.

5.56.170 Application of this article to existing medical marijuana dispensaries.

An existing medical marijuana dispensary that was legally operating as of April 3, 2018 does not require a permit pursuant to this Chapter to continue its existing operations as storefront medicinal cannabis retailer.

However, if such a medical marijuana dispensary has received a permit to operate an adult-use cannabis delivery service from its existing premises pursuant to Section 5.56.300 as of December 31, 2019, then such adult-use deliveries may continue until expiration of the adult-use delivery permit. Upon expiration of adult-use delivery permit approved under Section 5.56.300, the owner shall be required to obtain a commercial cannabis business permit and comply with the provisions of this Article I for the adult-use cannabis delivery service, without the need to undergo the application review procedure set forth in Section 5.56.070.

Alternatively, if such a medical marijuana dispensary has not received a permit to operate an adult-use cannabis delivery service pursuant to Section 5.56.300 as of December 31, 2019, the owner shall be required to apply for a commercial cannabis business permit and comply with the provisions of Article I, including the application review procedure set forth in Section 5.56.070, in order to operate an adult-use cannabis delivery service.

ARTICLE II. RESERVED

ARTICLE III. CANNABIS DELIVERIES

§ 5.56.300 Adult-Use Cannabis Deliveries By Certain Existing Medical Marijuana Dispensaries.

A medical marijuana dispensary that was legally operating as of April 3, 2018 and is permitted to operate a medical marijuana delivery service, may operate an adult-use cannabis delivery service from the location of its existing premises upon obtaining a cannabis business permit pursuant to this section and in conformance with the requirements of § 17.110.230 of this Code. The Town Council shall adopt permit procedures and permit regulations by resolution. If no permit has been issued as of December 31, 2019, this Section 5.56.300 sunsets and shall be of no further force and effect.

RESOLUTION 19-34

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
APPROVING THE SCORING CRITERIA, WEIGHTING (POINTS PER CRITERIA),
MINIMUM QUALIFYING SCORES, AND APPLICATION PROCEDURES FOR
COMMERCIAL CANNABIS BUSINESS PERMITS IN FAIRFAX**

WHEREAS, on June 27, 2017, the State of California approved Senate Bill 94, consolidated the State licensing schemes applicable to both medical and adult-use commercial cannabis activity under a single regulatory framework titled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act" ("MAUCRSA"); and

WHEREAS, the MAUCRSA recognizes, preserves and does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that regulate state licensed cannabis businesses, including, but not limited to, local zoning and land use requirements, business license requirements; and

WHEREAS, on the September 4, 2019 the Town Council meeting of the Town of Fairfax adopted by ordinance regulations in Town Code Chapter 5.56 "Commercial Cannabis Business Permits", and Chapter 17.110 "Cannabis Uses" governing all commercial cannabis businesses in the Town; and

WHEREAS, Section 5.56.070 B. 3. Chapter 5.56 directs the Town Council to adopt by resolution the scoring criteria, weighting (points per criteria), minimum qualifying scores, and any additional application procedures prior to the commencement of the application period and posted publicly on the Town's website; and

WHEREAS, on August 7, 2019 the Town Council approved by minute action the scoring criteria, weighting (points per criteria), and minimum qualifying scores for commercial cannabis business permit applications.

NOW, THEREFORE, the Town Council of the Town of Fairfax does resolve as follows:

Section 1. The commercial cannabis business permit application period shall commence on November 1, 2019 and close on January 6, 2020. Applications may be submitted Monday through Thursday to the Planning and Building Services Department at Town Hall during normal business hours from 9:00am to noon and 1:00pm to 4:00pm.

Section 2. Approves Exhibit A- "Commercial Cannabis Business Scoring Criteria" and Exhibit B - "Commercial Cannabis Business Permit Procedures" attached to this Resolution.

Section 3. The Town Manager is authorized to make minor modifications to Exhibit A- "Commercial Cannabis Business Scoring Criteria" and Exhibit B - "Commercial Cannabis Business Permit Procedures" of this resolution for clarification purposes.

The foregoing Resolution was approved at a regular meeting of the Town Council on the 2nd day of October 2019, by the following vote, to wit:

AYES: ACKERMAN, COLER, GODDARD, LACQUES, REED

NOES: None

ABSENT: None

ABSTAIN: None



Barbara Coler, Mayor

Attest:


Hannah Politzer, Deputy Town Clerk

10-3-19
Date

SCORING CRITERIA
FAIRFAX COMMERCIAL CANNABIS BUSINESS PERMITS

Review Criteria Rating System

- i. 35 points: **Business qualifications and business plan** as demonstrated by:
 - Industry experience
 - Financial capacity to start up and sustain business operations
 - Business design/layout: secure, attractive, unobtrusive design
 - Innovative or boutique business models consistent with the Fairfax community
 - Additional information that demonstrates the ability to operate in a manner consistent with the values of the Town, including, without limitation, local residency of principals (3+ years), connection to Fairfax, ability to serve Fairfax, familiarity with the Town
- ii. 35 points: **Quality of operating plan** as demonstrated by:
 - Demonstrated understanding of all State requirements, including but not limited to security, financial, other recordkeeping
 - Inventory controls and sales procedures to prevent diversion to illegal market and access by minors
 - Employee training above State requirements
 - Parking, circulation, and traffic plan, including truck and delivery parking if applicable, to ensure safe access and minimize traffic congestion
 - Complaint response program
 - Additional operational procedures demonstrating safety, commitment to community welfare and community responsiveness
- iii. 30 points: **Public benefits**, including, but not limited to the following:
 - All employees paid living wage and benefits
 - Social equity: One or more principals who earn at or below median household income; women or minority owned business; small business
 - Offer medical cannabis:
 - Patient services, such as physician or caregiver networking
 - Experience serving patients
 - Reduced-cost products to low-income medical patients
 - Locally-sourced, organic/pesticide-free products
 - Green business rating: Is certified or qualifies for certification
 - Participation and support of local youth-serving prevention and education programs, and/or adult addiction programs

Minimum qualifying score = 80 points

Scoring:

- (a) The Planning Commission will review each application at a public hearing based on the written materials and an applicant presentation.
- (b) Planning Commissioners decide scores based on the scoring criteria above. All Planning Commissioners' scores shall be totaled and averaged for each application for a preliminary score. This preliminary score would be referred to the Town Council.

SCORING CRITERIA
FAIRFAX COMMERCIAL CANNABIS BUSINESS PERMITS

- (c) The Town Council would hold a second hearing and review the Planning Commission's preliminary scoring. The Town Council would have the opportunity to issue an additional **10 points** based on the quality of the applicant's presentation.



TOWN OF FAIRFAX

142 Bolinas Road, Fairfax, California 94930
(415) 453-1584 / Fax (415) 453-1618

COMMERCIAL CANNABIS BUSINESS PERMIT PROCEDURES

PHASE 1: The commercial cannabis business permit application period shall commence on November 1, 2020 and close on January 6, 2020. During the application period, a Commercial Cannabis Business Licensing Permit Application and fee must be submitted to the Planning Department, and a Live Scan application form and fee must be filed with the Police Department. If the proposal includes exterior changes to the commercial building in which the business is proposed to be located, a Design Review application and fees shall also be submitted. If proposed signage involves an exception to the sign ordinance regulations, a Sign Permit applications and fees shall also be submitted.

Applications may be submitted Monday through Thursday to the Planning and Building Services Department at Town Hall during normal business hours from 9:00am to noon and 1:00pm to 4:00pm. Please note Town Hall will be closed for holidays and Town furlough.

A written determination will be made on the completion status of each Phase 1 application by February 5, 2020. If an application is deemed to be incomplete, the determination will list the requirements to complete the application. Each cannabis business applicant will then have until February 20, 2020 to provide the needed information to complete the application. Applications not completed within the 2-week period will be disqualified from further processing.

A final decision regarding applicants being accepted for further processing will be made by the Town Manager by March 26, 2020, or after receipt of Live-scan results, whichever is later.

PHASE 2: Application Review Period. Within 2 months of the completion of the Phase 1 process, applications that have been accepted for further processing will be reviewed by the Fairfax Planning Commission. The applications shall be scored against the scoring criteria adopted by the Town (attached).

PHASE 3: Applications achieving a score of 80 points or higher from the Planning Commission will be forwarded, with any accompanying Design Review or Sign Permit application(s), to the Fairfax Town Council. The Town Council will hold a public hearing to review the applications within 2 months of the Planning Commission reaching a decision on application(s) preliminary scores. The Council review the Planning Commission's scoring recommendations and make final scoring decisions, including an additional 10 points.

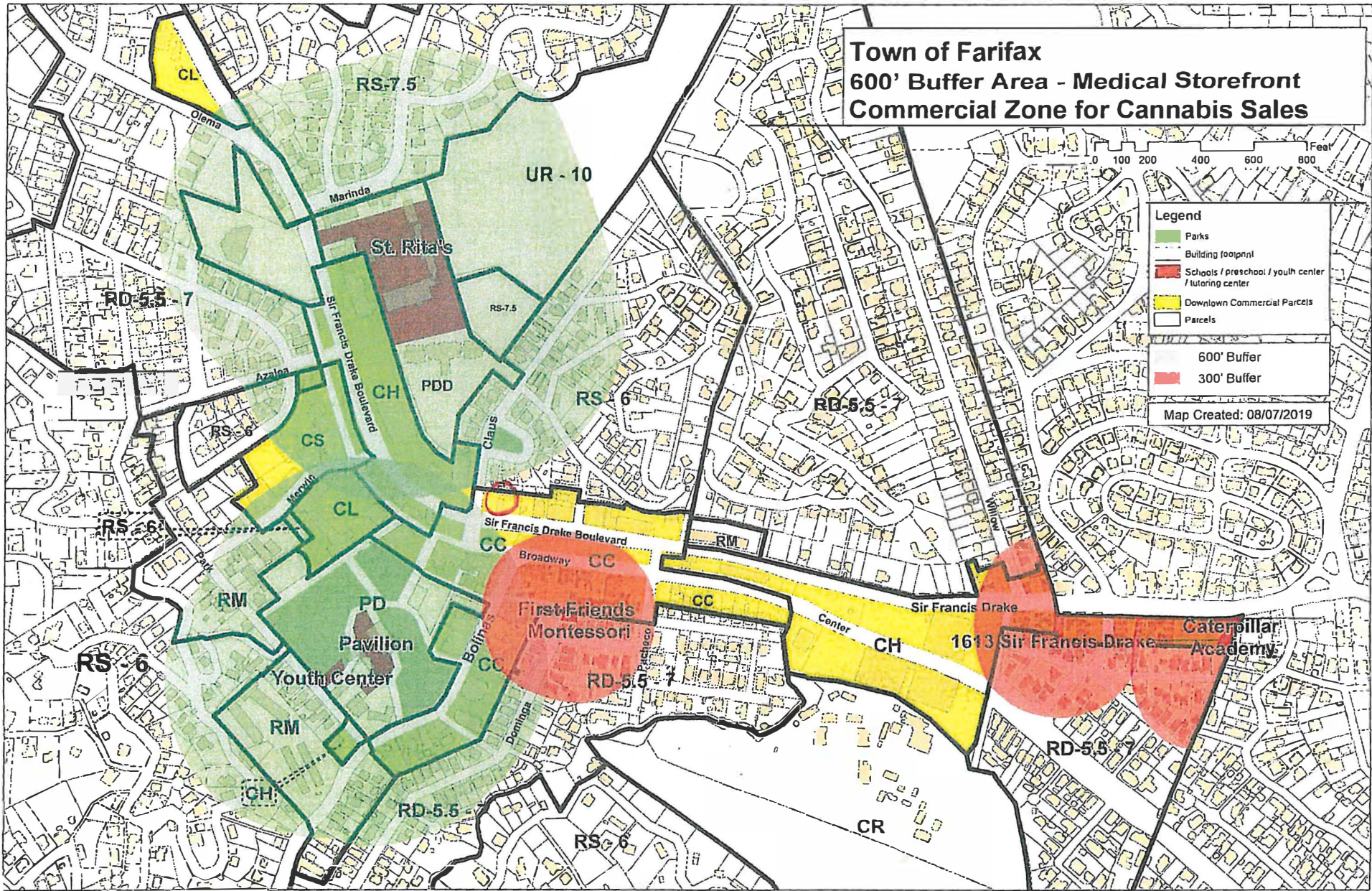
Based on the available number of cannabis business permits, the application(s) that are awarded the highest score(s) will be issued Cannabis Business Permit and be licensed to operate a commercial cannabis business.

Qualified applicants who are not selected will be placed on a qualified applicant list and will be notified when future applications are accepted. A qualified applicant will remain eligible for 3 years.

Issuance of a Cannabis Business Permit does not create a land use entitlement.

No business issued a Cannabis Business Permit may begin operations until they have obtained a permit to operate from the State of California, and until the business has complied with all of State and local laws and regulations, including but not limited to the requirements of Town Code Titles 5.56 and 17.138.

F



○ = PROJECT SITE

FAIRFAX PLANNING COMMISSION MEETING MINUTES
VIA TELECONFERENCE DUE TO COVID-19
THURSDAY, SEPTEMBER 16, 2021

Call to Order/Roll Call:

Chair Newton called the meeting to order at 7:00 p.m.

Commissioners Present:	Norma Fragoso Robert Jansen
Brett Kelly	Mimi Newton (Chair)
Cindy Swift	
Commissioners Absent:	Esther Gonzalez-Parber Philip Green
Staff Present:	Ben Berto, Planning Director Linda Neal, Principal Planner

APPROVAL OF AGENDA

M/s, Swift/Kelly, motion to approve the agenda as posted.
AYES: Fragoso, Jansen, Kelly, Swift, Chair Newton
ABSENT: Gonzalez-Parber, Green

PUBLIC COMMENTS ON NON-AGENDA ITEMS

John thanked the Commission for their service.

