

# STANISLAUS COUNTY PLANNING COMMISSION

June 15, 2023

## STAFF REPORT

### USE PERMIT APPLICATION NO. PLN2022-0122 EMPIRE HEALTH AND WELLNESS

**REQUEST: TO ALLOW THE OPERATION OF AN EXISTING RETAIL COMMERCIAL CANNABIS BUSINESS WITH DELIVERY SERVICES, WITHIN AN EXISTING 3,720 SQUARE-FOOT BUILDING, IN THE GENERAL COMMERCIAL (C-2) ZONING DISTRICT.**

#### APPLICATION INFORMATION

Applicant:	Darron Silva, Empire Health and Wellness
Property owner:	Darron Silva and Sergio E. Martinez
Location:	4725 Yosemite Boulevard (State Route 132), between A and B Streets, in the Community of Empire.
Section, Township, Range:	30-3-10
Supervisory District:	District 5 (C. Condit)
Assessor's Parcel:	133-012-005
Referrals:	See Exhibit G Environmental Review Referrals
Area of Parcel(s):	14,000 square feet
Water Supply:	City of Modesto
Sewage Disposal:	City of Modesto
General Plan Designation:	Commercial
Community Plan Designation:	N/A
Existing Zoning:	General Commercial (C-2)
Sphere of Influence:	City of Modesto
Williamson Act Contract No.:	N/A
Environmental Review:	CEQA Guidelines Section 15061 (Common Sense Exemption) and 15301 (Existing Facilities)
Present Land Use:	Existing commercial cannabis retail facility and concrete parking lot
Surrounding Land Use:	Single-family residential development to the north and east; commercial development to the west and east; and industrial development to the south.

## **RECOMMENDATION**

Staff recommends the Planning Commission approve this request based on the discussion below and on the whole of the record provided to the County. If the Planning Commission decides to approve this project, Exhibit A provides an overview of all the findings required for project approval.

## **BACKGROUND**

On June 27, 2017, the Governor approved Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which created one regulatory system for commercial cannabis activity. This legislation allowed each jurisdiction to either permit or prohibit commercial cannabis activity within their jurisdictions.

On December 5, 2017, the Stanislaus County Board of Supervisors approved an ordinance amendment to the Stanislaus County Code which allows for up to 61 cannabis activities permits, prohibits outdoor cannabis cultivation, and limits retail to no more than seven establishments in the unincorporated area. The County adopted two separate ordinance amendments addressing commercial cannabis activities: Title 21, the Stanislaus County Zoning Ordinance, which specifies the zoning districts where each commercial cannabis activity may be permitted, subject to the discretionary review process; and Chapter 6.78 of the County Code, which lays out the general regulations for commercial cannabis activities in the County, including operating standards such as required setbacks from specific uses, odor control, and security measures.

Since adoption in 2017, the County has processed 45 separate land use and development agreement applications. Of those 45 applications, 26 have been approved by the Board of Supervisors. As of 2023, only 18 of the approved applications remain in operation.

This same use permit request was originally approved by the Board of Supervisors on October 22, 2019, under Use Permit (UP) and Development Agreement (DA) Application No. PLN2018-0115 – Empire Health and Wellness. The approved DA has a term of five years expiring on November 22, 2024. Fees collected under the DA include a Community Benefit Contribution, ranging from \$18,750 to \$45,500, and a Community Benefit Rate, ranging from \$375,000 to \$455,000 over the first five years or eight percent of gross receipts, whichever was greater. The Community Benefit Rate collected provides funding for County program administration and enforcement of illegal, unpermitted cannabis activities. Community Benefit Contribution funds collected were distributed to local charities, community programs, and public projects, with a primary focus on youth. Over the course of the first three years, the applicant has made payments for the Community Benefit Rate totaling \$2,517,717 and payments for the Community Benefit Contribution totaling \$99,750.

The original Use Permit was approved with Conditions of Approval requiring that road frontage, parking lot, and building improvements be completed no later than December 31, 2020. While a portion of the required Conditions, roadway dedication for Yosemite Boulevard (State Route 132) and a lot merger for underlying lots, were completed, the required improvements related to road frontage, parking lot, and building improvements were not completed and the Use Permit is now expired. Because the DA is still active, this request for a new use permit only requires consideration by the Planning Commission (it is not a recommendation to the Board of

Supervisors as was required by the DA); however, the decision of the Planning Commission may be appealed to the Board of Supervisors.

While the original Use Permit was not approved until 2019, the retail operation has existed on-site since 2016. The October 22, 2019 Board of Supervisors report is available online at: <https://www.stancounty.com/bos/agenda/2019/20191022/PH02.pdf>.

### **PROJECT DESCRIPTION**

This is a request to obtain a use permit to allow operation of an existing retail commercial cannabis business with delivery services, within an existing 3,720 square-foot building, in the General Commercial (C-2) zoning district. In accordance with County Code Section 6.78.120(A)(6)(c)(i), the applicant is also requesting a waiver to the required 200-foot setback from adjacent residences.

Consistent with the Conditions of Approval applied to the original Use Permit, the applicant proposes to: remove five existing parking stalls within the SR 132 right-of-way, reconfigure the existing parking lot by repaving and restriping to develop a total of 19 parking stalls, construct sidewalks along the A Street and SR 132 road frontages, construct an eight-foot-tall masonry wall along the northern property line, develop a valley gutter stormwater capture system below the parking lot, and install landscaping along both street frontages.

The project site is served by the City of Modesto with public water and sewer services. The existing 3,720 square-foot building is separated into retail and limited access areas. The retail area includes a 600 square-foot lobby/waiting area and a 1,200 square-foot showroom, which includes display counters, a supply closet, and a restroom. The showroom and lobby are separated by a locked door, each room has been equipped with surveillance systems, and on-site armed security staff are present during business hours. The limited access area is 1,920 square feet in size and includes a vendor waiting room, an employee break room, an office/surveillance room, several storage rooms, and a parking space with a metal roll up door for deliveries. As part of the parking lot redesign, a parking space adjacent to the roll up door on the northern portion of the building will be dedicated for incoming vehicles associated with product delivery.

Hours of operation and employee, customer, and delivery numbers are proposed to remain the same as the original Use Permit: operating hours of seven days a week, from 8:00 a.m. to 8:00 p.m.; a maximum of seven employees per shift, with up to two shifts per day; up to two supply deliveries to the site per day; and up to 150 sales deliveries to customers per day. Based on current operations, up to nine customers on-site at one time and a total of 200 customers per day are anticipated.

### **SITE DESCRIPTION**

The site is located at 4725 Yosemite Boulevard (State Route 132), between A and B Streets, in the Community of Empire (see Exhibit B – *Maps, Site Plan, and Elevations*). The project site is surrounded by single-family residential development to the north and east, commercial development to the west and east, and industrial development to the south. The existing commercial building was built in the 1950's. The building entrance fronts Yosemite Boulevard (SR 132). The site is improved with a secured employee parking lot and a customer parking lot,

totaling 20 parking spaces, ten spaces in each section. Both parking lots front onto and take access from A Street.

## **ISSUES**

The original use permit was approved with a waiver to the setback requirements of Section 6.78.120(A)(6) of the County Code, which requires that a 200-foot setback be maintained from the building of a commercial cannabis activity and any legal dwelling located on a parcel under different ownership. The current project also includes a request for a waiver from the residential setback requirement. There are 12 dwellings located within the 200-foot setback area, zoned R-1 (Single-Family Residential) and R-A (Rural Residential) (see Exhibit E – *Residential Setback Map*). Section 6.78.120(A)(6)(c), allows for the decision-making body to waive or reduce the setback requirements from a dwelling if any of the following apply:

- I. The site of commercial cannabis activity is physically separated from the off-site dwelling by either: a building or other structure blocking line of sight; or a physical barrier such as, but not limited to, a wall or canal prohibiting direct path of travel between parcels exists to mitigate potential environmental or security impacts resulting from the commercial cannabis activity.
- II. The decision-making body determines that such a waiver or reduction will not result in material detriment to the welfare or the property of persons located in the vicinity, based on the findings of fact.

As with the original Use Permit, the applicant has submitted findings supporting the reduced setback waiver stating that the existing commercial retail building is fenced on the easterly side of the building, which does not contain any windows or doors that would open out to the adjacent residence to the east (see Exhibit D – *Applicant's Findings for Setback Waiver*). The building façade has been developed with tinted windows that camouflage any commercial cannabis activity from view. The windows have been installed with roll down security equipment for after hours. The northern boundary is currently enclosed by a chain-link fence with privacy slats and barbed wire and is separated by an alley way between the building and the adjacent residential parcels.

The development standards of the General Commercial (C-2) zoning district, specifically Section 21.56.040 of the County Code, require that development of a commercial use adjacent to a residential zone construct an eight-foot-tall masonry wall for the purposes of screening. The intent of this development standard is to provide a solid separation between commercial and residential uses when the districts abut. Within the C-2, there are uses that are required to obtain a use permit if a 200-foot setback between a residential zone is not met; those uses include ballrooms, commercial clubs, dance halls, or stadiums. In such cases, the use permit is used as a way to get public input from the surrounding neighborhood to determine if any land use conflicts exist, and to mitigate any potential issues through the application of conditions of approval. Similarly, the use permit required for commercial cannabis activities is a method for gaining public input from surrounding neighbors to determine if the proximity of a commercial cannabis business from the surrounding residences is going to cause land use conflicts, and to apply conditions of approval to mitigate any potential issues. As with the original Use Permit, the applicant has agreed to install an eight-foot-tall masonry wall, consistent with the General Commercial (C-2)

zoning district standards, along the northern property line of the project site. A condition of approval has been incorporated into the project that requires the masonry wall to be constructed. Aside from the waiver to the setback requirements, the only other issue identified with the original Use Permit was regarding the need to provide for dedications and improvements along Yosemite Boulevard (State Route 132) and A Street. During the processing of the original Use Permit, a referral response was received from Caltrans requiring right-of-way acquisition along the property frontage to allow for future road widening and the installation of pedestrian improvements. In response to Caltrans request, the County's Department of Public Works required that the applicant dedicate road frontage for the future 100-foot ultimate right-of-way on State Route 132; however, this placed the property line within the existing building. To address the impact to the existing building, Public Works clarified that the dedication would not be accepted until road improvements on State Route 132 were planned to commence, at which point the applicant would be responsible for removing the portion of the building from the right-of-way within one year of acceptance. Public Works also required the applicant install curb, gutter, and sidewalk for the frontage on A Street. As with the original Use Permit, a condition of approval has been added to the project requiring roadway improvements. The roadway dedication has already been completed and therefore has not been applied as a condition of approval to this new request; however, a new condition of approval has been added to address the timing for removal of the building from within the ultimate right-of-way once the dedication is accepted, and for the remaining portion of the building to meet all applicable County setback requirements.