CONSENT CALENDAR

There were no Consent Calendar Items.

PUBLIC HEARINGS

- 1. 1930 Sir Francis Drake; Application #20-02**
Consideration of a Cannabis Business permit application, Formula Business Conditional Use Permit, Design Review permit, and Sign Permit for a medical cannabis dispensary/adult delivery business permit for business permit scoring and recommendation on the required Design Review and Sign discretionary permits to the Town Council. Assessor's Parcel No. 001-223-10; Central Commercial CC Zone; Element 7 Fairfax LLC, Applicant; Adham Nasser, owner; CEQA categorically exempt per section 15301(a), 15303(c) and 15304(b).

Principal Planner Neal presented the staff report.

Chair Newton referred to the Formula Business Conditional Use Permit and asked if there were six findings that need to be made. Principal Planner Neal stated "yes". Chair Newton asked what year the building was constructed. Principal Planner Neal stated it was built in 1939.

Commissioner Fragoso asked if there is a record of the owners of the LLC. Principal Planner Neal that information is in the supplemental information provided by the applicants that is part of the AGENDA # 4 public packet. Commissioner Fragoso asked if the two proposed services, a medical dispensary and an adult retail delivery program, need to be physically separated. Principal Planner Neal stated the Town Attorney is of the opinion that they can have both services in one location. Commissioner Fragoso asked if the existing business ((Mana Bowl) had a tentative agreement for a continued lease or purchase of the property. Principal Planner Neal stated she did not know but the property owner has been in contact with staff about this hearing date.

Commissioner Jansen asked about the applicability of Chapter 17.032, General Use Permits. Principal Planner Neal advised that the Commission has to make the findings contained in the General Use Permit section and the Formula Business Permit section to approve the use and she read the required findings. Commissioner Jansen asked if the Formula Business Ordinance says anything about the size of the company or the number of locations. Principal Planner Neal stated "no".

Commissioner Swift referred to Exhibit 1, #3, and asked if changes would be reviewed and approved by the Planning Commission or the Town Council. Principal Planner Neal stated they would be reviewed by the Commission. Commissioner Swift asked about current exterior lighting requirements for a storefront and what the existing dispensary does in terms of lighting. Principal Planner Neal stated the lighting fixture location and fixture cut sheets are contained in the submitted plan sets.

Chair Newton asked if the Formula Business Ordinance does not necessarily ban a formula business but rather allows the Planning Commission to make findings to approve the permit. Principal Planner Neal stated "yes". Chair Newton asked if the Commission would review the other applications (Design Review, etc.) if they first decide they could not make the findings. Principal Planner Neal stated "yes". Chair Newton asked about the proposed sign. Principal Planner Neal stated it is shown on the elevations.

Chair Newton opened the Public Hearing.

Mr. Josh Black, Head of Operations for Element 7 made the following comments:

- He gave a PowerPoint presentation.

Mr. Nicholas Pommier made the following comments:

- He will be the General Manager at the proposed location.
- This is a difficult industry to be a part of and he wanted to partner with people who had a background.
- He wants to be legal and protected.

Mr. Stuart Summers, architect, made the following comments:

- The only changes to the building would be to make it ADA accessible.
- The other changes are minor in nature and give a "nod" to the original character of the building.

Commissioner Jansen noted the application indicates different owners. Mr. Black stated they look for a strong local who understands retail and the local community. He explained the ownership split.

Commissioner Jansen had a question about the renderings.

Commissioner Swift asked about the personnel and benefit packages, other stores, the number of parking spaces, the delivery model, insurance and licensing, recycling of packaging, work the company has done in terms of “public benefit”, local hiring and the “surrounding community”. Mr. Black responded.

Commissioner Fragoso asked where the products come from and the projected yearly sales. Mr. Black stated the products are sourced from State licensed distributors. The average dispensary in California does \$3.5 million in gross sales per year.

Chair Newton had a question about a Request for Proposal (RFP) referred to in a letter dated September 13, 2021 and sourcing of products. Mr. Black discussed the Town’s process for applying for a permit and how they want to support local products whenever possible which could include San Francisco or Sonoma. Chair Newton had questions about the pesticide issue. Mr. Black stated everything is independently tested by a licensed testing company.

Jess made the following comments:

- She is not a fan of corporate businesses.
- She opposed Mana Bowls being “kicked to the curb”.

Ms. Jasmine Gerrity made the following comment:

- She read a letter from Michele Leopold in support of small businesses.

Mr. Greg Morneau made the following comments:

- He has worked for Element 7 for about a year.
- They do a lot of stuff for communities and veterans.

Ms. Lisa Beauchamp made the following comments:

- She was concerned about the number of parking spaces and where employees would park.
- There is a parking issue in the surrounding residential neighborhood.

Mr. Kevin Curtis made the following comments:

- He discussed the RHNA numbers and noted this property could be in a priority allocation area.
- The preferred use could be a mix of commercial and housing.

Ms. Jane Richardson-Mack made the following comments:

- This is not a good fit for Fairfax.
- She does not see a public benefit.

Mr. John Romaidis, Fairfax, made the following comments:

- This is a corporation coming into Town to make money.
- He heard no mention of security.

Mr. Eric Moreno, Fairfax, made the following comments:

- He was concerned about the parking issue.
- This proposal does not complement the existing businesses.

Ms. Marian Craig made the following comments:

- She opposed Element 7 coming into Fairfax.
- The commercialization of cannabis is fundamentally toxic.

Ms. Kelsey Fernandez made the following comment:

- She asked about the amount of local ownership.

Ms. Debra (Dee Lee) Benson, Fairfax, made the following comment:

- This is a chain corporation and it should be opposed.

Mr. Brad Clark, Fairfax, made the following comments:

- He is opposed to this very slick, corporate business.
- It does not fit within the character of nor benefit the Town.

Jeremy made the following comment:

- The Element 7 representatives do not understand the culture and identity of Fairfax.

Ms. Bridget Clark made the following comment:

- The numbers in the traffic study do not add up.

Mr. Dustin Redman, Fairfax, made the following comments:

- He had challenges opening up an independent dispensary on Bolinas Road.
- He supported the proposal and liked the local ownership aspect.

Christopher, a longtime Sonoma resident, made the following comment:

- He is a big proponent of and supports this business.

Lauren made the following comments:

- She has been working with Element 7 for a while under Josh Black, opening other stores.
- They have two stores and she does not consider this a corporation.

Ms. Brenna Gubbins, Fairfax resident and small business owner, made the following comments:

- She opposed the idea of a large, corporate business.
- Kids gather at this location.

Mr. Matt Brown made the following comments:

- He is a real estate broker and has worked with Element 7.
- He urged careful consideration.

Mr. Black made the following comments:

- He responded to the local ownership, traffic, design, and security questions.
- There is one dispensary in Marin County servicing 258,000 residents.
- They are not a franchise and they have never sold a license.
- They have signatures of over 90 people in support.

Chair Newton closed the Public Hearing.

Chair Newton provided the following comments:

- She asked staff about the implications of approving this application in relation to the RHNA numbers and the General Plan that encourage infill. Planning Director Berto stated staff was in the middle of developing housing opportunity sites that respond to the RHNA numbers and have not specifically identified locations in the Central Commercial (CC) Zone.
- She asked about Sales Tax Revenue. Planning Director Berto stated the Town receives a small percentage of Sales Tax Revenue that is collected and it goes into the General Fund.

Commissioner Fragoso provided the following comments:

- She was not sure they would be able to provide five or six parking spaces.
- She has no association with Mr. Fragoso, a member of the team.
- She did not believe there is sufficient space on this tiny lot to develop housing.
- She referred to the General Use Permit Findings and stated the proposed business is not necessarily in the public interest, protection, or enhancement of the community. It is not necessarily equal or better development of the premises because of the community concerns.
- The trade-offs are not comparable.
- She has issues with the Formula Business and the service being compatible with the needs of the area.
- The proposal would shift the quality and nature of the space.
- The public benefit is diminished.

Commissioner Jansen provided the following comments:

- One of the purposes of the Formula Business Ordinance is to preserve opportunities for owner operated businesses.
- They are offering a hybrid model.
- He referred to Code Section 17.032.060 (D) (General Use Permit Findings) and stated he was not sure he could make this finding.

Commissioner Kelly provided the following comments:

- He noted there is a pedestrian nature to the existing business compared to what has been described tonight.
- He was concerned that the security aspects of the incoming business are going to be insular.
- The proposal will encourage people to come and go and not be a part of the streetscape.
- They need to consider the “front and center” nature of the location.

Commissioner Swift provided the following comments:

- She is concerned about the location and the number of customers it plans to serve.
- The Traffic Study looked at the current use of a “fast/casual” restaurant and not what is being proposed.
- This is a Formula Business under the Ordinance.

Chair Newton asked if the Findings for a General Use Permit and Formula Business would need to be made. Principal Planner Neal stated “yes”.

Chair Newton provided the following comments

- She referred to the proposed location and the limited areas within which a retail dispensary can be located and stated some Commissioners want “another bite of the apple”.
- A lot of time was spent on coming up with these locations.
- Location is not a good basis for rejecting the application and a denial would need to hold up to legal scrutiny.

Chair Newton referred to Code Section 17.032.060, Findings for the Conditional Use Permit, and asked if the Commission could make the first finding. Commissioners Fragoso, Jansen, Swift, Kelly, and Chair Newton stated “yes”

Chair Newton referred to Code Section 17.032.060, Findings for the Conditional Use Permit, and asked if the Commission could make the second finding. Commissioner Fragoso and Swift stated “no”.

Commissioner Jansen and Chair Newton stated “yes” Commissioner Kelly stated “maybe”.

Chair Newton referred to Code Section 17.032.060, Findings for the Conditional Use Permit, and asked if the Commission could make the third finding. Commissioners Fragoso, Jansen, Swift, and Chair Newton stated “yes”. Commissioner Kelly stated “maybe”.

Chair Newton referred to Code Section 17.032.060, Findings for the Conditional Use Permit, and asked if the Commission could make the fourth finding. Commissioners Fragoso, Jansen, Swift, and Kelly stated “no”. Chair Newton stated “yes”.

Chair Newton referred to Code Section 17.040.220, Formula Business Findings, and asked the Commission if there were any findings that they could not make. Chair Newton stated she could make all six findings. Commissioner Jansen stated he has concerns about Finding (C) but could agree with all six findings. Commissioner Swift stated she could not make Finding (D). Commissioner Fragoso stated she could not make Findings (D) or (F). Commissioner Kelly stated he could not make Finding (D).

Principal Planner Neal noted based on the previous discussion, staff would need to re-write the Resolution for denial of the two Use Permits. This item would need to be continued.

Chair Newton asked for comments about how the Commission would make recommendations to the Town Council regarding the other applications (Design Review, Sign Permit, Scoring the Business). She asked for a straw poll of the Commission of who could support the Design Review Permit (17.020.040, Design Review Criteria). Chair Newton stated she could make all the findings; Commissioner Swift stated she could not make Findings (K) or (M); Commissioner Jansen stated he was concerned about the lighting and the traffic; Commissioner Fragoso stated she has an issue with Finding (H); Commissioner Kelly stated he had an issue with Finding (M).

Chair Newton asked for a straw poll of the Commission who could support the Sign Permit Exception. Commissioner Fragoso stated she had a problem granting a Sign Exception for two different signs on two different sides of the building; Commissioner Swift stated she could not support the Sign Permit because it conflicts with Section 17.110.064(d)(5) and the Cannabis Ordinance; Commissioner Kelly agreed with Commissioner Swift; Chair Newton stated she could make the Findings to support the Sign Permit for both signs; Commissioner Jansen agreed with Chair Newton.

Chair Newton referred to Attachment G, Exhibit A, and asked the Commission to assign points on the scoring criteria for in accordance with Council Resolution No. 19-43 which set forth the scoring criteria for commercial cannabis business permits: (i), “Business Qualifications and Business Plan”. Commissioner Fragoso assigned 30 points, Commissioner Kelly assigned 21 points, Commissioner Jansen assigned 30 points, Commissioner Swift assigned 35 points, and Chair Newton assigned 27 points. Chair Newton asked the Commission to assign points for (ii), “Quality of Operating Plan”. Commissioner Fragoso assigned 27 points, Commissioner Kelly assigned 24 points, Commissioner Jansen assigned 28 points, Commissioner Swift assigned 25 points, and Chair Newton assigned 32 points. Chair Newton asked the Commission to assign points for (iii), “Public Benefits”.

Commissioner Fragoso assigned between 20 and 23 points, Commission Kelly assigned 22 points, Commission Jansen assigned 20 points, Commissioner Swift assigned 30 points and Chair Newton assigned 28 points

M/s, Fragoso/Swift, motion on Application 001-223-10, Creation of a medical cannabis dispensary/ adult retail delivery business in an existing commercial building, Formula Business Conditional Use Permit and recommendations to the Town Council on Design Review, Sign Permits and scoring of the Element 7 Fairfax LLC Cannabis Business Permit Application #21-02, the Commission has taken a poll of the different findings that were to be made considering the Use Permit Findings required by Chapter 17.032 the Formula Business Findings required by Section 17.040.220 and the Findings regarding the Design Review, the Signage, and the ratings. The Commission provided a straw poll on all of those items and it is recommended that the item be continued for one month so that staff has an opportunity to draft a resolution for denial documenting the findings and reasons to bring back to the Commission at the next meeting to finalize.

AYES: Fragoso, Kelly, Swift

NOES: Jansen, Chair Newton

ABSENT: Gonzalez-Parber, Green

The Commission took a 5-minute break at 11:15 p.m.

M/s, Fragoso/Kelly, motion to rearrange the order of the agenda and hear item #3 prior to item #2, and continue the other items.