No new issues have been identified with this new Use Permit request.

The Planning Commission considered the original Use Permit request on August 15, 2019. At the Planning Commission meeting, the Commissioners deliberated on the request for a setback waiver and discussed how older communities often have a mix of zoning districts and land use types in a concentrated area making the setbacks more difficult to meet. A motion was made to recommend approval to the Board of Supervisors, with the waiver, and the motion failed due to a lack of majority vote. As such, the Planning Commission Rules and Regulations stipulated that the recommendation of the Planning Commission to the Board of Supervisors was to deny the request.

During the August 15, 2019 Planning Commission meeting, Commissioners asked about the occupancy of a bank building located 125 feet west of the project site and the timing for improvements to State Route 132. The bank building was, and still is, occupied by a business that focuses on occupational therapy for children with disabilities, which is not subject to the 600-foot setback requirement included in Section 6.78.120(A)(7) of the County Code for childcare, youth centers, or K-12 schools; and is instead considered to be a type of medical clinic. At that time, Caltrans has no immediate plans to expand the State Route 132 corridor through Empire. The Commissioners also confirmed with staff that the operation was serving both medicinal and recreational customers and that there were not any school bus stops near the project site.

During the Planning Commission meeting, no one spoke in opposition to the project and there were six people that spoke in favor of the project. No letters of opposition were received, but letters of support from County residents were received. At the October 22, 2019 Board of Supervisors meeting, three people spoke in opposition to the project and one person spoke in favor of the request. The Board of Supervisors voted 4-1 to approve the project subject to the Conditions of Approval from the August 15, 2019 Planning Commission Staff Report.

As part of this current request, staff has confirmed that the operation continues to serve both medical and recreational customers and there are still no school bus stops near the project site. The Conditions of Approval applied to this current request are the same as those applied to the original Use Permit, aside from the removal of conditions that have already been met or are not applicable to the project. The remaining conditions that were previously required to be met by a specific date are now required to be met within 12 months of project approval; however, the time frame may be extended by the Planning Director provided sufficient evidence is provided illustrating the need for a time extension to be granted.

As of 2023, the Board of Supervisors has approved six commercial cannabis applications that have included a residential setback waiver. In four cases the dwellings were located in the same zoning district as the proposed cannabis use (retail and cultivation operations), including two in the Industrial (M) zoning district, one in the General Commercial (C-2) zoning district, and one in the General Agriculture (A-2) zoning district. The fifth and sixth cases were commercial cannabis retail operations lying within a C-2 or M zoning district which abutted a residential zoning district. One additional use permit for a retail commercial cannabis operator is currently being processed by staff due to expiration of a previously issued use permit for not completing the conditions of approval in the required time. As with the first application, that request will also include a residential setback waiver. For this current request, the applicant has performed neighborhood outreach, but no formal letters of support or opposition have been received by staff.

As required by the DA, an annual inspection of the facility was last completed on June 8, 2022. The inspection found some minor deficiencies noted by the Sheriff's Department, County Fire, and the County's Agricultural Commissioner's office. All deficiencies have been brought into compliance with the exception of some security measures required by Chapter 6.78.120 of the County Code which include the following required by the Sheriff's Department: contact information, emergency access tools, and illustrations of the facility. The operator has stated he has fully addressed all deficiencies and has been placed on the Sheriff's schedule to be reinspected. Staff has verified that a reinspection has been scheduled.

### **GENERAL PLAN CONSISTENCY**

Consistency with the goals, objectives, and policies of the various elements of the General Plan must be evaluated when processing all discretionary project requests. The project site has a General Plan designation of Commercial. This designation is to indicate areas best suited for various forms of light to heavy commercial uses, including retail, service, and wholesale operations. Goal Three, Policy 19 of the Land Use Element encourages accommodating the siting of industries with unique requirements and Policy 21 encourages the retention and expansion of existing businesses. Approval of this request would uphold both of these General Plan goals and policies, by recognizing the siting of a new industry type.

The site is located within the City of Modesto's Local Agency Formation Commission (LAFCO) adopted Sphere of Influence. The Stanislaus County General Plan Sphere of Influence policy states, that development, other than agricultural uses and churches, which requires discretionary approval from incorporated cities, shall be referred to the city for preliminary approval. The project shall not be approved by the County unless written communication is received from the city memorializing their approval. If approved by the city, the city should specify what development standards are necessary to ensure that development will comply with city development standards. Approval from a city does not preclude the County's decision-making bodies from exercising

discretion, and it may either approve or deny the project. The current project request was referred to the City of Modesto, who responded with no objection or comments to the proposed request. As required by the County's General Plan Policy, the current project request was also referred to the Empire Municipal Advisory Council (MAC) and no comments have been received to date. The original request was considered at a MAC meeting held on December 19, 2019. At that time, no formal position was taken in response to the request and no community opposition was expressed in regard to the project.

As required under Goal Two, Policy 12, of the Safety Element, development within areas protected by the Airport Land Use Commission Plan (ALUCP) shall only be approved if the adopted plan requirements are met. The project was referred to the Airport Land Use Commission (ALUC), and no comments have been received to date. The response received to the original request stated that the project site is within the Modesto City-County Airport (MOD) ALUCP Referral Area 2, which includes locations where airspace protection and overflight are compatibility concerns may be present but not noise or safety. The ALUC stated further that the project site is not located within any MOD zones for safety or noise but is located within the Real Estate Disclosure overflight zone. However, the Overflight Notification and Real Estate Disclosure requirements are only applicable to residential development, and therefore the project is not subject to meeting these requirements.

Staff believes that the proposed project is consistent with the General Plan policies discussed above. The property is already developed with a commercial building and historically has been used for commercial uses, which are considered to be consistent with the Commercial land use designation.

### **CONSISTENCY WITH THE ZONING AND DEVELOPMENT AGREEMENT ORDINANCES**

The site is zoned General Commercial (C-2). Pursuant to Section 21.60.030 of the Stanislaus County Zoning Ordinance, commercial cannabis retail or testing activities are permitted in the C-2 zoning district subject to the approval of a use permit.

In order to approve a use permit, the decision-making authority shall make a finding that the establishment, maintenance, and operation of the proposed use or building applied for is consistent with the general plan and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County. If after receiving and considering the evidence, and any proposed conditions, the decision-making body is unable to make the findings, the use permit shall be denied.

Chapter 21.08.020(D), General Provisions, of the Stanislaus County Zoning Ordinance requires that commercial cannabis activities be located and operated in compliance with all the requirements of Chapter 6.78 of the Stanislaus County Code. A discussion of the project's compatibility with Chapter 6.78 is provided below in the section titled *Commercial Cannabis Activities Ordinance Consistency*. General Provisions also require that property owner notification for the consideration of any discretionary action authorizing commercial cannabis activities be required at a distance of 600 feet, increased from the state required 300 feet, measured from the boundaries of the project site, unless a greater distance is required by adopted County policy or state requirement. Per County policy, in a rural area, all owners of property within a 1/4 mile, or

1,320 feet, shall be notified. All projects are required to notice a minimum of two parcels out in each direction. The landowner notification completed for this project has met these standards. As mentioned previously, the applicant proposes to redevelop the existing parking lot to provide for 19 total parking spaces. The redesign of the parking lot will also account for the Caltrans requirement to remove existing parking that is within the right-of-way of Yosemite Boulevard (State Route 132). The parking lot will front onto A Street. Based on a requirement of one space for every 300 square feet of building space, the project is required to provide 13 total parking spaces. With a total of 19 parking spaces, the project exceeds the zoning ordinance parking standard.

As required by Chapter 6.78.060 of the Stanislaus County Code, prior to operating in the County, the permittee of each commercial cannabis activity shall have entered into a development agreement, as specified in Title 22 of the Stanislaus County Code.

Staff believes that the proposed project is consistent with the requirements of both the Zoning and Development Agreements Ordinances of the Stanislaus County Code. The proposed use is considered to be similar in nature to retail operations that are permitted in the C-2 zoning district. The applicant has provided information on the operation which indicates that the project conforms to the requirements included in Chapter 6.78 of the County Code, as discussed below. With conditions of approval in place, the proposed business is not anticipated to have a negative impact to the surrounding neighborhood or County as a whole. The use has been in operation since 2016 and no issues of concern have been brought to staff's attention by neighbors or the Sheriff.

### **COMMERCIAL CANNABIS ACTIVITIES ORDINANCE CONSISTENCY**

The intent of Chapter 6.78, Commercial Cannabis Activities, of the Stanislaus County Code, is to regulate the cultivation, possession, manufacturing, processing, storing, laboratory testing, labeling, transportation, destruction, delivery, or sale of medicinal and adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of Stanislaus County and to enforce rules and regulations consistent with state law. Further, the purpose and intent of Chapter 6.78 is to require all commercial cannabis activities to obtain and renew annually a Commercial Cannabis Activity (CCA) Permit to operate in Stanislaus County.