AYES: Fragoso, Jansen, Kelly, Swift, Chair Newton ABSENT:

Gonzalez-Parber, Green

3. 169 Ridgeway Avenue; Application #21-19

Request for a modification of an approved Hill Area Residential Development, Design Review and Ridgeline Scenic Corridor permits to convert an area previously approved as a laundry/mechanical room into a den along with minor window/door changes; Assessor's Parcel No. 001-280-01; Residential Single Family RD 5.5-7 Zone; Alex Riley, Architect; Dylan Riley, owner; CEQA categorically exempt per section 15301(e).

M/s, Fragoso/Jansen, motion to continue this item to the next meeting. AYES:

Fragoso, Jansen, Kelly, Swift, Chair Newton

ABSENT: Gonzalez-Parber, Green

2. 100 Cascade Drive; Application #21-20

Request for a Conditional Use Permit and Minimum Side and Rear and Combined Front/Rear Setback Variance to construct a bay window addition to the south, front, side of an existing single-family residence and for an existing rear deck; APN 003-203-22; Residential Single Family RS-6 Zone; Christopher Schrader, Designer; Daniel Neal, owner; CEQA categorically exempt per Section 15301(e).

Commissioner Kelly stated he would need to recuse himself from this application.

Principal Planner Neal presented the staff report.

Commissioner Jansen asked if the neighbor at 104 Cascade had comments on the project. Principal Planner Neal stated they received a notice and staff had not heard from them.

Chair Newton opened the Public Hearing.

- She agreed with the comments made by Ms. Benson.
- There is no downside to requiring replacement trees but in this case there is no need to focus on the size.
- She referred to the resolution and suggested the following changes: 1) On page 2, #1 shall read: "Neither...*reasonably*..."; 2) On page 6, #17 should read: "*The applicant...*"; 3) She would like a condition added for a one to one tree replacement.

Commissioner Jansen provided the following comment:

- He would be careful about requiring the replacement of trees and would rather leave that to the applicant.

Commissioner Green provided the following comments:

- He referred to the resolution and suggested the following change: 1) On page 2, #1 should read: "Neither...enforcement of the specific regulation of the covered parking space or standard parking space size regulations."

Commissioner Fragoso provided the following comments:

- It is fine to ask them to replace the trees that they want to take down but not the dead trees or the trees they are topping since those will remain.
- They should not specify a size or type of tree but rather leave it to the applicants' discretion.

Commissioner Kelly provided the following comments:

- He supports the project in general.
- It is not appropriate to ask for a one-to-one replacement.

Commissioner Green provided the following comments:

- He is usually opposed to taking out trees but in this case the removals are for the safety of the structures and residents and therefore are warranted.
- He does not want to make the applicants spend a ton of money replacing every tree.
- He would support replacing two trees at most.
- He does not want to require them to replace Bay trees.

M/s, Green/Fragoso, motion to approve Resolution No. 2021-25 with the following changes: 1) 1) On page 1, the title should read "A Resolution... Tree Removal/Alteration Permit..." and this wording should carry throughout; 2) On page 2, #1 shall read: "Neither...*reasonably*..."; 2) On page 6, #17 should read: "*The applicant...*"; 3) On page 2, #1 should read: "Neither...enforcement of the specific regulation of the covered parking space or standard parking space size regulations.".

AYES: Fragoso, Green, Jansen, Kelly, Swift, Chair Newton

ABSENT: Gonzalez-Parber

Chair Newton stated there was a 10-day appeal period.

CONTINUED ITEMS

3. 1930 Sir Francis Drake; Application #20-02

Consideration of a Cannabis Business permit application, Formula Business Conditional Use Permit, Design Review permit, and Sign Permit for a medical cannabis dispensary/adult delivery business permit for business permit scoring and recommendation on the required Design Review and Sign discretionary permits to the Town Council. Assessor's Parcel No. 001-223-10; Central Commercial CC Zone; Element 7 Fairfax LLC, Applicant; Adham Nasser, owner; CEQA categorically exempt per section 15301(a), 15303(c) and 15304(b).

Principle Planner Neal presented the staff report and noted the following change in the title of Resolution No. 2021-23: A Resolution... and *Provide Scoring on the Cannabis Business..*"

The change indicates that the Commission is providing scoring on the Cannabis Business Permit to the Town Council since it is not within the Commissions' authority to deny the permit. Commissioner Swift noted the scoring was not for the permit but rather for the application. Principal Planner Neal stated she could change the wording to "Cannabis Business Permit *Application*". Chair Newton suggested moving the wording about the scoring ahead of the recommendations on the Design Review and Sign Permit.

Town Attorney Coleson stated Chair Newton should not open the meeting to public discussion. The Commission should continue its deliberation from the last meeting.

Commissioner Green stated he did not attend the last meeting but viewed the video recording and read all the written material relating to the item before this meeting.

Principal Planner Neal answered questions regarding the signs.

Commissioner Green provided the following comments:

- He agreed with most of the thoughts.
- He could not make several of the findings including those in Section 17.032.060.
- Some of the language in the LLC's Operating Agreement was in conflict with the presentation in terms of local control and management.
- He has no problem with the nature of the business and their model is very good.

Commissioner Jansen provided the following comments:

- He supported the resolutions.
- He was surprised at the focus on the signs since it did not seem to be much of an issue at the last meeting.

Commissioner Swift provided the following comments:

- She referred to Resolution No. 2021-22 and suggested the following changes: 1) On page 1, the fourth "Whereas" should refer to a singular application; 2) On page 2, the first heading should read: "General Use Permit *Required* Findings (B) and (D); 3) On page 3, Finding (D) "Further, the Town Center's... activity patterns, including impact on neighborhoods adjacent to the Town Center".

Commissioner Fragoso provided the following comment:

- Similar wording to suggested change #3 is included on page 2. Commissioner Green agreed.

Commissioner Swift provided the following comments:

- She referred to Resolution No. 2021-23 and suggested the following changes: 1) On page 1, the second and sixth "Whereas" should read, "...Business Permit *Application*"; 2) On page 2, the second "Whereas" should read, include the word "minimum", and .."the Council to *consider...*"; 3) On page 3, #1 should read, "...qualifying *application* score...";

M/s, Fragoso/Jansen, motion to approve Resolution No. 2021-22 as amended by the Commission tonight.

AYES: Fragoso, Green, Jansen, Kelly, Swift

NOES: Chair Newton

ABSENT: Gonzalez-Parber

Chair Newton stated there was a 10-day appeal period.

M/s, Green/Fragoso, motion to approve Resolution No. 2021-23, a recommendation that the Town Council deny the Design Review Permit, Sign Permit, and Cannabis Business Permit for the property at 1930 Sir Francis Drake Boulevard as amended by the Commission tonight. The title shall read: A Resolution of the Fairfax Planning Commission providing scoring on the Cannabis Business Permit Application and recommending that the Town Council deny the Design Review Permit and the Sign Permit for medical cannabis storefront retail/adult use retail delivery only business proposed to be located at 1930 Sir Francis Drake Boulevard.

AYES: Fragoso, Green, Jansen, Kelly, Swift

NOES: Chair Newton

ABSENT: Gonzalez-Parber

MINUTES

4. Minutes from the August 12, 2021, August 19, 2021, and September 16, 2021 Planning Commission meetings

M/s, Fragoso/Jansen, motion to approve the August 12, 2021 minutes as submitted and the August 19, 2021 and September 16, 2021 minutes as corrected.

AYES: Fragoso, Green, Jansen, Kelly, Swift, Chair Newton

ABSENT: Gonzalez-Parber

Planning Directors Report

5. Housing Element and Objective Design and Development Standards Update

Planning Director Berto presented a staff report. He noted the Planning Commission Housing Element Subcommittee will be meeting next Thursday to review the Safety Element. The Affordable Housing Committee will hold a meeting in November. Staff is planning to schedule a Special Meeting of the Planning Commission on December 9th to discuss the Housing Element, housing opportunity sites, and Objective Design and Development Standards (ODDS).

Commissioner Swift referred to the staff report, page 2, and asked what was meant by "multiple approaches to gather Fairfax story history of migration and development patterns". Planning Director Berto stated this was referenced in last night's Town Council meeting and pertains to AB 686.

Commissioner Swift asked about the status of the community neighborhood meetings that were discussed at the Joint Town Council/Planning Commission Meeting. Planning Director Berto stated staff will be creating neighborhood engagement groups via the Website.

Commissioner Swift asked if the Housing Element Subcommittee members would receive a copy of the Draft Safety Element before next Thursday's meeting. Planning Director Berto stated "yes".

Commissioner Green asked about the status of the ODDS Project and when it would be discussed by the Commission. Planning Director Berto stated the focus for the ODDS Subcommittee (Commissioners Green, Fragoso, Jansen) and will be on duplexes. This is the most straightforward aspect and will assist in looking at multi-family housing opportunity sites. He recommended the subcommittee review Chapter 8.

Commissioner Comments and Requests

Commissioner Swift thanked the community for speaking at the Association of Bay Area Government hearings regarding the Town's Regional Housing Needs Assessment (RHNA) numbers.

ELEMENT 7 TENANT IMPROVEMENT

1930 SIR FRANCIS DRAKE BLVD, FAIRFAX, CA 94930

PROJECT PRINCIPLES

OWNER	LANDSCAPE ARCHITECT
ELEMENT 7, LLC 8033 SUNSET BOULEVARD, UNIT 981 LOS ANGELES, CA 90046 ATTN: JOSH BLACK	ROTH / LAMOTTE LANDSCAPE ARCHITECTURE 56 MANOR ROAD FAIRFAX, CA 94930 (415) 451-8211 ATTN: GARY ROTH
ARCHITECT	
SKS ARCHITECTS 1852 4TH STREET SAN RAFAEL, CA 94901 (415) 382-1656 ATTN: STEWART SUMMERS	

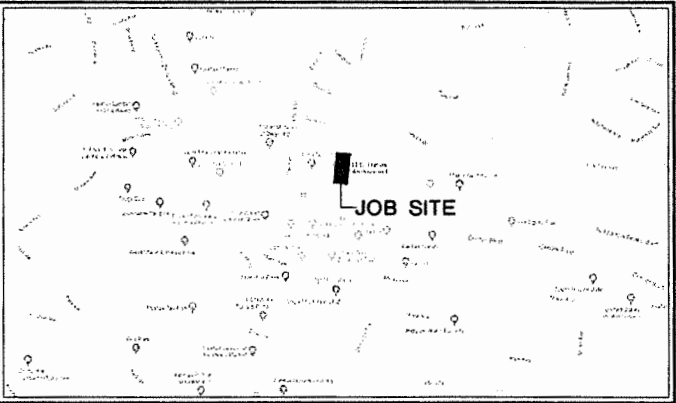
SHEET INDEX

ARCHITECTURAL	
A0	SITE PLAN & PROJECT DATA
ESP	EXISTING SITE PLAN
EC1	EXISTING FLOOR PLAN AND ELEVATIONS
A1	PROPOSED FLOOR PLAN
A2	ELEVATIONS
LANDSCAPE	
L0	COVER SHEET AND NOTES
L1	LANDSCAPE PLAN
L11	IRRIGATION PLAN

GENERAL NOTES

- ALL MATERIALS AND WORKMANSHIP TO CONFORM TO THESE PLANS, THE STANDARD SPECIFICATIONS OF THE CURRENT ADOPTED EDITION 2019 CALIFORNIA BUILDING CODE INCLUDING THE 2019 CBC, 2019 CFC, 2019 CPC, 2019 CEC, 2019 CALIFORNIA ENERGY EFFICIENCY STANDARDS CODE (CEES), 2019 CALIFORNIA GREEN BUILDING STANDARDS CODE (CGBS OR CALGREEN) & ALL OTHER APPLICABLE CODES, ORDINANCES, AND STANDARDS FOR RESIDENTIAL CONSTRUCTION AND SPECIFICALLY FOR THE CONSTRUCTION OF THIS STRUCTURE IN THE TOWN OF FAIRFAX, CALIFORNIA.
- ALL MATERIALS AND WORKMANSHIP TO MEET OR EXCEED THE BEST STANDARDS OF THE TRADE. ON-SITE VERIFICATION OF DIMENSIONS, ELEVATIONS, AND OTHER CONDITIONS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
- NOTED DIMENSIONS TAKE PRECEDENCE. DO NOT SCALE DRAWINGS. ON-SITE VERIFICATION OF DIMENSIONS, ELEVATIONS, AND OTHER CONDITIONS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. ANY DISCREPANCIES SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE ARCHITECT.
- PROTECTION OF OWNER'S PROPERTY AND ALL ADJACENT PROPERTIES, AS WELL AS THE GENERAL PUBLIC, ARE THE RESPONSIBILITY OF THE CONTRACTOR AND SHALL BE MAINTAINED AT ALL TIMES.
- ALL REFERENCES TO THE MECHANICAL, ELECTRICAL AND PLUMBING SYSTEMS SHOWN IN THESE PLANS ARE INTENDED TO BE FOR DESIGN INTENT ONLY. SPECIALTY SUBCONTRACTORS SHALL BE RESPONSIBLE FOR FINAL DESIGN, SECURING PERMITS, INSTALLATION, INSPECTIONS, & PROPER OPERATION OF ALL SYSTEMS.
- ALL PAINTS, FINISHES, AND ADHESIVES, CAULKING, AND SEALANTS SHALL BE LOW VOC.
- PROVIDE FREQUENT AND THOROUGH DUST CONTROL AND CLEAN-UP.
- PRIOR TO FINAL INSPECTION THE LICENSED CONTRACTOR, ARCHITECT OR ENGINEER IN RESPONSIBLE CHARGE OF THE OVERALL CONSTRUCTION MUST PROVIDE TO THE BUILDING DEPARTMENT OFFICIAL WRITTEN VERIFICATION THAT ALL THE APPLICABLE PROVISIONS FROM THE GREEN BUILDING STANDARDS CODE HAVE BEEN IMPLEMENTED AS PART OF THE CONSTRUCTION. COMPLIANCE WITH THE DOCUMENTATION REQUIREMENTS OF THE 2019 ENERGY EFFICIENT STANDARDS IS NECESSARY FOR THIS PROJECT. REGISTERED, SIGNED, AND DATED COPIES OF THE APPROPRIATE CFI, CFIR, CFIR FORMS SHALL BE MADE AVAILABLE AT NECESSARY INTERVALS FOR BUILDING INSPECTOR REVIEW. FINAL COMPLETED FORMS WILL BE AVAILABLE FOR THE BUILDING OWNER.

VICINITY MAP



PROJECT DATA

PROJECT DESCRIPTION :
TENANT IMPROVEMENT FOR MEDICAL CANNABIS DISPENSARY

SITE & BUILDING DATA :

A.P. NUMBER	001-223-10
ZONING	CC
OCCUPANCY CLASSIFICATION	M
DESCRIPTION OF USE	RETAIL
CONSTRUCTION TYPE	V-B
STORIES	ONE
SINKERS	NO

FLOOR AREAS:

LOT AREA	5,003 SF.
(E) BUILDING AREA	512 SF.
(E) STORAGE SHED AREA	63 SF.
TOTAL BUILDING AREA	575 SF.

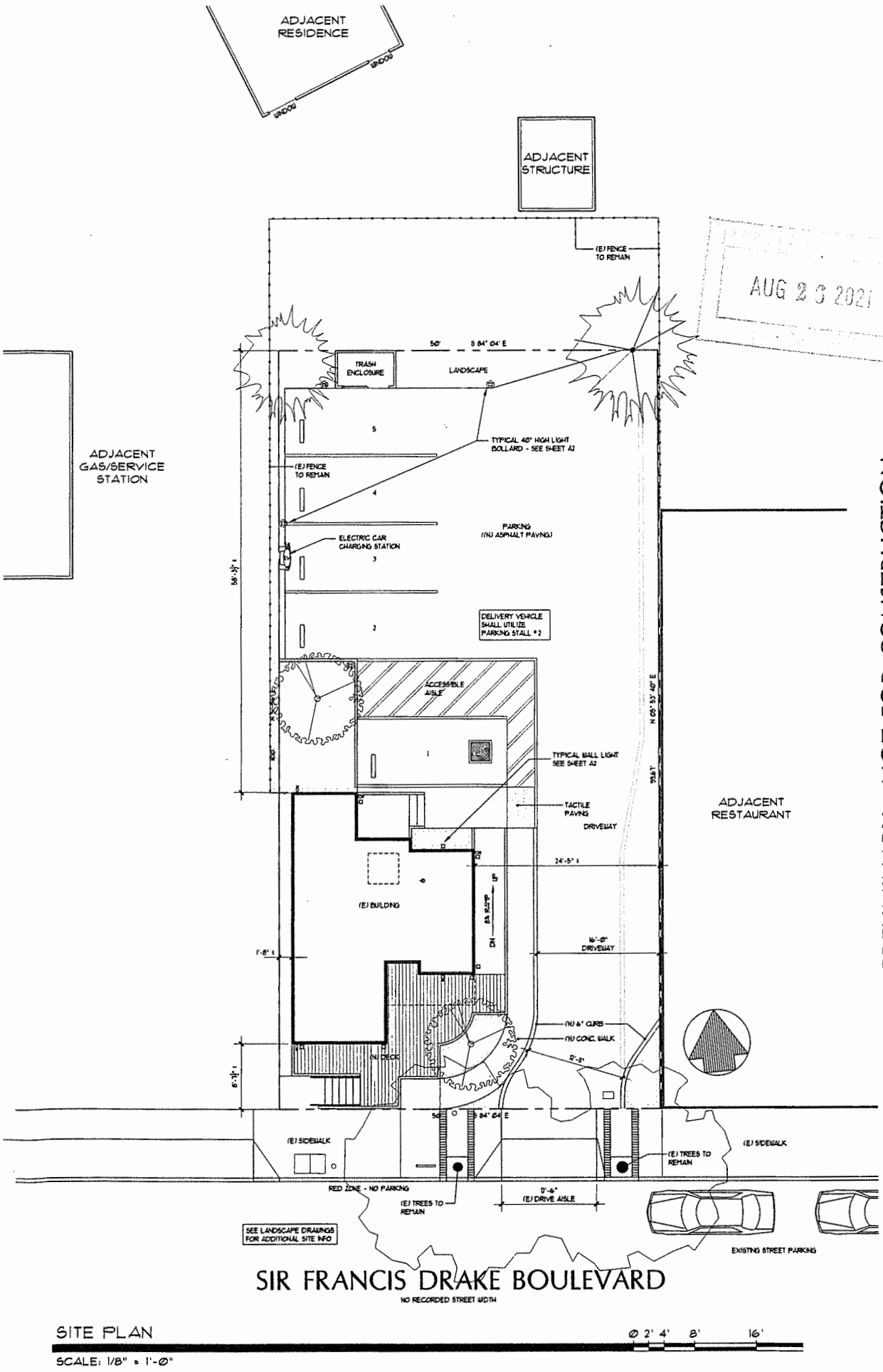
PARKING:

PARKING SPACES REQUIRED	6 TOTAL (INCLUDES 1 ADA SPACE)
(E) PARKING SPACES	5 (INCLUDES 1 ADA SPACE)
(N) PARKING SPACES	1

LEGEND

EXISTING WALLS TO REMAIN U.O.N.	(E)	EXISTING
NEW OR ALTERED EXISTING WALLS:	(R)	RELOCATED
EXISTING TO BE REMOVED U.O.N.	U.O.N.	PROPERTY LINE
AREA OF ADDITION SHADED	V.I.F.	UNLESS OTHERWISE NOTED
EXISTING FENCE	D.S.	VERIFY IN FIELD
DETAIL NO. SHEET NO.	FF.	CENTER LINE
SECTION OF ELEV. NO. SHEET NO.	F.O.	DOWNSPOUT
KEY NOTE	G.C.	FINISH FLOOR
NEW	E	FACE OF
	VOL	GENERAL CONTRACTOR
	ALIGN	PLATE
		VOLUMIN
		ALIGN

FAIRFAX, CA



SITE PLAN

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

PRELIMINARY - NOT FOR CONSTRUCTION

Element 7 - Tenant Improvement
1930 Sir Francis Drake Boulevard
Fairfax, CA 94930
A.P. # 001-223-10


COVER SHEET, SITE PLAN, & PROJECT DATA

DATE:	5/22/20
SCALE:	1/8" = 1'-0"
DRAWN:	SKS
JOB NO.	

SKS ARCHITECTS
1852 4TH STREET
SAN RAFAEL, CA 94901
(415) 382-1656
www.sksarch.com



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



EXISTING STREET PARKING

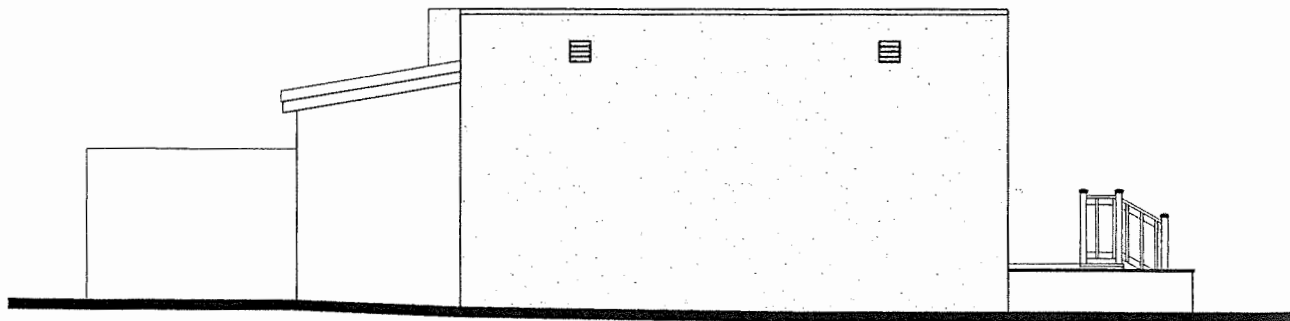
EXISTING SITE PLAN

ESP

Fairfax, CA 94930
AP. # 001-223-10Fairfax, CA 94930
AP. # 001-223-10[illegible]

SKS ARCHITECTS

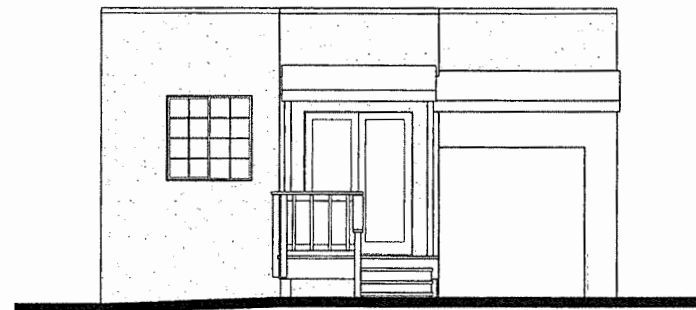
(415) **382-1656** | 353 1st Street,
San Francisco, CA 94107 | www.sksarch.com



(E) LEFT ELEVATION

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

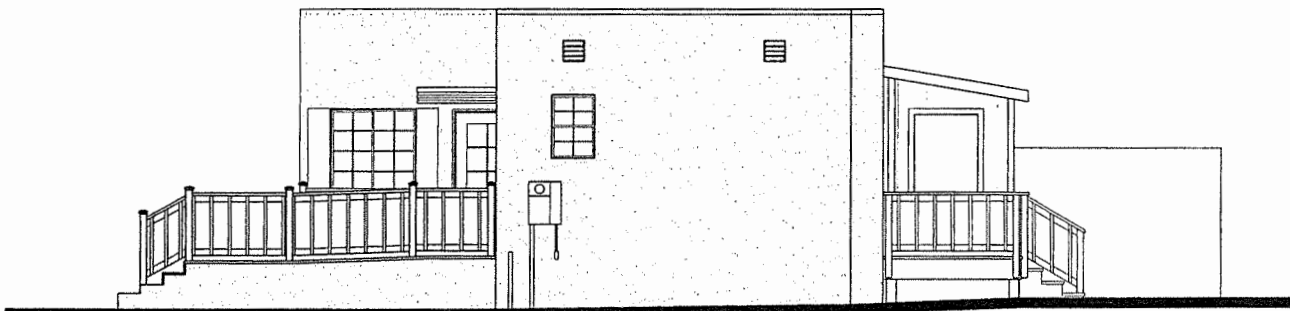
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(E) REAR ELEVATION

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

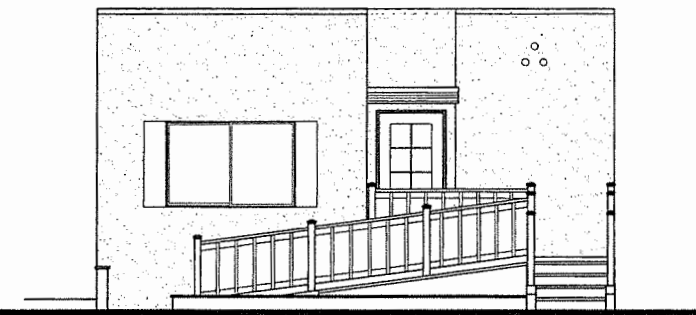
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(E) RIGHT ELEVATION

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

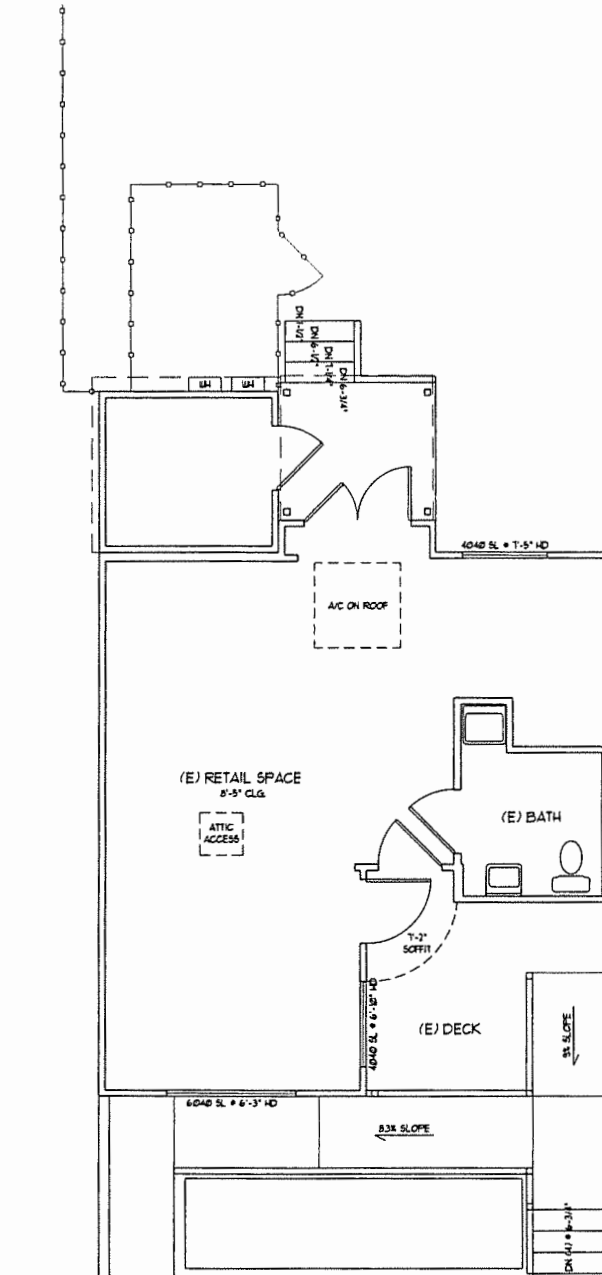
0' 1' 2' 4' 8' 16'



(E) FRONT ELEVATION

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

0' 1' 2' 4' 8' 16'