All commercial cannabis activities are required to meet the general operational standards laid out in Section 6.78.120. Those standards include, but are not limited to, the following:

**Buildings:** If commercial cannabis activities are to take place in an existing structure, that said structure shall obtain building permits for any improvements required to meet the building standards identified in Chapter 6.78, which include walls, doors, and the roof, shall be of solid construction, and shall include material strong enough to prevent entry except through an open door, and walls with a minimum thickness of six inches. The building has existed as various retail businesses prior to this application; however, the applicant is required to consult with the Building Permits Division to determine if the existing buildings meet minimum requirements set forth in Chapter 6.78. This project will be required to obtain building permits if any tenant improvements are made to the building, as reflected in conditions of approval applied to the project.

**Security:** All commercial cannabis activities are required to provide a security plan to the Sheriff's Department for review and approval. The security plan shall be reviewed annually or as often as

deemed necessary by the Sheriff's Department. The security plan shall include security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis projects, and to deter and prevent the theft of cannabis or cannabis projects at the commercial cannabis activity. The building is required to include a professionally installed and maintained alarm system, monitored by an alarm company or private security company, which monitors the interior, all perimeter entry points and windows, and the parking lot, 24 hours a day. Alarm system panic buttons and perimeter lighting are also required.

The applicant provided a security plan which includes employee screening, a secure method for the loading and offloading of products, controlled access in restricted areas, alarms, on-site security, and surveillance systems. The Sheriff's Department has reviewed and approved the security plan provided for the project. However, the applicant will be required to submit an updated security plan (including any additional security measures as required) to the Sheriff's Department for review and approval, as reflected in conditions of approval applied to the project.

**Setbacks:** Section 6.78.120(A)(6) and (7) identifies several setback requirements for commercial cannabis uses including the local setback requirement of 200 feet from residences located on a separate parcel under different ownership or a library, and the state required setback of 600 feet from a day care center, youth center (including parks), or school. There are no sensitive uses within 600 feet of the project parcel. The nearest school is the Norman Glick Elementary school, located 1,540 feet north of the site. There are 12 dwellings less than 200 feet from the proposed project site. A discussion on the applicant's request for a waiver to the residential setback requirement is included in the *Issues* section of this report.

**Odor Control:** Odor control devices and techniques are required to be incorporated into all commercial cannabis activities to ensure that odors from cannabis are not detectable off-site. Commercial cannabis activities shall provide a sufficient odor absorbing ventilation and exhaust system so that cannabis odors are not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as a commercial cannabis activity. As per the Air Quality and Odor Control Plan and the State of California requirements, all products will be contained in sealed tamper-proof packing. Furthermore, on-site consumption or sampling is strictly prohibited and will be enforced by the applicant's employees and on-site security. The most recent annual inspection for the project site did not find any odor issues.

**Signage and Notices:** The operator's CCA permit is required to be posted inside the premises of the commercial cannabis business in a location readily visible to the public. Each entrance to a commercial cannabis activity premises shall be visibly posted with a clear and legible notice indicating that no person under 21 years of age is permitted to enter upon the premises of the commercial cannabis activity, and that smoking, ingesting, or otherwise consuming cannabis in the parking areas, on the premises, or in the areas adjacent to the premises is prohibited. Limits on the methods of advertising commercial cannabis activities is also included in Section 6.78.120. As part of the original request, the applicant proposed advertising signage on the front of the building (see Exhibit B – *Maps, Site Plan, and Elevations*) that included the company logo and name displayed on the existing building awning. The approved signage was subsequently installed with issuance of a building permit and the design was approved by the City of Modesto.

A condition of approval has been added regarding any future alterations or replacement of the advertising signage.

**Track and Trace:** All permittees shall comply with the State of California and Stanislaus County Agricultural Commissioner's requirements for unique identifiers and Track and Trace program and shall pay all associated fees. The permittees shall obtain and use the unique identifiers from the state and County identified source, maintain them in a readable form, comply with all data entry requirements, and pay all required fees. Non-compliance with any track and trace requirements shall be grounds for revocation, suspension, or nonrenewal of the permittee's CCA permit.

Additionally, Section 6.78.120 restricts loitering, on-site consumption of cannabis products, and outdoor storage of cannabis or cannabis products and sets up standards for records and record keeping.

**Municipal Advisory Council Consultation:** The project site is located within the Empire Municipal Advisory Committee's (MAC) boundaries. Per the County Code Section 6.78.120(5), all discretionary projects lying within a MAC boundary should be referred to the MAC and the decision-making bodies should take into consideration MAC recommendations. The current project was referred to the MAC and no response has been received to date. County staff presented the original project to the MAC and Empire community members on December 19, 2018. The meeting was conducted without a quorum of the MAC and both the MAC members in attendance and the public asked general questions about cannabis projects and County requirements for them, but there was no community opposition. No formal position was taken due to the lack of a quorum. However, the MAC members present did not express any opposition to the project.

**Retail:** All retail permittees shall ensure that all cannabis and cannabis products sold by the retailer are cultivated, manufactured, transported, distributed, and tested by California licensed and permitted facilities that are in full conformance with state and local regulations. In compliance with State of California rules and regulations, retail permittees shall not distribute any cannabis or cannabis products unless such products are labeled and in a tamper-proof package. Furthermore, retail permittees shall not provide free samples of any type, including cannabis goods, to any person, and shall not allow any person to provide free samples on the permittee's premises. Supplemental security procedures exist for retail operators that require age verification of all customers, and in cases of medical cannabis customers, all pertinent medical documentation must be presented to the permittee. Entrances into areas of retail shall be locked at all times and entry shall be strictly controlled through an electronic/mechanical entry system. Uniformed security shall be present on-site to control loitering, site access, prevent sampling or product use, and to serve as visual deterrents for unlawful activities during business hours.

**Delivery:** All delivery permittees shall be conducted by employees that are at least 21 years of age. Any delivery shall be made to customers at a physical address and shall be delivered strictly to only the customer of record. Cannabis and cannabis products to be delivered shall be pre-packaged and placed in an opaque package prior to delivery with no other products in the vehicle. The product shall be maintained out of public view and shall be held in a separately locked and secured area within the vehicle at all times until arrival at the delivery address. All doors and windows of the vehicle shall be locked while the vehicle is unoccupied. During delivery, the location of each vehicle shall be continuously electronically monitored, and the current locations

of each vehicle shall be identifiable within 50 feet of its actual location. No cash shall be carried or held by the delivery employee or the vehicle and manifests of the delivery information are to be maintained within the delivery vehicles.

Aside from not complying with the Conditions of Approval relating to improvements which have resulted in the expiration of the original Use Permit, the use has operated with only some minor deficiencies in meeting the requirements of Chapter 6.78 of the County Code. As discussed in the *Issues* section of this report, the only outstanding deficiencies are related to security measures, which the operator has stated are fully addressed and are pending reinspection by the Sheriff's Department. If this new use permit request is approved by the Planning Commission, and all improvements are completed as set forth in the Conditions of Approval, the applicant would be eligible for issuance of their County Commercial Cannabis Activity (CCA) Permit. Prior to and after issuance of the CCA permit, the operation remains subject to annual monitoring for compliance with all requirements of Chapter 6.78 and Use Permit Conditions of Approval. Once the CCA permit is issued, all requirements of Chapter 6.78 will continue to be verified through annual monitoring of the operation during the required annual renewal process.

## **ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (Section 21000, et seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary "projects." A project under CEQA, is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." This request for a use permit is a project under CEQA. A Notice of Exemption has also been prepared for the current request, which declares that the project is exempt from CEQA on the basis of CEQA Guidelines Section 15061 (Common Sense Exemption) and 15301 (Existing Facilities).

While the environmental determination of the original Use Permit, that no further analysis is required pursuant to CEQA Guidelines Section 15183 (Consistency with a General Plan, Community Plan, or Zoning for which an EIR was prepared), could still be valid, given that the project description remains essentially the same, the CEQA approach taken by the State licensing agency for Commercial Cannabis (the Department of Cannabis Control) has led the County to utilize CEQA exemptions for this current request.

Per CEQA Guidelines Section 15061, CEQA applies only to projects which have the potential for causing a significant effect on the environment. As stipulated by the Existing Facilities Exemption (CEQA Guidelines Section 15301), the current project is consistent with the exemption as it consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The key consideration for the Existing Facilities exemption is whether the project involves negligible or no expansion of use. This request is to allow the continued operation of an existing business without any expansion to the building footprint with just a reconfiguration to the existing parking. There is also no evidence in the record that this action will have a direct or significant physical impact on the environment (see Exhibit F – *Notice of Exemption*).

As part of the environmental review process, the current request, as with the original request, was circulated to interested parties and responsible agencies for review and comment and no

significant issues were raised (see Exhibit G – *Environmental Review Referrals*). Conditions of approval reflecting referral responses have been placed on the project (see Exhibit C – *Conditions of Approval*).

Contact Person: Teresa McDonald, Associate Planner, (209) 525-6330

Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps, Site Plan, and Elevations
- Exhibit C - Conditions of Approval
- Exhibit D - Applicant's Findings for Setback Waiver
- Exhibit E - Residential Setback Map
- Exhibit F - Notice of Exemption
- Exhibit G - Environmental Review Referral

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## **Findings and Actions Required for Project Approval**

1. Find that the project is exempt pursuant to CEQA Guidelines Section 15061 (Common Sense Exemption) and 15301 (Existing Facilities).
2. Order the filing of a Notice of Exemption with the Stanislaus County Clerk-Recorder's Office pursuant to CEQA Guidelines Section 15061 and 15062.
3. Find that:
  - a. The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
  - b. A waiver or reduction of setback requirements of County Code Section 6.78.120(A)(6) will not result in the material detriment to the welfare or the property of persons located in the vicinity as a result of the project development.
4. Approve Use Permit Application No. PLN2022-0122 – Empire Health and Wellness, subject to the attached Conditions of Approval.

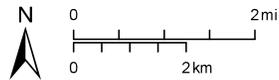
# EMPIRE HEALTH AND WELLNESS

## UP PLN2022-0122

### AREA MAP

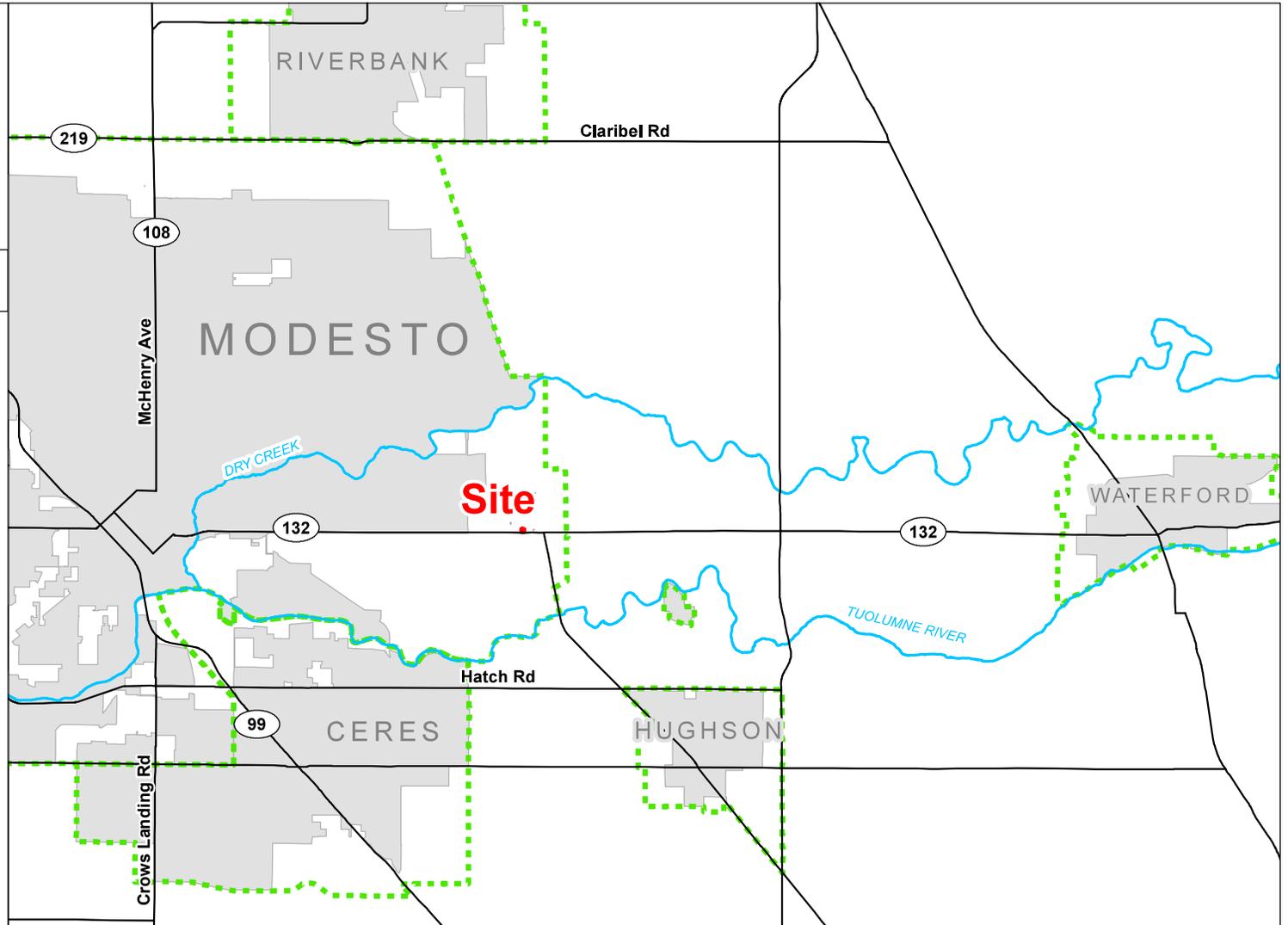
#### LEGEND

-  Project Site
-  Sphere of Influence
-  City
-  Road
-  River



Source: Planning Department GIS

Date: 10/31/2022



# EMPIRE HEALTH AND WELLNESS

## UP PLN2022-0122

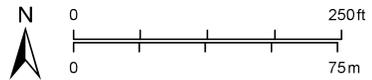
### GENERAL PLAN MAP

#### LEGEND

-  Project Site
-  Parcel
-  Road

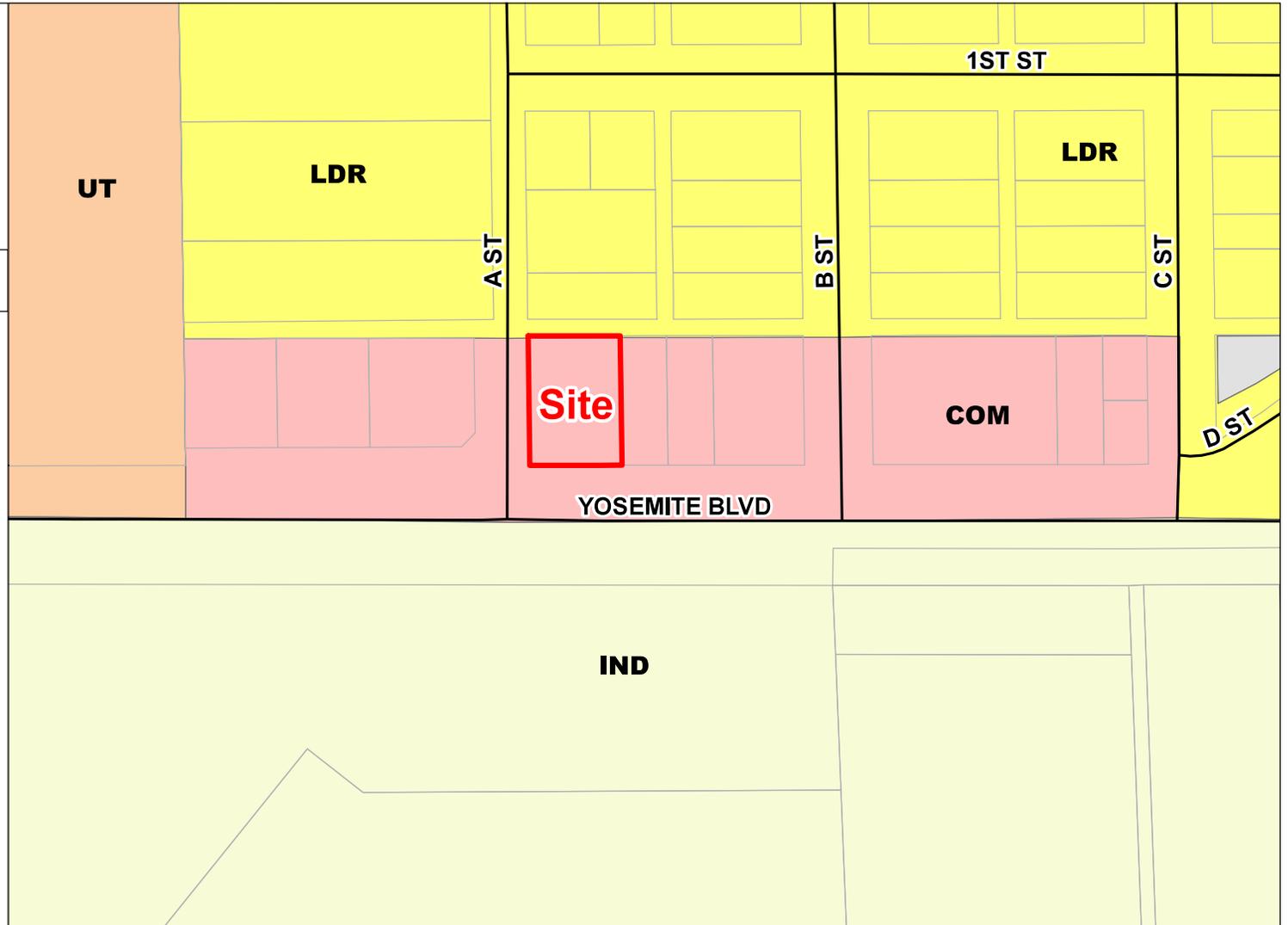
#### General Plan

-  Low Density Residential
-  Industrial
-  Urban Transition
-  Commercial



Source: Planning Department GIS

Date: 11/2/2022



# EMPIRE HEALTH AND WELLNESS

## UP PLN2022-0122

### ZONING MAP

#### LEGEND

-  Project Site
-  City of
-  Parcel
-  Road
- Zoning Designation**
-  General Agriculture 10 Acre
-  Industrial
-  Rural Residential
-  Commercial
-  Single Family Residential