(E) FLOOR PLAN & ROOF PLAN

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

0' 1' 2' 4' 8' 16'



PRELIMINARY - NOT FOR CONSTRUCTION



REVISIONS	DATE	BY
EXTERIOR ELEV	6/15/21	SKS

Element 7 - Tenant Improvement
1930 Sir Francis Drake Boulevard
Fairfax, CA 94930
AP. # 001-223-10

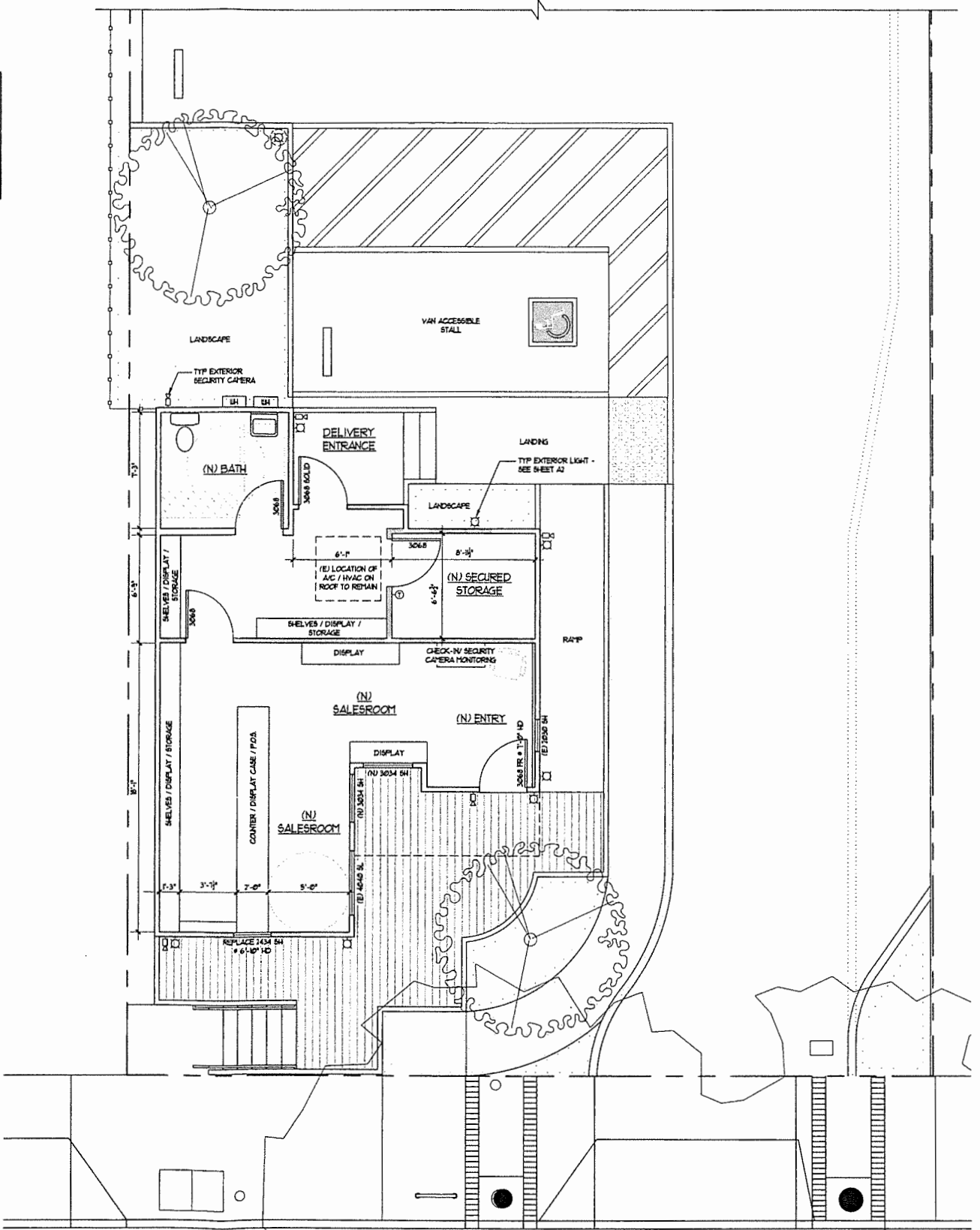
EXISTING FLOOR
PLAN & ELEVATIONS

REVIEW THE DRAWINGS CAREFULLY. DO NOT SCALE THE DRAWINGS. ANY DISCREPANCIES IN DIMENSIONS AND DETAILS SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF STEWART K. SUMMERS, ARCHITECT.

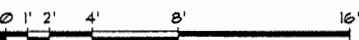
DATE: 5/22/20
SCALE: 1/4" = 1'-0"
DRAWN: SKS
JOB NO.
SHEET NO:

EC1

ELECTRICAL SYMBOLS LEGEND	
	EXTERIOR WALL MOUNTED LIGHT FIXTURE
	SECURITY CAMERAS
	LED BOLLARD LIGHT - SEE SHEET A0 FOR LOCATIONS 1 A2 FOR SPECS
	THERMOSTAT



(N) FLOOR PLAN
SCALE: 1/4" = 1'-0"



PRELIMINARY - NOT FOR CONSTRUCTION

Element 7 - Tenant Improvement
1930 Sir Francis Drake Boulevard
Fairfax, CA 94930
AP. # 001-223-10

SKS
ARCHITECTS
 (415) 382-1656 | 833 4th Street
 San Francisco, CA 94103
www.sksarch.com

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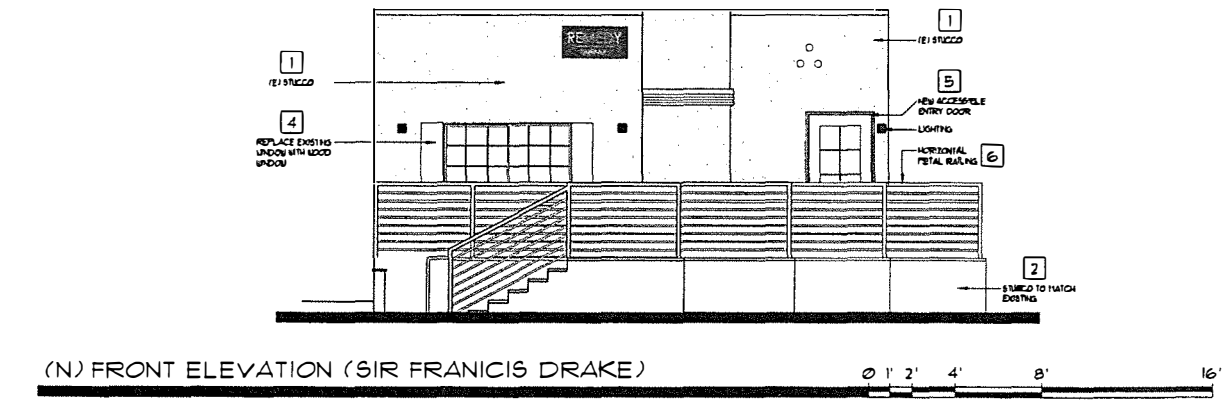
REVISIONS	DATE	BY
EXTERIOR ELEVS	6/15/21	SKS

FLOOR PLAN

REVIEW THE DRAWINGS CAREFULLY. DO NOT SCALE THE DRAWINGS. ANY DISCREPANCIES IN DIMENSIONS AND DETAILS SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF STEWART K. SUMMERS, ARCHITECT

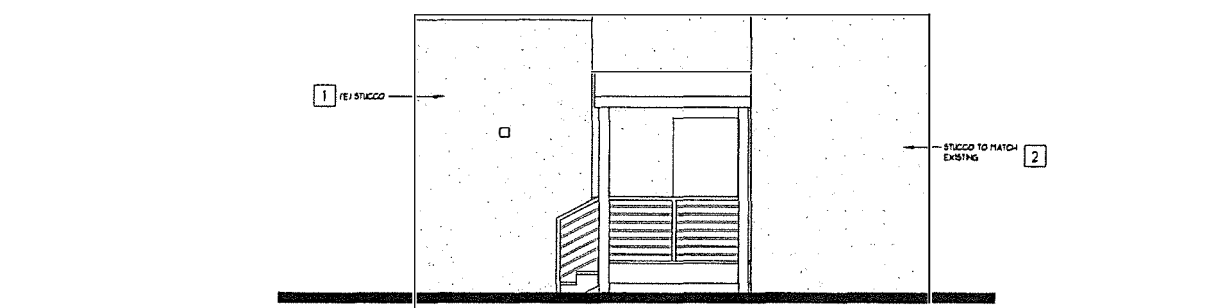
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SCALE:	1/4" = 1'-0"
DRAWN:	SKS
JOB NO.	
SHEET NO.	

A1



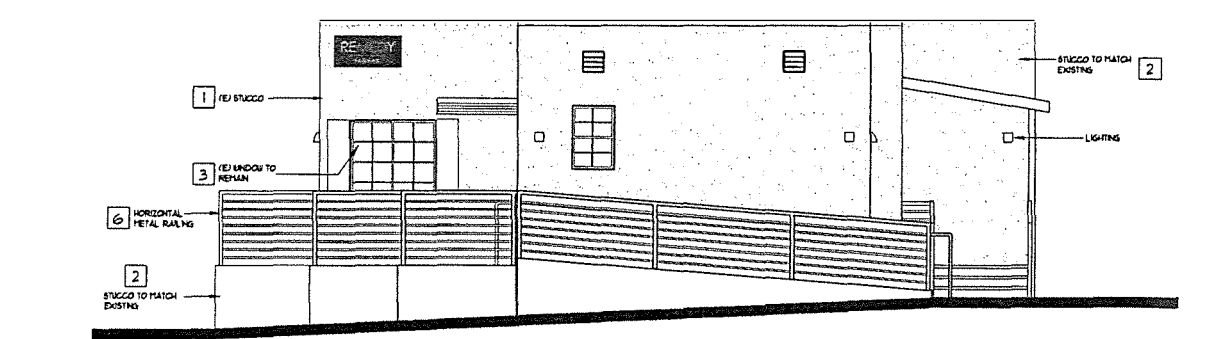
(N) FRONT ELEVATION (SIR FRANCIS DRAKE)

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



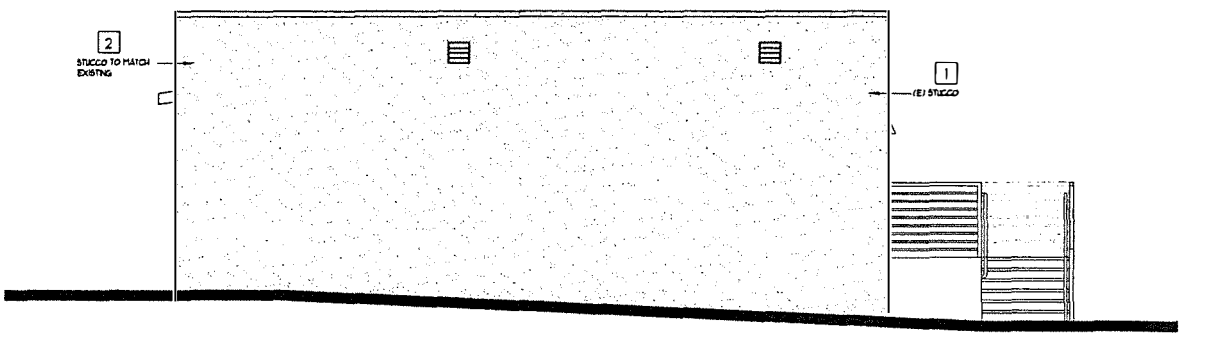
(N) REAR ELEVATION

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



(N) RIGHT ELEVATION (PERRY'S SIDE)

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



(N) LEFT ELEVATION (GAS STATION SIDE)

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

Pitch LED Indoor/Outdoor Wall Sconce
By: Ecola Lighting

CLUMENS
CAL 111 872645 4880

Product Options
Finish: Black, Bronze, Chrome, Silver, White, Warm White, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K

Details
• 100% aluminum, die-cast body
• 100% aluminum, die-cast body
• 100% aluminum, die-cast body
• 100% aluminum, die-cast body
• 100% aluminum, die-cast body
• 100% aluminum, die-cast body
• 100% aluminum, die-cast body
• 100% aluminum, die-cast body
• 100% aluminum, die-cast body
• 100% aluminum, die-cast body

Dimensions
12.5" H x 6.5" W x 3.5" D (H x W x D)
12.5" H x 6.5" W x 3.5" D (H x W x D)
12.5" H x 6.5" W x 3.5" D (H x W x D)
12.5" H x 6.5" W x 3.5" D (H x W x D)
12.5" H x 6.5" W x 3.5" D (H x W x D)
12.5" H x 6.5" W x 3.5" D (H x W x D)
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12.5" H x 6.5" W x 3.5" D (H x W x D)
12.5" H x 6.5" W x 3.5" D (H x W x D)
12.5" H x 6.5" W x 3.5" D (H x W x D)

Lighting
• 100% LED, 10W, 1200lm, 3000K, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K
• 100% LED, 10W, 1200lm, 3000K, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K
• 100% LED, 10W, 1200lm, 3000K, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K
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• 100% LED, 10W, 1200lm, 3000K, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K
• 100% LED, 10W, 1200lm, 3000K, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K

Additional Details
Product: ULI-10022, 10W, 1200lm, 3000K, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K
By: Ecola Lighting, 11111 Ecola Lane, San Diego, CA 92121
Phone: 619-444-1111

Prepared by:
Prepared by: Ecola Lighting, 11111 Ecola Lane, San Diego, CA 92121
Phone: 619-444-1111

Lighting
• 100% LED, 10W, 1200lm, 3000K, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K
• 100% LED, 10W, 1200lm, 3000K, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K
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• 100% LED, 10W, 1200lm, 3000K, 2700K, 3000K, 3500K, 4000K, 5000K, 6000K, 6500K, 7000K, 8000K, 9000K, 10000K

TYPICAL WALL MOUNTED LIGHT FIXTURE
SEE FLOOR PLANS SYMBOL: (SHEET A1)

ULI-10022
Light Linear PT 1 Single Head Bollard

MAN LIGHTING USA

Construction
Aluminum
Less than 0.1% copper content - Marine Grade 6061 extruded & 100% Aluminum High Pressure die casting provides excellent mechanical strength, clean detailed product lines and excellent heat dissipation.