Source: Planning Department GIS

Date: 11/2/2022



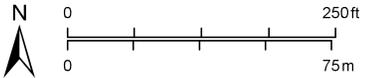
# EMPIRE HEALTH AND WELLNESS

UP  
PLN2022-0122

2022 AERIAL AREA MAP

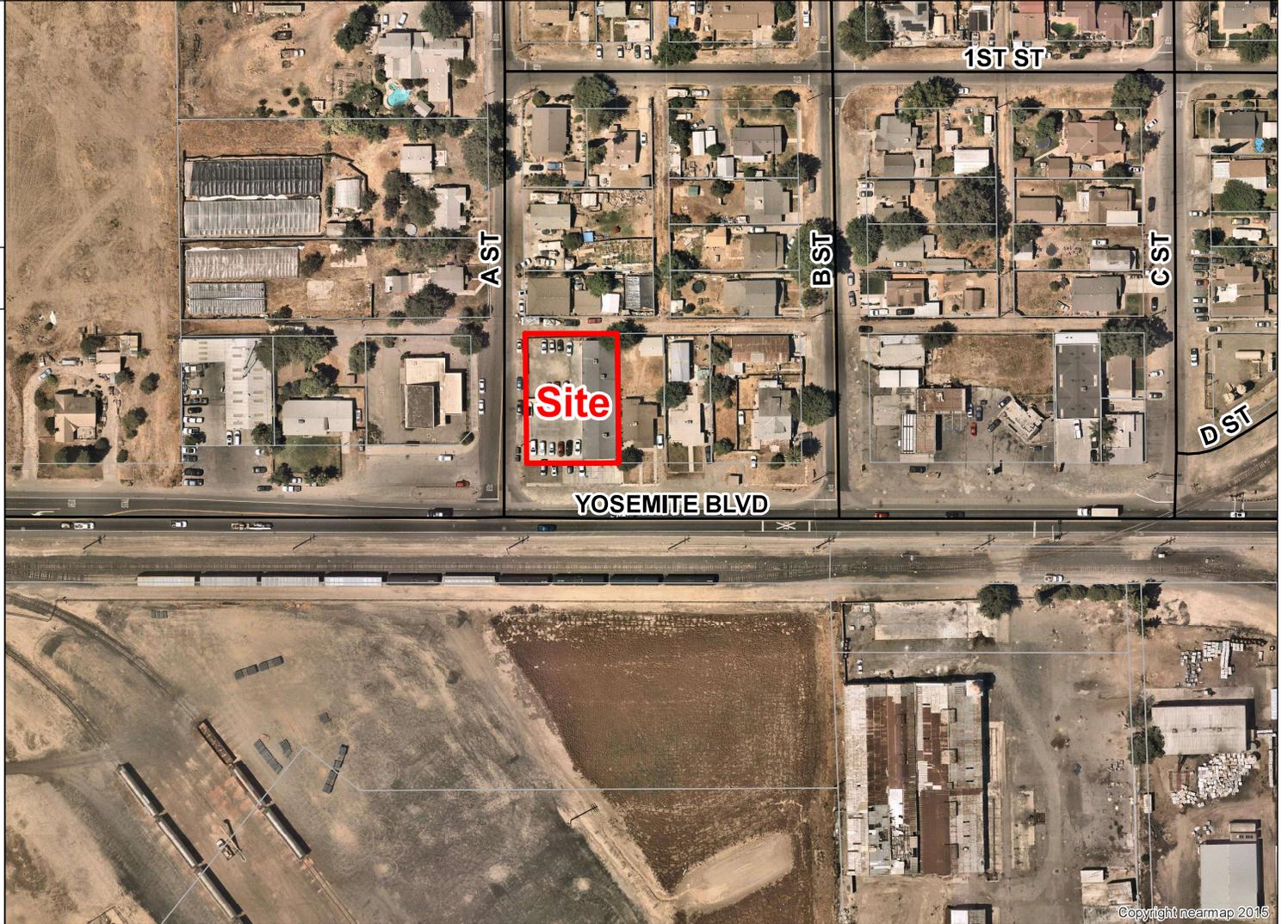
## LEGEND

-  Project Site
-  Road



Source: Planning Department GIS

Date: 10/31/2022



Copyright nearmap 2015

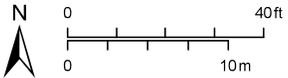
# EMPIRE HEALTH AND WELLNESS

## UP PLN2022-0122

2022 AERIAL SITE MAP

### LEGEND

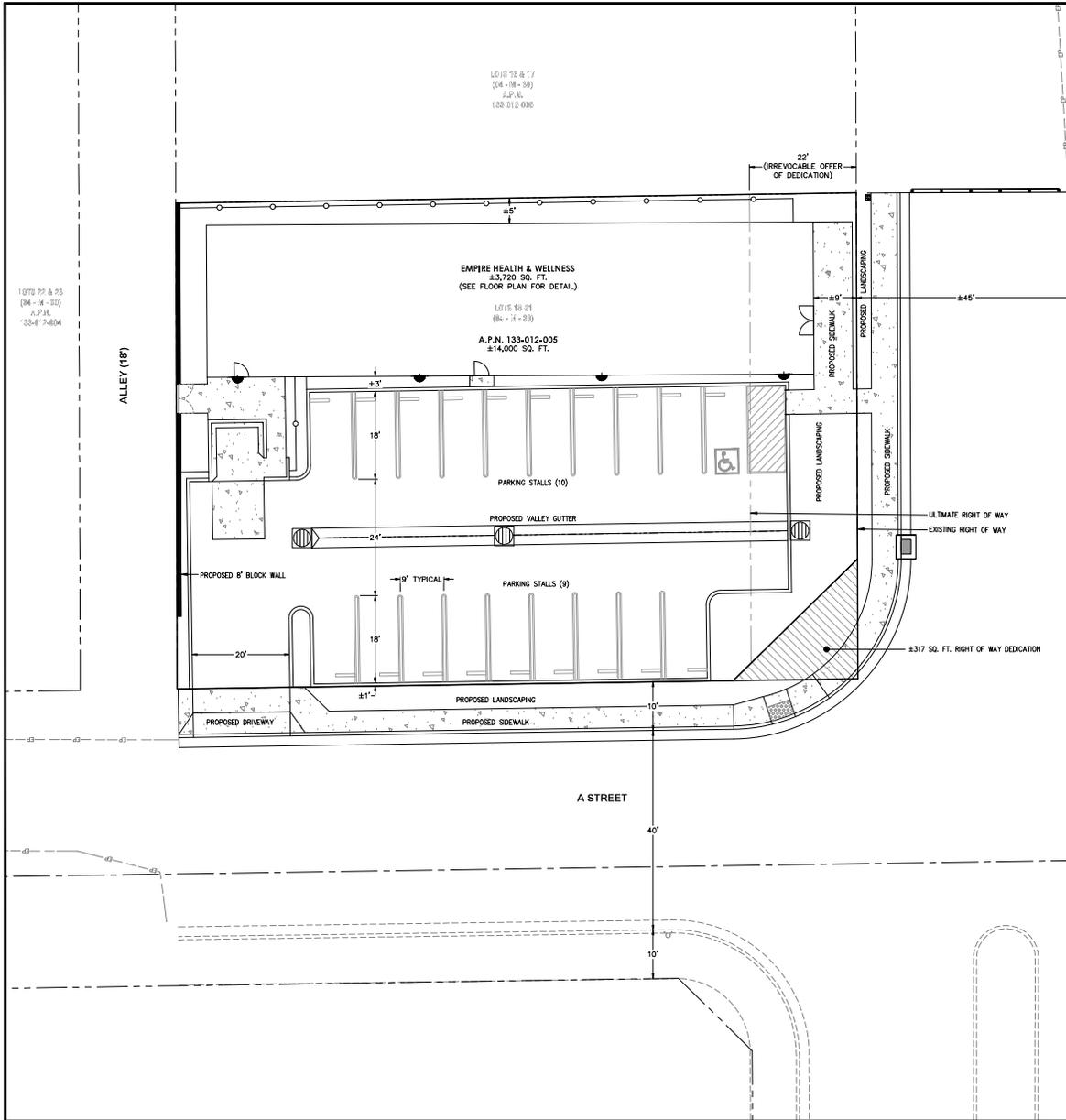
-  Project Site
-  Road
-  Canal



Source: Planning Department GIS

Date: 10/31/2022

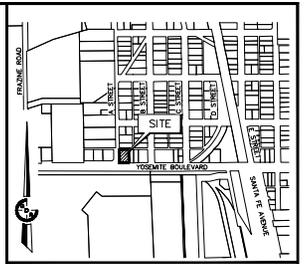




YOSEMITE BLVD (HWY 132)

EXISTING	DESCRIPTION	PROPOSED
---	PROPERTY LINE	---
---	RIGHT OF WAY	---
---	CHAINLINK FENCE	---
---	EDGE OF PAVEMENT	---
---	CENTER LINE	---
---	CATCH BASIN	---
---	DRAIN INLET	---
---	ADA CURB RAMP	---

LEGEND



**VICINITY MAP**  
EMPIRE, STANISLAUS COUNTY, STATE OF CALIFORNIA

**PROPERTY OWNER**  
NAME: DARRON SILVA & SERGIO E. MARTINEZ  
MAILING ADDRESS: 1631 FIG AVENUE  
CITY/STATE/ZIP: PATTERSON, CA 95363

**APPLICANT**  
NAME: EMPIRE HEALTH & WELLNESS  
CONTACT: DARRON SILVA  
MAILING ADDRESS: 4725 YOSEMITE BOULEVARD  
CITY/STATE/ZIP: EMPIRE, CA 95319

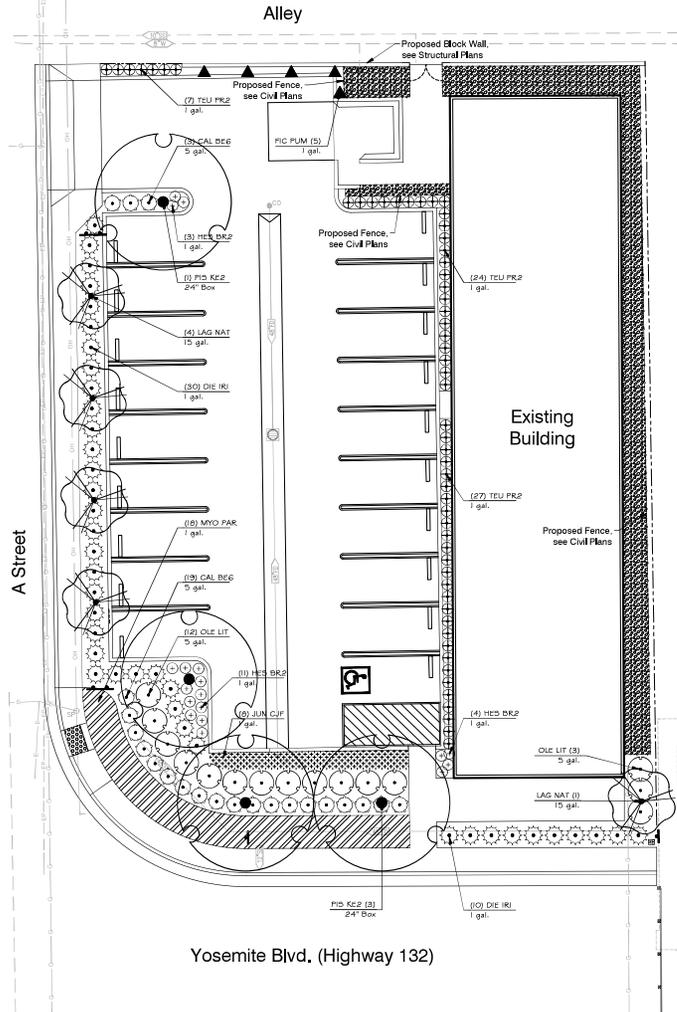
**EXISTING CONDITIONS**  
A.P.N.: 133-012-005  
EXISTING PARCELS: 1

**PROPERTY DESCRIPTION**  
LOTS 18, 19, 20 AND 21 IN BLOCK 15 OF THE TOWN OF EMPIRE, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED IN THE OFFICE OF THE RECORDER OF STANISLAUS COUNTY, CALIFORNIA, ON JULY 13, 1908 IN VOLUME 4 OF MAPS, AT PAGE 30, STANISLAUS COUNTY RECORDS, LYING IN A PORTION OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 3 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN.

**GDR ENGINEERING, INC.**  
ENGINEERING/SURVEYING/PLANNING  
3525 MITCHELL ROAD, SUITE G, EMPIRE, CA 95307  
TELEPHONE: (209) 538-3360 FAX: (209) 538-7370  
www.gdrengineering.com

**CONCEPTUAL SITE PLAN FOR EMPIRE HEALTH & WELLNESS**

SCALE: 1"=10' DATE: 12/15/2023  
DWG NO.: 18001\_Site\_Plan.dwg SHEET: 1 OF 1  
DESIGNER: JSC REVISION: 18001



**Planting Legend:**

TREES	CODE	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	WUCCOLS	QTY
	LAG NAT	Lagerstroemia x 'Natchez'	Crape Myrtle	15 gal.	per plan	L	5
	FIC KE2	Platanus chinensis 'Keith Davey'	Keith Davey Chinese Platanus	24" Box	per plan	L	4

SHRUBS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	WUCCOLS	QTY
	CAL BE6	Callistemon viminalis 'Better John'	Dwarf Weeping Bottle Brush	5 gal.	3'	L	22
	DIE IR	Dioscorea dielsii	Fortnight Lily	1 gal.	4'	L	40
	FIC PLM	Ficus Pumila	Creeeping Fig	1 gal.	per plan	M	5
	HES BR2	Hesperaloe parviflora 'Perpa' TM	Brakelights Red Yucca	1 gal.	2.5'	L	10
	OLE UT	Olea europaea 'Little Olive' TM	Little Olive Olive	5 gal.	5'	VL	15
	TEU PR2	Teucrium x lucidius prostratum	Germander	1 gal.	2.5'	L	58

GROUND COVERS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	WUCCOLS	QTY
	JUN CUF	Juniperus conferta	Shore Juniper	1 gal.	4'	L	8
	MYO PAR	Myoporum parvifolium	Trailing Myoporum	1 gal.	5'	L	10

Gravel Only, see Planting Notes 814 sf

**Planting Notes:**

- Before beginning work, Contractor shall inspect the site. If any conditions existing that differ from what is shown on the plans and will affect Contractor's work, notify the owner or Landscape Architect immediately.
- When fine grading, Contractor is to be sure that water cannot pool against buildings or fences.
- The Contractor shall furnish the City and owner with a landscape soils report from A&L Western Lab in Modesto (209) 520-0880, or equal. The Contractor is to follow the recommendations in accordance with the Model Water Efficiency Landscape Ordinance. All landscape areas are to be amended with compost (9 yards per 1,000 square feet, or approximately 3" deep) before planting. Rotate all planting areas at least 9" deep. Soil amendments and fertilizer shall be based on the soil fertility test and the recommendations from the reputable soil testing laboratory.
- Gravel areas are to be installed in areas shown on plans. Excavate gravel areas at least 3". Line area with landscape fabric (not sheet plastic) and overlap seams by at least 6". Secure with U-pins at least every 2' along seams. Fill areas with gravel at least 3" deep, ensuring that all fabric is covered completely. Provide owner with gravel sample prior to buying or installing gravel.
- Edge Myoporum area with steel edging. Painted in bronze color, or equal. Install per detail, sheet L3.
- Contractor to submit 2 photos of each plant (photo of entire plant, plus close-up of plant tag) to the Landscape Architect for approval prior to installation.
- Weed and weed seeds, both existing and potential, are to be addressed at all planting areas. Contractor to use a pre-emergent herbicide throughout the entire project area. All additives and herbicides selected must be safe for animals and young children. If any concerns arise, Contractor is to bring them to the attention of the Landscape Architect or Owner.
- Place 3" of brown bark chip mulch in all planting areas. Replenish the mulch at the end of the maintenance period so that there is at least 3" deep.
- Trees with cut or broken central leader shall be rejected.
- All plant material is to be of the highest quality, in healthy condition, and of a size expected of the species and container size.
- Whenever trees are within 7' of a paved surface, root barriers are to be used at back of paving. The root barrier is to be installed linear against the curb or walk at 1" below adjacent finished grades. The gap between the barrier and paved surface shall be backfilled with soil. Use 4 24" Deepfoot panels at each paved surface.
- Contractor to verify quantities listed. Plant quantities are provided as a convenience only. If there is a discrepancy between the quantities provided and what is shown on the plans, then Contractor is to refer to the plans.
- Add OMRI - certified fertilizer labels to each tree or shrub when planting in the following quantities:  
1 gallon - 1 tablet, 5 gallon - 3 tablets, 15 gallon - 5 tablets, 24" box - 7 tablets
- The soil mix for tree and shrub pits must use the following: 1 part compost to 2 parts native soil.
- Contractor is responsible to notify the City prior to work commencement and to set up an inspection schedule.
- Contractor is to maintain all landscape work for 60 days after the Landscape has been accepted by the City of Modesto.
- All work is to be guaranteed by the installing Contractor for one (1) full calendar year after acceptance by Owner, unless specified otherwise.

**MWELQ Note:**

Changes to the approved plans or field substitutions shall not be permitted without prior written approval from the Landscape Architect and the City of Modesto Planning and Development Division. If the owner/contractor deviates from the approved plan without prior written approval they will be required to make any corrections, at their own expense, to bring the landscape and irrigation into compliance with the approved plans and the State Model Water Efficient Landscape Ordinance.



**Linda Fish**  
Landscape Architect  
(209) 656-3177  
CLA #4346

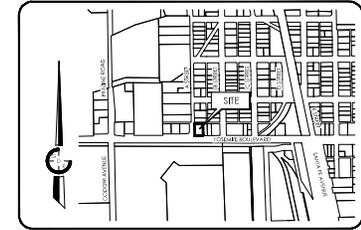
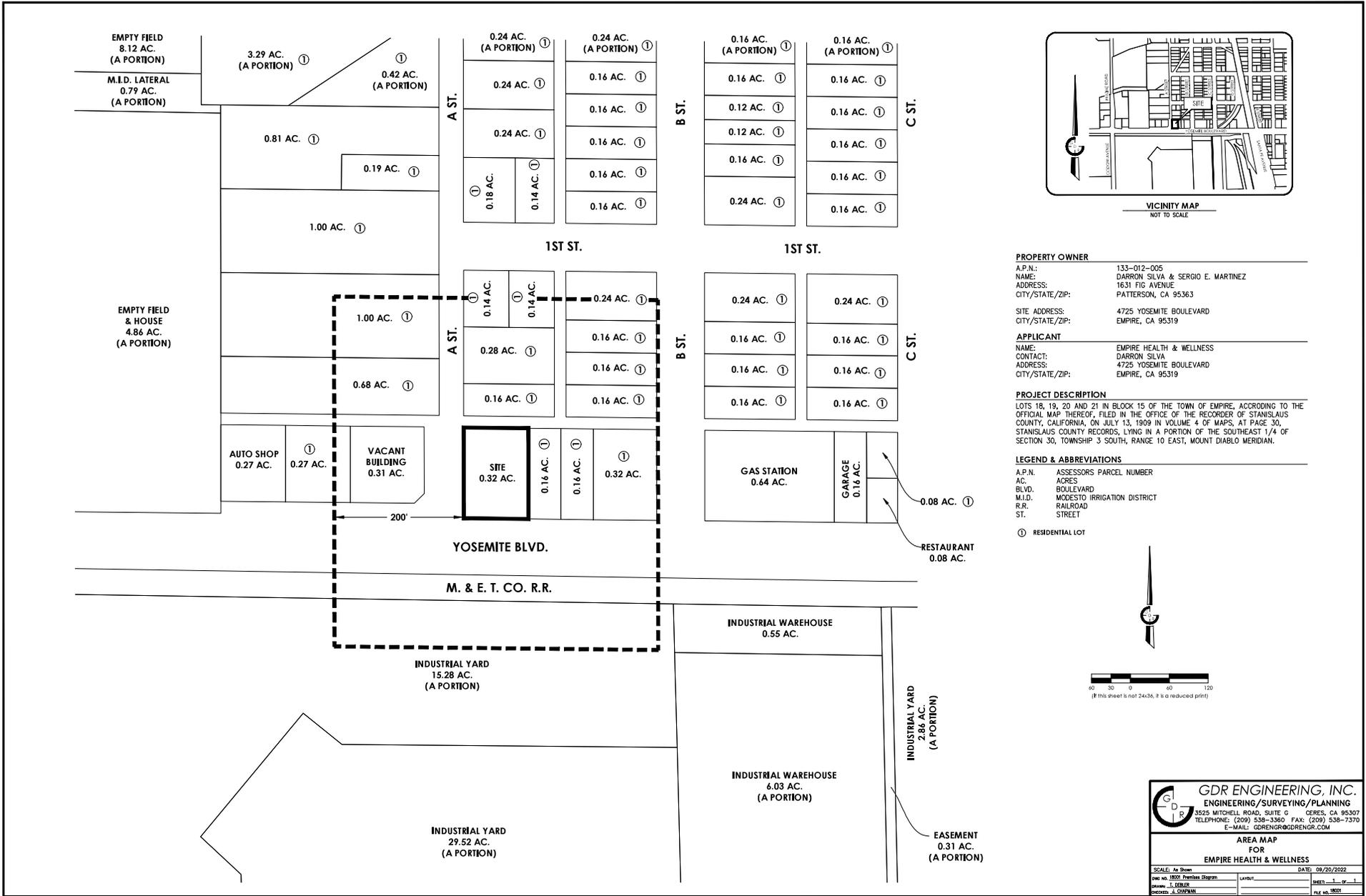
**Planting Plan**