Pre-Paint
8 step degrease and phosphate process that includes descaling and etching as well as a zinc and nickel phosphorus process before product painting.

Memory Retention - Silicon Casket
Provided with special injection molded "fit for purpose" long life high temperature memory retention silicon gaskets. Maintains the gaskets exact profile and seal over years of use and compression.

Thermal Management
ULI Aluminum is used for its excellent mechanical strength and thermal dissipation properties in low and high ambient temperatures. The superior thermal heat sink design by Lightman used in conjunction with the silicon gaskets thermally below critical temperature range to ensure maximum luminous flux output, as well as providing long LED service life and ensuring less than 10% lumen depreciation at 50,000 hours.

Area distribution bollard-integrated projectors.
Stylish but technically precise area lighting solutions as part of a large flexible family.

Light Linear PT 1 Bollard
Light Linear PT 1 Bollard is an elegant minimalist bollard that is available for both modern and classic architecture. Ideal for creating visual style with exceptional visual comfort. The dual sealed optical chamber with an integrated lens features a variety of field of view options, as well as variations of this for precise light distribution requirements.

An example of this is using a combination of Type I and Type IV distribution options in the same fixture.
This product range is available in 30w and 55w options, as single & double head styles.

Customer specific wattages
Customer specific wattages can be provided, contact the factory for more information.

Bollards can be provided with GFCI boxes
Bollards can be provided with GFCI boxes for enhanced safety. Internal house side wiring is available as an option.

Optional Security Bollard
The Light Linear Bollard is available as a traffic rated security bollard. This security bollard provides resistance of vehicular traffic in unattended areas. Impact calculations show this bollard will stop a 5,500 lbs. 25 mph vehicle, impacting at 10mph. The bollard post must be fixed with concrete up to the waterproof driver housing to provide a solid concrete barrier.

TYPICAL PARKING LOT BOLLARD LIGHTING
SEE SITE PLAN SYMBOL: (SHEET A0)

- EXTERIOR ELEVATION NOTES**
1. EXISTING STUCCO TO REMAIN - COLOR "EXISTING"
 2. STUCCO TO MATCH EXISTING
 3. EXISTING WINDOW TO REMAIN PLANT WALL
 4. NEW REPLACEMENT WINDOW TO MATCH (F) WOOD WINDOWS
 5. NEW ACCESSIBLE ENTRY DOOR - WOOD TO MATCH EXISTING
 6. HORIZONTAL TUBE STEEL GUARDRAIL FOR ACCESSIBLE RAMP / ENTRY

PRELIMINARY - NOT FOR CONSTRUCTION

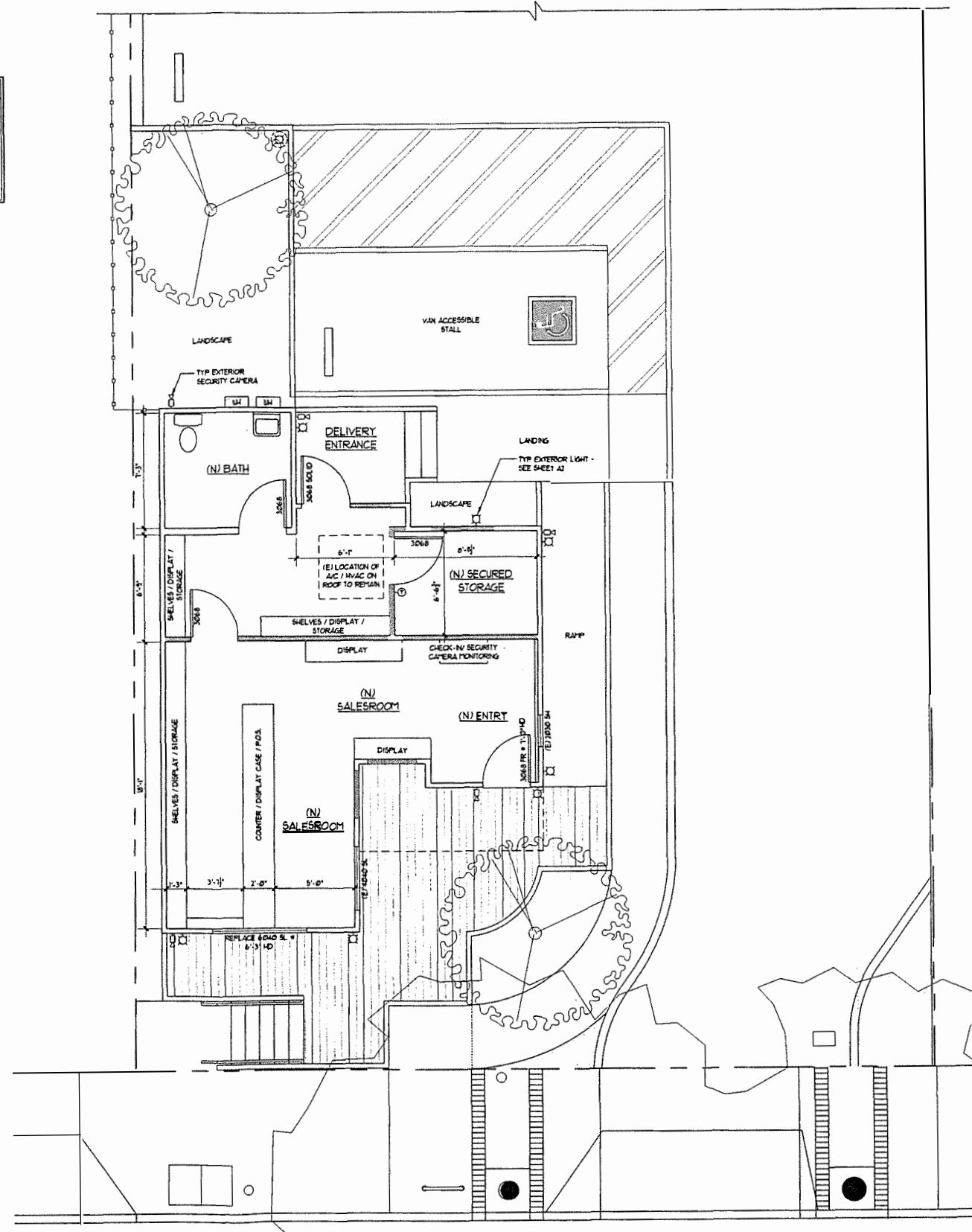
Element 7 - Tenant Improvement
1930 Sir Francis Drake Boulevard
Fairfax, CA 94930
AP. # 001-223-10

ELEVATIONS

REVIEW THE DRAWINGS CAREFULLY. DO NOT SCALE THE DRAWINGS. ANY DISCREPANCIES IN DIMENSIONS AND DETAILS SHALL BE BROUGHT TO THE ATTENTION OF STEWART K. SUMMERS, ARCHITECT.

DATE: 5/22/20
SCALE: 1/4" = 1'-0"
DRAWN: SKS
JOB NO.
SHEET NO:

A2



A horizontal scale bar with markings at 0, 1', 2', 4', 8', and 16'.

PRELIMINARY - NOT FOR CONSTRUCTION

Element 7 - Tenant Improvement
1930 Sir Francis Drake Boulevard
Fairfax, CA 94930
A.P. # 001-223-10

FLOOR PLAN

REVIEW THE DRAWINGS CAREFULLY.
DO NOT SCALE THE DRAWINGS. ANY DISCREP-
ANCIES IN DIMENSIONS AND DETAILS SHALL BE
BROUGHT TO THE IMMEDIATE ATTENTION OF
STEWART K. SUMMERS, ARCHITECT

DATE:	5/22/20
SCALE:	1/4" = 1'-0"
DRAWN:	SKS

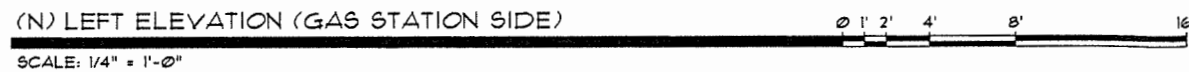
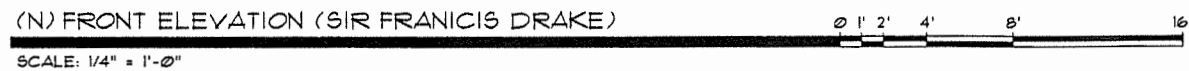
JOB NO.
SHEET NO:

A1



ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE THE ORIGINAL AND UNPUBLISHED WORK OF STEWART K. SHAWVERS, ARCHITECT AND THE SAME MAY NOT BE DUPLICATED, USED, OR DISCLOSED WITHOUT THE WRITTEN CONSENT OF STEWART K. SHAWVERS, ARCHITECT

[illegible]



A2

GENERAL NOTES

1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE DRAWINGS AND SPECIFICATIONS.
2. SPECIAL INSPECTION OR STRUCTURAL OBSERVATION IS NOT A SUBSTITUTE FOR INSPECTION BY THE BUILDING OFFICIAL OR BUILDING INSPECTOR. SPECIALLY INSPECTED WORK THAT IS INSTALLED OR COVERED WITHOUT THE APPROVAL OF THE BUILDING OFFICIAL AND THE SPECIAL INSPECTOR AND DESIGN ENGINEER IS SUBJECT TO REMOVAL OR EXPOSURE.
3. FIELD VERIFY AND OTHERWISE BECOME FAMILIAR WITH ALL EXISTING IMPROVEMENTS. COORDINATE ALL WORK OF THIS CONTRACT WITH EXISTING SITE UTILITIES AND IMPROVEMENTS. BRING ALL CONFLICTS TO THE ATTENTION OF THE OWNER AND OBTAIN DIRECTION PRIOR TO PROCEEDING WITH THE WORK AFFECTED.
4. CONTRACTOR SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY.
5. ALL LAYOUT AND GRADES SHOWN IN DRAWINGS TO BE FIELD VERIFIED BY CONTRACTOR PRIOR TO CONSTRUCTION. DISCREPANCIES FROM THE CONSTRUCTION DOCUMENTS TO BE BROUGHT TO ATTENTION OF LANDSCAPE ARCHITECT AND CIVIL ENGINEER. QUESTIONS REGARDING DIMENSIONS AND ELEVATIONS SHOULD BE DIRECTED TO THE LANDSCAPE ARCHITECT AND CIVIL ENGINEER.
6. CONTRACTOR TO LAYOUT ALL ASPECTS OF THE PROJECT IN FIELD FOR CONFIRMATION AND APPROVAL BY LANDSCAPE ARCHITECT AND CLIENT PRIOR TO PROCEEDING WITH CONSTRUCTION.
7. ALL MATERIALS SHALL BE FURNISHED AND INSTALLED BY CONTRACTOR UNLESS OTHERWISE NOTED.
8. BASE SURVEY INFORMATION SUPPLIED BY THE ARCHITECT. THE INFORMATION PROVIDED THEREIN IS NOT THE RESPONSIBILITY OF THE LANDSCAPE ARCHITECT.
9. LIMIT OF WORK SHOWN IS APPROXIMATE.
10. CONTRACTOR TO ESTABLISH/RE-ESTABLISH FINISH GRADES THROUGHOUT THE WORK AREA PRIOR TO COMPLETION OF THE WORK. FINISH GRADES AS NECESSARY TO INSURE PROPER DRAINAGE AND ELIMINATE AREAS OF PONDING. OBTAIN OWNER AND LANDSCAPE ARCHITECT APPROVAL OF FINISH GRADES PRIOR TO PLACEMENT OF EROSION CONTROL MEASURES.
11. CONSTRUCTION ACCESS OUTSIDE THE LIMIT OF WORK WILL BE BY PRIOR APPROVAL ONLY.
12. IDENTIFY LOCATIONS OF ALL EXISTING UTILITIES BEFORE DIGGING OR TRENCHING. CALL UNDERGROUND SERVICE ALERT (USA) PRIOR TO GROUND DISTURBBANCE (811 or 1-800-227-2600)

PLANTING AND SOIL PREPARATION NOTES

1. SOIL TESTING - PRIOR TO FINAL DETAILED DESIGN, A SOIL FERTILITY REPORT SHALL BE COMPLETED. TESTING SHALL INDICATE SOIL PREPARATION REQUIREMENTS THAT SPECIFICALLY ADDRESS THE HORTICULTURAL REQUIREMENTS FOR NEW PLANTINGS.
2. REMOVE AND DISPOSE OF ALL EXCAVATED ASPHALT AND SUBGRADE ROADBASE FROM ALL PLANTED AREAS TO EXPOSE NATIVE SUBSOIL. EXCAVATE ALL PLANTING AREAS TO EXPOSE SUB-SOIL.
3. SCARIFY NATIVE SOIL / SUBSOIL FOR UNIFORM ROOT ZONE TO ANTICIPATED DEPTHS FOR ROOT BOX DEPTHS. A MINIMUM OF 8" OF NON-MECHANICALLY COMPACTED SOILS SHALL BE AVAILABLE FOR WATER ABSORPTION AND ROOT GROWTH IN PLANTED AREAS.
4. IMPORT FILL OR AMEND EX. SITE SOIL OF ENTIRE PLANTING AREA WITH LOCAL BLEND OF ORGANIC COMPOSTED GREENWASTE MATERIAL AND OTHER SPECIFIED ORGANIC AMENDMENTS AND FERTILIZERS, PER RATES DETERMINED BY APPROVED SOIL TESTING LABORATORY FROM SITE SOIL SAMPLES. A MINIMUM RATE OF 6 CU. YARDS OF GREENWASTE PER 1000 SQ. FEET SHALL BE ASSUMED PENDING APPROVED SOIL TEST RESULTS.
5. COORDINATE WITH LANDSCAPE ARCHITECT FOR FINAL SELECTION, APPROVAL AND PURCHASING OF ALL PLANT MATERIAL.
6. LANDSCAPE ARCHITECT TO VERIFY PLANT LOCATIONS AS STAKED IN FIELD BY LANDSCAPE CONTRACTOR PRIOR TO DIGGING OF PLANTING HOLES.
7. DIG PLANTING HOLES 2 TIMES WIDER THAN DIAMETER OF CONTAINER. BACKFILL PLANTING HOLE WITH AMENDED SOIL MIXTURE AS RECOMMENDED BY SOIL TESTING ANALYSIS. TEST ALL PLANTING PITS FOR DRAINAGE:
8. PRIOR TO PLANTING ALL SPECIFIED PLANTS, TEST DRAIN ALL PLANTING AREAS AS FOLLOWS:

a. PLANT OR TREE PITS: FILL WITH 12 INCHES OF WATER. WATER SHALL DRAIN COMPLETELY IN 48 HOURS.