**Empire Health & Wellness**  
A.P.N. 133-012-005

4725 Yosemite Blvd.,  
Empire, CA 95219

Scale: 1"=20'-0"  
Date: 1-24-20  
Drawn: LF  
Sheet Number:

**L2**



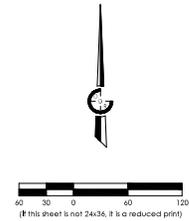
**PROPERTY OWNER**  
 A.P.N.: 133-012-005  
 NAME: DARRON SILVA & SERGIO E. MARTINEZ  
 ADDRESS: 1631 FIG AVENUE  
 CITY/STATE/ZIP: PATTERSON, CA 95363  
 SITE ADDRESS: 4725 YOSEMITE BOULEVARD  
 CITY/STATE/ZIP: EMPIRE, CA 95319

**APPLICANT**  
 NAME: EMPIRE HEALTH & WELLNESS  
 CONTACT: DARRON SILVA  
 ADDRESS: 4725 YOSEMITE BOULEVARD  
 CITY/STATE/ZIP: EMPIRE, CA 95319

**PROJECT DESCRIPTION**  
 LOTS 18, 19, 20 AND 21 IN BLOCK 15 OF THE TOWN OF EMPIRE, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED IN THE OFFICE OF THE RECORDER OF STANISLAUS COUNTY, CALIFORNIA, ON JULY 13, 1909 IN VOLUME 4 OF MAPS, AT PAGE 30, STANISLAUS COUNTY RECORDS, LYING IN A PORTION OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 3 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN.

**LEGEND & ABBREVIATIONS**  
 A.P.N. ASSESSOR'S PARCEL NUMBER  
 AC. ACRES  
 BLVD. BOULEVARD  
 M.I.D. MODESTO IRRIGATION DISTRICT  
 R.R. RAILROAD  
 ST. STREET

Ⓡ RESIDENTIAL LOT



**GDR ENGINEERING, INC.**  
 ENGINEERING/SURVEYING/PLANNING  
 3525 MITCHELL ROAD, SUITE G - CERES, CA 95307  
 TELEPHONE: (209) 538-3360 FAX: (209) 538-7370  
 E-MAIL: GDRENR@GDRENR.COM

**AREA MAP FOR EMPIRE HEALTH & WELLNESS**

SCALE: As Shown DATE: 09/20/2022  
 prep. no. 18021 Prelim. Diagram Layout  
 drawn by: J. DEBER  
 checked by: J. GUNTER  
 sheet 1 of 1  
 prep. no. 18021



**SOUTH BUILDING ELEVATION**

FRONT ENTRY

EMPIRE HEALTH AND WELLNESS  
4725 YOSEMITE BOULEVARD, EMPIRE, CA 95319

"CALI KOSHER" SIGN DIMENSIONS: 54" (WIDTH) x 54" (HEIGHT)

STREET NUMBER DIMENSIONS: 45" (WIDTH) x 18" (HEIGHT)

---

NOTE: Approval of this application is valid only if the following conditions are met. This permit shall expire unless activated within 18 months of the date of approval. In order to activate the permit, it must be signed by the applicant and one of the following actions must occur: (a) a valid building permit must be obtained to construct the necessary structures and appurtenances; or, (b) the property must be used for the purpose for which the permit is granted. (Stanislaus County Ordinance 21.104.030)

---

## **CONDITIONS OF APPROVAL**

### **USE PERMIT APPLICATION NO. PLN2022-0122 EMPIRE HEALTH AND WELLNESS**

#### **Department of Planning and Community Development**

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances. All development standards and mitigation measures adopted for the C-2 zoning district shall remain in effect.
2. Commercial cannabis activities as authorized by Title 21 and Chapter 6.78 of the Stanislaus County Code shall be located and operated in compliance with all the requirements of Chapter 6.78 of the Stanislaus County Code and any other local requirements, and state laws and regulations, applicable to commercial cannabis activities.
3. Within 60 days of project approval, a complete Commercial Cannabis Activity Permit Application (CCA permit) shall be submitted to the Treasurer/Tax Collector.
4. If the Development Agreement, CCA permit, or state licenses associated with this land use entitlement are revoked, expired, or otherwise deemed ineffective, all commercial cannabis activities on the project site shall cease, until all applicable permits and agreements have been reinstated.
5. Commercial cannabis activities which have obtained their CCA permit shall have six months from the effective date of issuance of the permit to obtain the required licenses from the State of California. If all state licenses and approvals required to operate the commercial cannabis activity are not obtained within the six-month period, the CCA permit shall not be renewed.
6. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
7. The applicant/owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of

- limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
8. Prior to issuance of a CCA permit, the permittee shall provide a security plan, in accordance with Section 6.78.120(C) of the County Code, to the Sheriff's Department for review and approval. The security plan shall be reviewed annually or as often as deemed necessary by the Sheriff's Department.
  9. Prior to issuance of a CCA permit, operator shall designate two individuals who shall be available at all times to communicate with the County Sheriff's Department and Code Enforcement, and to respond to community inquiries and complaints.
  10. The Department of Planning and Community Development shall record a Notice of Exemption, and a Notice of Administrative Conditions and Restrictions (NOAC&R) with the Stanislaus County Clerk-Recorder's Office within 30 days of project approval. The NOAC&R includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map. Prior to filing, within five days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$57.00**, made payable to **Stanislaus County**, for the payment of Clerk-Recorder filing fees.
  11. Prior to issuance of any building permit, a photometric lighting plan shall be submitted for review and approval by the Planning Department. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include, but not be limited to, the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties). The height of the lighting fixtures should not exceed 15 feet above grade.
  12. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.
  13. If any amendments to the existing signage are proposed, a sign plan indicating the location, height, area of the sign(s), and message shall be approved by the City of Modesto and the County Department of Planning and Community Development prior to installation.
  14. A grading permit shall be issued for the redesign of the parking lot and frontage improvements as proposed in the site plan reflected in Exhibit B-6 of the June 15, 2023 Planning Commission Staff Report.
  15. The existing parking stalls shall be removed along Yosemite Boulevard (State Route 132) and signage shall be posted stating that no parking, loading, or unloading shall occur.
  16. A landscaping plan for the project site, indicating type of plants, initial plant size, location, and method of irrigation, shall be reviewed and approved by the Director of Planning and Community Development, or an appointed designee(s). The landscape plan shall also be subject to review and approval by the City of Modesto. Any modification to any landscaping located on the project site, shall be subject to a review and approval process consistent with the initial landscape plan.

17. A masonry wall shall be constructed along the northern property line. The wall shall be eight feet in height except within the 15-foot front yard building setback. Within the front yard building setback area the wall shall not exceed three feet in height. A building permit for the construction of the wall shall be obtained and finalized.
18. All approvals and/or permitting associated with Conditions of Approval No. 14-17 and Condition of Approval No. 21 shall be issued and finalized within 12 months of the 2023 Use Permit approval, unless an additional six-month extension is granted by the Director of Planning and Community Development or their designee. An extension shall not be granted unless evidence is provided of the following: continued progress with permit submittals; inspections associated with issued permits; or unforeseen or unavoidable condition outside of the applicant's control.
19. All landscaped areas, fences, and walls shall be maintained in an attractive condition and in compliance with the approved final landscape and irrigation plan. The premises shall be kept free of weeds, trash, and other debris. Dead or dying plants shall be replaced with materials of equal size and similar variety within 30 days, at the property owner's expense.
20. Should any archeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented. Construction activities shall not resume in the area until an on-site archeological mitigation program has been approved by a qualified archeologist. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.

### **Building Permits Division**

21. Building permits are required, and the project must conform with the California Code of Regulations, Title 24. All unpermitted portions of existing buildings, including unpermitted interior improvements on compartmentalized portions of the existing structure, shall obtain building permits and shall comply with the provisions of the code set forth in the most current adopted California Code of Regulations Title 24 or be demolished. It shall be unlawful for any person, firm, or corporation to erect, construct, alter, or occupy any building or portions of any buildings where unpermitted work exists.
22. All indoor cultivation, distribution, and storage areas shall be considered S-1 occupancies in accordance with the most current adopted California Building Code, California Code of Regulations Title 24.
23. No change shall be made in the use or occupancy of any building unless such building is made to comply with the requirements of the most current adopted California Building Code, California Code of Regulations Title 24, Volumes 1 and 2 of Part 2.
24. Accessibility for existing buildings shall comply with Section 410 of the California Building Code, California Code of Regulations Title 24, Part 10.

25. Mercantile Occupancies with a total occupant load of 50 or less, including customers and employees, require one toilet facility, designed for use by no more than one person at a time, which shall be permitted for use by both sexes.
26. All plans submitted shall be reviewed and/or designed by a California licensed architect or engineer.