b. PLANT BEDS: IRRIGATE UNTIL SOIL IS SATURATED. SATURATED CONDITION SHALL NOT REMAIN AFTER 24 HOURS.
9. DO NOT BURY THE CROWN OF THE PLANTS. THE SOIL LEVEL OF THE CONTAINER SHOULD BE MIN. 1" HIGHER THAN EXISTING GRADE FOLLOWING PLANTING. DO NOT BURY CROWN OF PLANT WITH BACKFILL MATERIAL.
10. MULCH TO BE FIBROUS SHREDDED OR CHIPPED BARK. APPLY TO ALL PLANTED AREAS BESIDES LAWN, FOLLOWING PLANTING TO A MINIMUM DEPTH OF 3". DO NOT PLACE MULCH AGAINST THE CROWN OR BASE OF PLANT. LEAVE A 4" GAP BETWEEN BASE OF PLANT AND MULCH. PAINTED OR DYED BARK AND 'GORILLA HAIR' ARE PROHIBITED.
11. PLANTING IS SCHEMATIC. FINAL PLANT PLACEMENT AND LAYOUT TO BE DONE IN THE FIELD BY LANDSCAPE ARCHITECT.
12. STAKE ALL TREES PER THE FOLLOWING GUIDELINES:

a. STABILIZATION OF TREES SHALL BE PERMITTED ONLY IF SITE CONDITIONS OR CONDITION OF TREE ARE SUCH THAT THE TREE IS ANTICIPATED TO BE UNSTABLE.

b. IF TREES MUST BE STAKED, PLACE STAKES AS LOW AS POSSIBLE BUT NO HIGHER THAN 2/3 THE HEIGHT OF THE TREE.

c. MATERIALS USED TO TIE THE TREE TO THE STAKE SHOULD BE FLEXIBLE AND ALLOW FOR MOVEMENT ALL THE WAY DOWN TO THE GROUND.

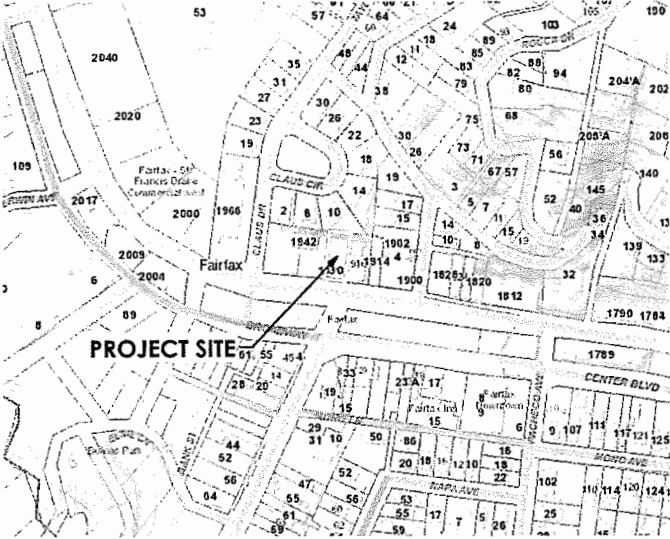
d. REMOVE ALL STAKING MATERIAL AFTER ROOTS HAVE ESTABLISHED. THIS SHOULD BE NO LONGER THAN ONE GROWING SEASON.
13. FOR GRAPHIC CLARITY, NOT ALL INDIVIDUAL PLANTS ARE LABELED ON THE PLAN. PLEASE SEE PLANT LIST LEGEND FOR PLANTS UNDER CONSIDERATION.
14. ALL TREES TO BE MINIMUM 15 GALLON CONTAINERS, STREET TREES TO BE 24" BOX OR LARGER.

PLAN PREPARER:

ROTH LAMOTTE
LANDSCAPE ARCHITECTURE
56 MANOR RD. FAIRFAX, CA
TEL: 415-451-8211

APPLICABLE CODES:

- CALIFORNIA RESIDENTIAL CODE 2016
- CALIFORNIA ENERGY CODE 2016
- CALIFORNIA ELECTRICAL CODE 2016
- CALIFORNIA PLUMBING CODE 2016
- CALIFORNIA MECHANICAL CODE 2016
- CALIFORNIA FIRE CODE 2016



VICINITY MAP

SHEET INDEX

SHEET	TITLE OF SHEET
L0.0	COVER SHEET & NOTES
L1.0	CONCEPT PLAN

ABBREVIATIONS

AB	AGGREGATE BASE
AC	ASPHALT CONCRETE
AD	AREA DRAIN
AGG	AGGREGATE
AL	ALUMINUM
APPROX.	APPROXIMATE
BC	BOTTOM OF CURB
B.O.	BOTTOM OF
BS	BOTTOM OF STEP
BW	BOTTOM OF WALL (FINISH GRADE)
CDR	CEDAR
CIP	CAST-IN-PLACE
CJ	COLD JOINT
CL	CENTERLINE
CTR	CENTER
CO	CLEANOUT
CONC	CONCRETE
CY	CUBIC YARDS
DI	DROP INLET
DS	DOWNSPOUT
(E)	EXISTING
EG	EXISTING GRADE
EJ	EXPANSION JOINT
FO	FACE OF
FFE	FINISH FLOOR ELEVATION
FS	FINISH SURFACE
FG	FINISH GRADE
FL	FLOW LINE
FTG	FOOTING
HDG	HOT DIP GALVANIZED
HT	HEIGHT
GB	GRADE BREAK
HB	HOSE BIB
HP	HIGH POINT
LD	LANDSCAPE DRAIN
LOG	LIMIT OF GRADING
LOW	LIMIT OF WORK
LP	LOW POINT
MAX	MAXIMUM
MIN	MINIMUM
[N]	NEW
NIC	NOT IN CONTRACT
N/A	NOT APPLICABLE
NOM	NOMINAL
OH	OVERHEAD
OC	ON CENTER
PA	PLANTED AREA
PTDF	PRESSURE TREATED DOUGLAS FIR
R	RADIUS
REQ'D	REQUIRED
RDWD	REDWOOD
ROW	RIGHT-OF-WAY
SIM	SIMILAR
SJ	SCORE JOINT
SS	STAINLESS STEEL
S.A.D.	SEE ARCHITECTURAL DRAWINGS
S.C.D.	SEE CIVIL DRAWINGS
S.S.D.	SEE STRUCTURAL DRAWINGS
TC	TOP OF CURB
TS	TOP OF STEP
TW	TOP OF WALL
TO	TOP OF
TYP.	TYPICAL
TW	TOP OF WALL
U.O.N.	UNLESS OTHERWISE NOTED
V.I.F.	VERIFY IN FIELD
WM	WATER METER

56 manor road
fairfax, ca 94930
tel: 415.451.8211
info@rothlamotte.com
rothlamotte.com

COVER SHEET
& NOTES

DATE: 5/18/20
SCALE: AS SHOWN
DESIGNED BY: GR
DRAWN BY: LR
CHECKED BY: GR

NO. DATE ISSUE NOTES

NO. DATE REV. NOTES

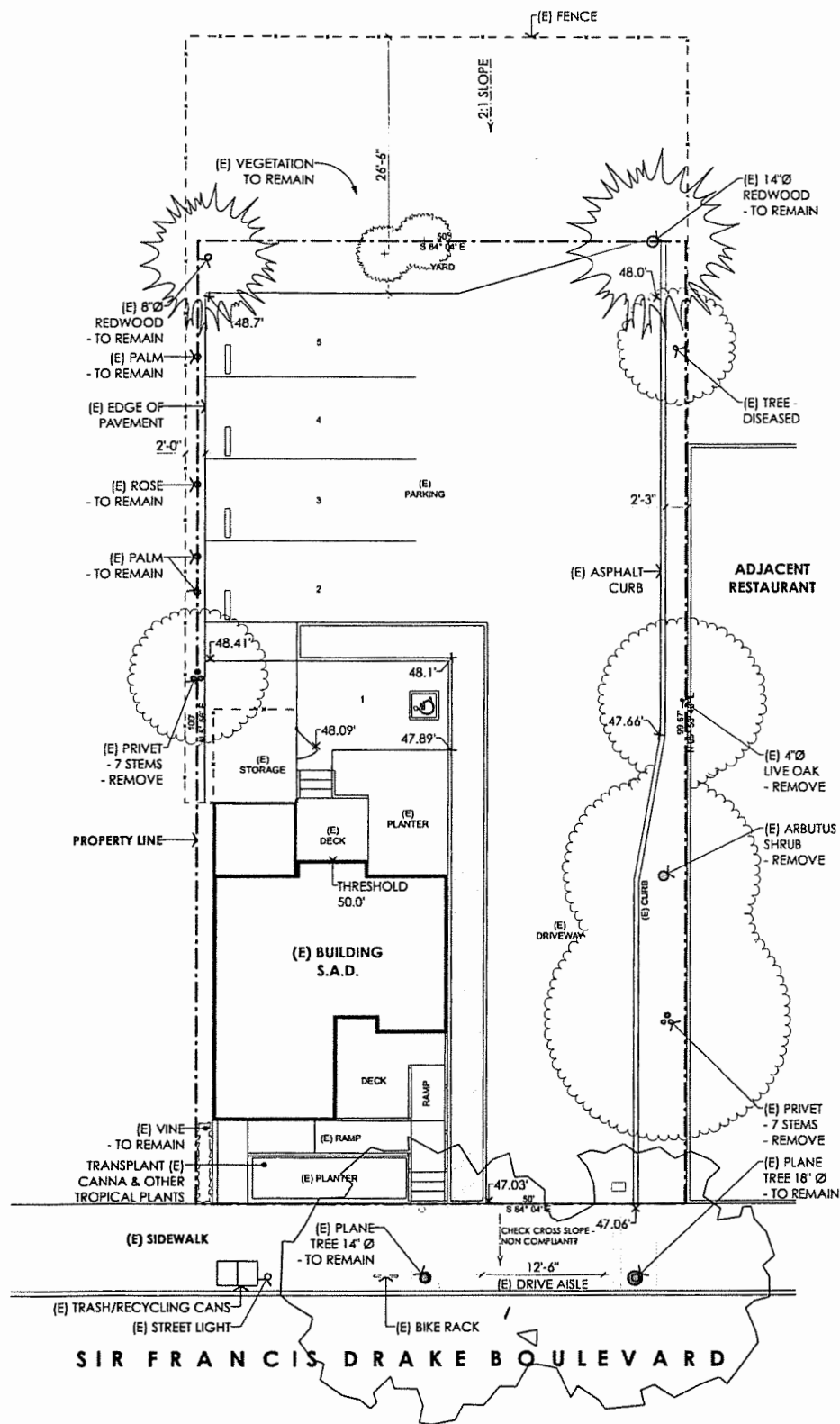
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SCALE: AS SHOWN
DESIGNED BY: GR
DRAWN BY: LR
CHECKED BY: GR

NO. DATE ISSUE NOTES

NO. DATE REV. NOTES

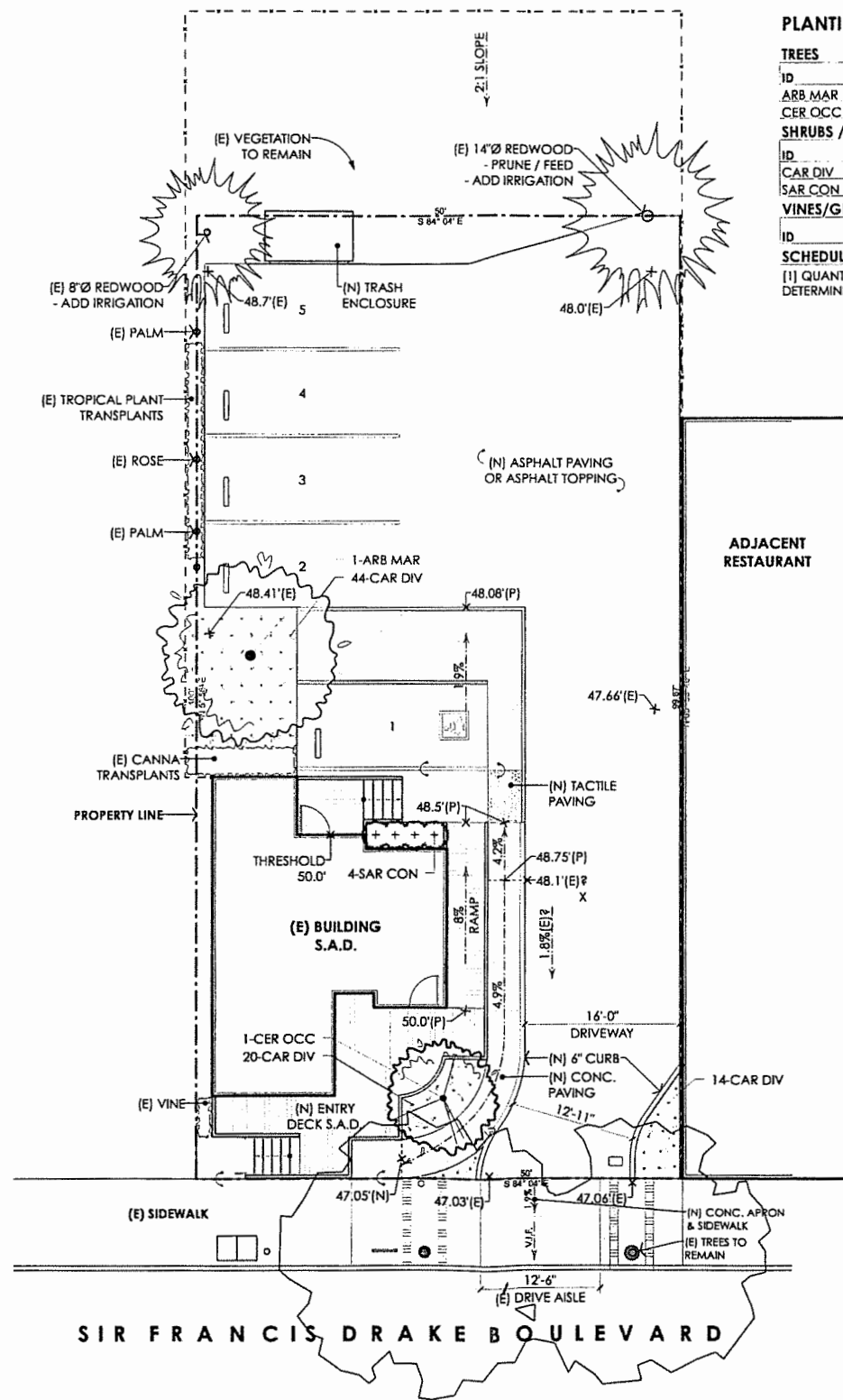
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L0.0



1
L1.0
EXISTING CONDITIONS
1/8" = 1'-0"

NOTE:
SITE MEASUREMENTS, PROPERTY LINES AND SPOT
ELEVATIONS ARE APPROXIMATE AND REQUIRE
CONFIRMATION BY A LICENSED SURVEYOR.



2
L1.0
CONCEPT PLAN
1/8" = 1'-0"

PLANTING SCHEDULE

TREES

ID	Qty	Botanical Name	Common Name	Size	Spacing	Type	WUCOL	Notes
ARB MAR	1	Arbutus 'Marina'	Arbutus 'Marina'	24" box	20'	Trees	Low	Standard
CER OCC	1	Cercis occidentalis	Western Redbud	24" box	120"	Trees	Low	Multi - Protect from Deer

SHRUBS / PERENNIALS

ID	Qty	Botanical Name	Common Name	Size	Spacing	Type	WUCOL	Notes
CAR DIV	78	Carex divulsa	Berkeley Sedge	1 gal	20"	Perennial Grass	Low	
SAR CON	4	Sarcococca confusa	Sweet Box	15 gal	30"	Shrubs	Low	Formal screening hedge

VINES/GROUNDCOVERS

ID	Qty	Botanical Name	Common Name	Size	Spacing	Type	WUCOL	Notes
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SCHEDULE NOTES:

(1) QUANTITIES ON PLANT SCHEDULE ARE TO BE USED AS GUIDELINES ONLY. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO DETERMINE AND VERIFY THE ACTUAL QUANTITY OF ALL PLANT MATERIALS.

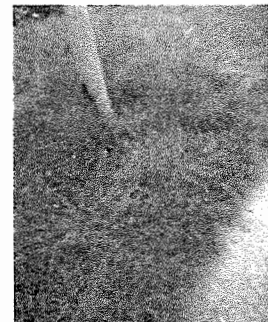
PLANT IMAGERY



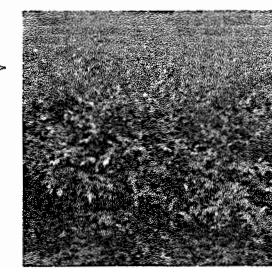
ARBUTUS 'MARINA'



CERCIS OCCIDENTALIS



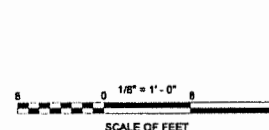
CAREX DIVULSA



SARCOCOCCA CONFUSA



SARCOCOCCA CONFUSA



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NOT FOR CONSTRUCTION

50 major road
Berkeley, CA 94702
909-451-1811
Fax 415-451-7008

Roth LaMotte
Landscape Architecture
CONSULTANT

ELEMENT 7
1930 SIR FRANCIS DRAKE BLVD
FAIRFAX, CA
APN: 001-223-10

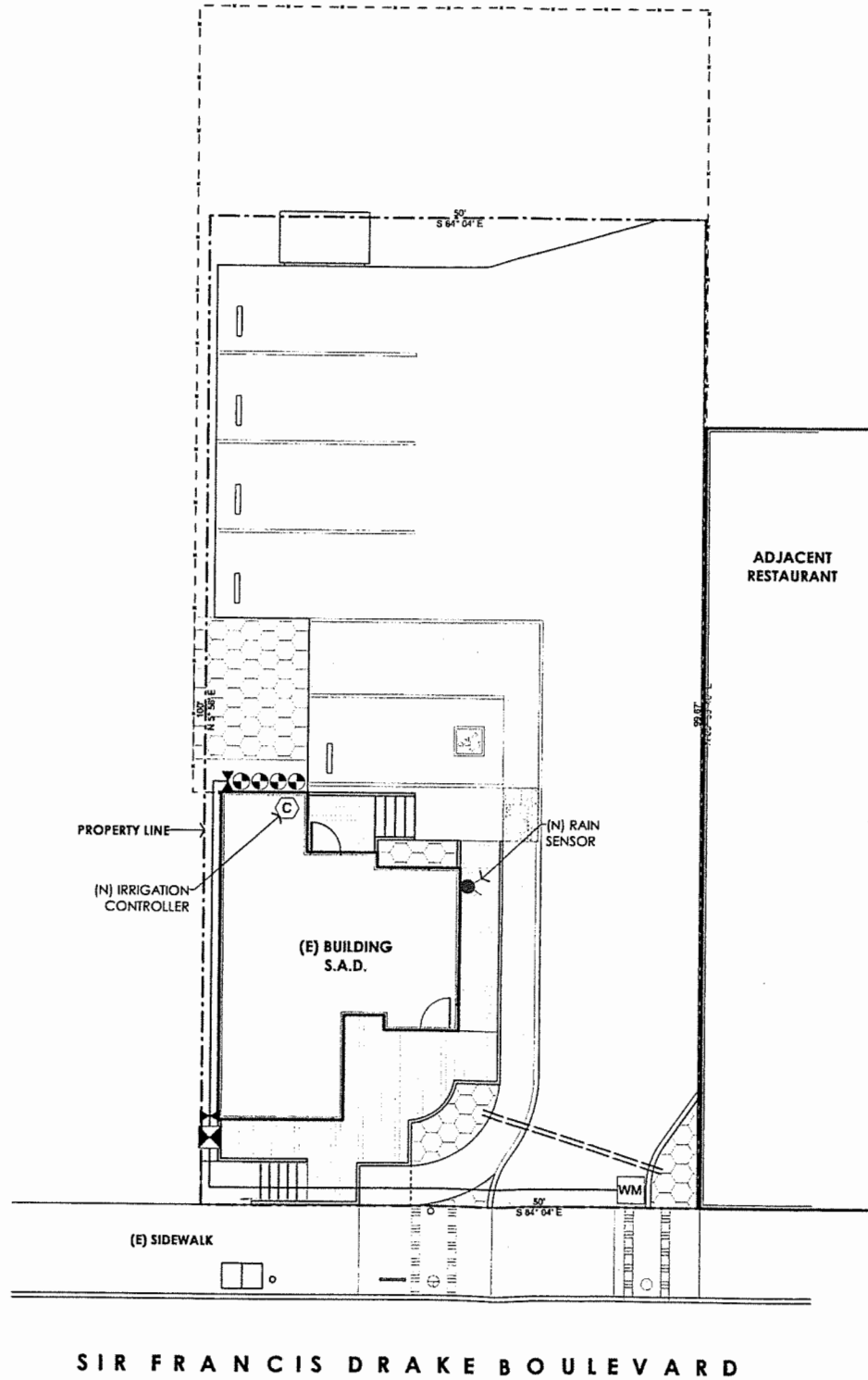
LANDSCAPE
PLAN

NO. DATE ISSUE NOTES

NO. DATE REV. NOTES

DATE:
5/18/20
SCALE
AS SHOWN
DESIGNED BY
GR
DRAWN BY
LR
CHECKED BY
GR

L1.0



1 CONCEPT PLAN
L1.1 1/8" = 1'-0"

PROPOSED IRRIGATION ZONES

ID	AREA	TYPE	NOTES
1	EXISTING TREES	-	-
2	EXISTING SHRUBS	-	-
3	NEW SPECIMEN TREES	BUBBLER	2 PER TREE
4	NEW SHRUBS & PERENNIALS	DRIP	INLINE

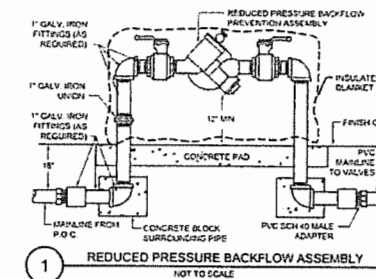
HYDROZONES SUMMARY

HYDROZONE	SQ. FT.	IRR TYPE	% OF TOTAL
LOW	276 SF	DRIP	100%
MODERATE	0 SF	DRIP	0%
HIGH	0 SF	-	0%
SLA	0 SF	-	-
TOTAL:	276 SF		

IRRIGATION LEGEND

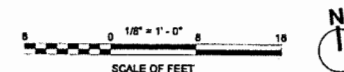
SYMBOL	MODEL NUMBER	DESCRIPTION
	1 1/2 825Y-QT	FEBCO REDUCED PRESSURE BACKFLOW PREVENTER, ASSEMBLY WITH WYE STRAINER AND PRESSURE REGULATING VALVE W/ FROST GUARD
	PRO-HC-24	HUNTER, HYDRAWISE, PRO HC
	RAIN CLIK	RAIN SENSOR - RAIN CLIK
	DZK-700-1-LF / LT-1000-T	TORO DRIP ZONE KIT
	T-113-LF	NIBCO BALL VALVE (BY LINE SIZE)
	WM	WATER METER #
	-	MAIN LINE: 1120-SCHEDULE 40 PVC, SOLVENT WELD PIPE WITH SCHEDULE, 40 PVC SOLVENT WELD FITTINGS (unless otherwise noted), 20' MIN. COVER 24" MAX., DIAM 1"
	-	SLEEVE (SL): 1120-CLASS 200 PVC PLASTIC PIPE, 24" COVER, DIAM. AS INDICATED.

NOTE: EVENLY COAT METAL FITTINGS EXPOSED TO SOIL AND CONCRETE WITH 3M SCOTCH-PAIP PIPE PROTECTANT AND TIGHTEN UP WITH 3M SCOTCH-PAIP HT 31 ELONG TAPE (3/4" OVERLAP). USE DIELECTRIC FITTINGS WHERE DISSIMILAR METALS COME INTO CONTACT.



IRRIGATION NOTES

- THE IRRIGATION SYSTEM WILL BE DESIGNED TO DISTRIBUTE A MINIMUM AMOUNT OF WATER IN ORDER TO PROMOTE ACTIVE AND HEALTHY GROWTH OF ALL PROPOSED PLANTINGS.
- THE IRRIGATION SYSTEM SHALL BE DESIGNED AND INSTALLED IN CONFORMANCE WITH MMWD ORDINANCE 421 AND TITLE 13 AND ALL APPLICABLE STATE AND LOCAL CODES AND ORDINANCES, BY LICENSED CONTRACTORS AND EXPERIENCED WORKMEN.
- THE IRRIGATION CONTROLLER SHALL BE AN AUTOMATIC WEATHER-BASED SYSTEM, RELYING ON SOIL MOISTURE, RAIN GAUGE OR OTHER LOCAL WEATHER-BASED CONTROLLING DEVICE.
- ALL VALVES SHALL HAVE SEPARATE PRESSURE REGULATORS, FILTERS AND SHUT OFFS, AS NECESSARY.
- THE SYSTEM SHALL HAVE A DEDICATED METER WITH SHUT-OFF AND REDUCED PRESSURE BACKFLOW PREVENTION DEVICE INSTALLED PER LOCAL ORDINANCE.
- SPRAY AREAS SHALL NOT BE LESS THAN 8 FEET WIDE, PAVEMENT ADJACENT TO SPRAY AREAS WILL BE GRADED SO THAT OVERSPRAY WILL BE DRAIN INTO PLANTED AREAS.
- DRIP IRRIGATION SHALL BE DESIGNED WITH RIGID SUBSURFACE LATERALS.
- PLANTS WITH SIMILAR WATER NEEDS SHALL BE GROUPED TOGETHER IN HYDROZONES.



DESIGN REVIEW SUBMITTAL
NOT FOR CONSTRUCTION

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Roth | LaMotte
Landscape Architecture
CONSULTANT

ELEMENT 7

1930 SIR FRANCIS DRAKE BLVD

FAIRFAX, CA

APN: 001-223-10

IRRIGATION
PLAN

Date: 5/22/20
File name: E7 Dispensary Plan GR.vwx

NO. DATE ISSUE NOTES

NO. DATE REV. NOTES

DATE:
5/18/20

SCALE
AS SHOWN

DESIGNED BY
GR

DRAWN BY
LR

CHECKED BY
GR

L1.1