**Department of Public Works**

27. No parking, loading or unloading of vehicles will be permitted within the County road right-of-way.
28. The developer will be required to install or pay for the installation of any signs and/or markings, if necessary.
29. Prior to issuance of a grading permit, a complete set of improvement plans that are consistent with the Stanislaus County Standards and Specifications shall be submitted and approved by Stanislaus County Public Works. The improvement plans shall include curb, gutter, and sidewalk, matching pavement, and storm drainage system for the frontage on A Street. All improvements shall be completed prior to the issuance of a building or grading permit.
30. All facilities in the public right-of-way shall meet current Americans with Disabilities Act (ADA) Standards.
31. An Engineer's Estimate shall be provided for roadway improvements so that the amount of the financial guarantee can be determined.
32. An acceptable financial guarantee for roadway improvements shall be provided to the Department of Public Works prior to the issuance of any building or grading permit.
33. Prior to any work being done in the right-of-way of A Street, an encroachment permit shall be taken out for the improvements.
34. Applicant shall comply with State Water Resources Control Board Order No. WQ2017-0023-DWQ General Waste Discharge Requirements (WDRs) and Waiver of WDRs for Discharges of Waste Associated with Cannabis Cultivation Activities.
35. Applicant shall comply with Stanislaus County Code Chapter 14.14, Stormwater Management and Discharge Control.
36. A grading, drainage, and erosion/sediment control plan for the project site shall be submitted with any building permit that will create a larger building footprint for the site. The grading and drainage plan shall include the following information: The plan shall contain drainage calculations and enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way. Public Works will review and approve the drainage calculations.
  - a. The plan shall contain drainage calculations and enough information to verify that all run-off will be kept from going onto adjacent properties and Stanislaus County road right-of-way. Public Works will review and approve the drainage calculations.

- b. The grading drainage and erosion/sediment control plan shall comply with the current State of California National Pollution Discharge Elimination System (NPDES) General Construction Permit. A Waste Discharge Identification Number (WDID) and a copy of the Notice of Intent (NOI) and the project's Storm Water Pollution Prevention Plan (SWPPP) shall be provided prior to the approval of any grading, if applicable.
  - c. The applicant of the grading permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the grading plan.
  - d. The applicant of the grading permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspection. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site.
37. When the Irrevocable Offer of Dedication (IOD) (Document No. 2020-0074174-00) for the frontage of Yosemite Boulevard (State Route 132) and A Street is accepted by Caltrans, the owner of the building shall be responsible for removing the portion of the building out of the right-of-way as stipulated by Caltrans. The portion of the building within the right-of-way shall be removed within one year of the IOD being accepted. A building permit shall be obtained from Stanislaus County prior to any alteration to the building, and the remaining portion of the building shall meet all applicable Stanislaus County setback requirements.

**Modesto Irrigation District (MID)**

38. Prior to the start of construction, the property owner/operator shall contact the Modesto Irrigation District to determine if the project will impact any MID facilities and shall comply with all MID regulations.

**Caltrans**

39. No parking, loading, or unloading of vehicles shall be permitted within the Yosemite Boulevard (State Route 132) right-of-way.
40. The applicant shall install pedestrian improvements along Yosemite Boulevard (State Route 132). Improvements shall include sidewalk repairs with curb and gutters. Where applicable, any sidewalk, curb, gutter or ramp shall be in compliance with the Americans with Disabilities Act.
41. Prior to any work being done with the right-of-way of Yosemite Boulevard (State Route 132), an encroachment permit shall be issued.

**Central Valley Air Pollution Control District (CVAPCD)**

42. Prior to the start of construction, the property owner/operator shall contact the CVAPCD's Small Business Assistance Office to determine if any Air District permits or if any other CVAPCD rules or permits are required, including but not limited to an Authority to Construct (ATC).

**Central Valley Regional Water Quality Control Board**

43. Prior to ground disturbance or issuance of a building permit, the Central Valley Regional Quality Control Board shall be consulted to obtain any necessary permits and to implement any necessary measures, including but not limited to Cannabis General Order, Construction Storm Water General Permit, Phase I and II Municipal Separate Storm Sewer System (MS4) Permits, Industrial Storm Water General Permit, Clean Water Act Section 404 Permit, Clean Water Act Section 401 Permit (Water Quality Certification), Waste Discharge Requirements, Dewatering Permit, Low or Limited Threat General NPDES Permit, NPDES Permit, or any other applicable Regional Water Quality Control Board permit.

\*\*\*\*\*

*Please note: If Conditions of Approval/Development Standards are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Conditions of Approval/Development Standards; new wording will be in bold font and deleted wording be in strikethrough text.*

## **Request for Waiver of Local Setback Requirements**

Empire Health and Wellness requests a waiver of the local setback requirement based on the fact that the waiver will not result in a material detriment to the welfare or the property or persons located in the vicinity based on a finding of fact.

Empire Health and Wellness is located in commercially zoned building on Yosemite Boulevard. It is in a very secure building with only front access and side access through a gated and fenced area. The building only has windows in the front and those windows are composed of tinted security glass and have roll down security doors for after hours. Therefore, there is no ability to see into the building from the outside. The front windows only lead into a general waiting area. There are no cannabis products visible from this waiting area.

The dwelling located directly to the east is the nearest dwelling and is separated by Empire's exterior easterly wall. That exterior wall contains no doors or windows or access of any type. The dwelling directly north of our location is separated by a fence which contains secure barbed wire at the top in addition to being separated by an ally way.

All employee parking is within the secure gated and fenced area. All delivery vehicles enter the secured and fenced parking area and into the building through a side door. Delivery products are unloaded inside the building in a secure room where there is no visible access from the exterior of the building.

The dwelling located directly to the west is a vacant unused commercial building

There is no dwelling to the south of the building as that is Yosemite Boulevard. Across Yosemite Boulevard is an industrial parking area.

The uniquely situated commercial building provides a very secure and protected area to conduct a cannabis business. The secure nature of the building does not allow for any visibility of cannabis activities whatsoever. There is no access through any openings, doors or windows on the side nearest a dwelling. For these reasons Empire believes there will be no detriment to the welfare of the property or persons located in the vicinity.

Empire Health and Wellness is also willing to install a cinderblock wall should the County deem it necessary.

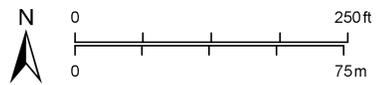
# EMPIRE HEALTH AND WELLNESS

UP  
PLN2022-0122

## RESIDENTIAL SETBACK MAP

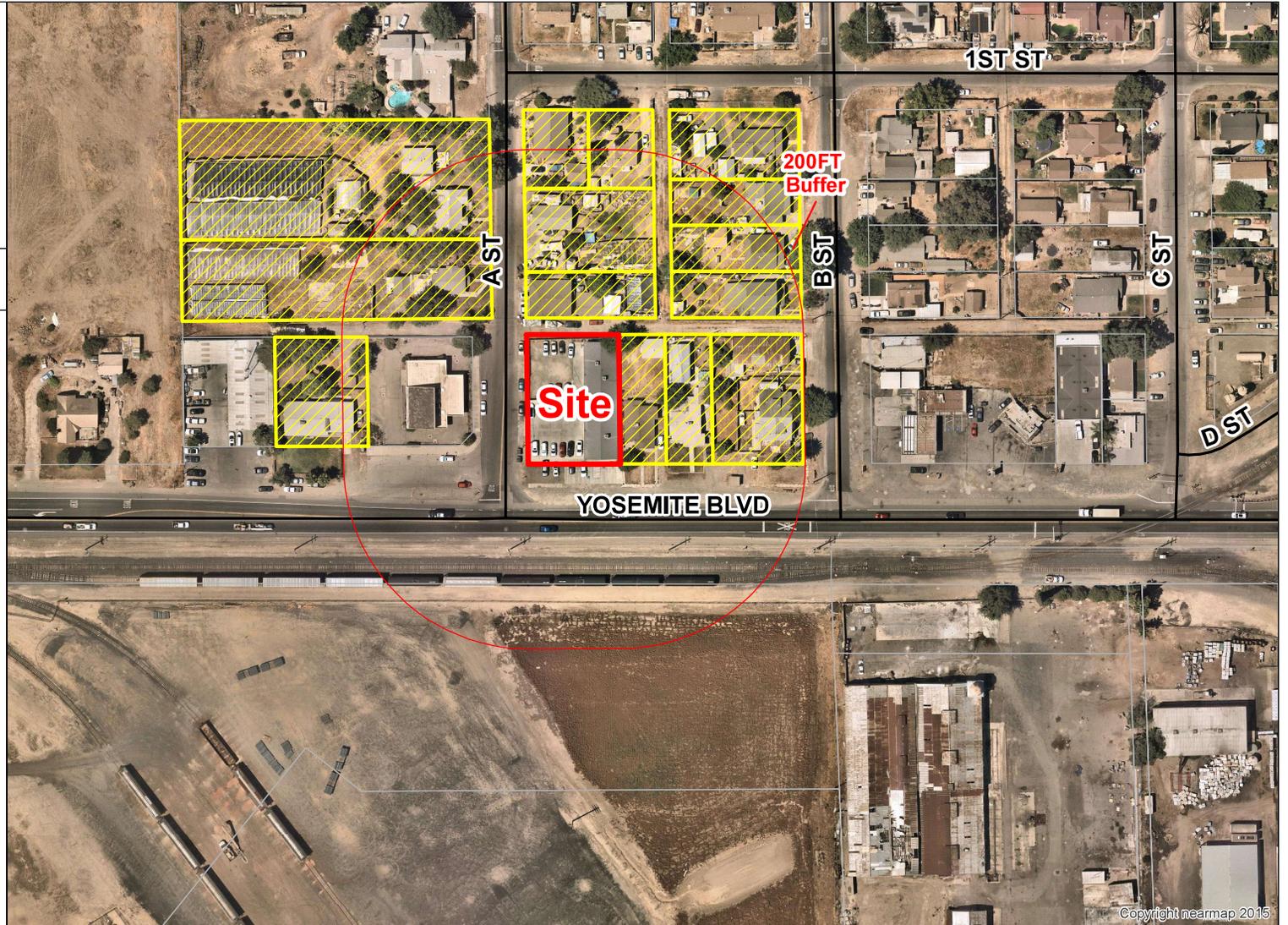
### LEGEND

-  Site
-  Adjacent residence within 200ft setback
-  Road



Source: Planning Department GIS

Date: 6/2/2023



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**STANISLAUS COUNTY**  
DEPARTMENT OF PLANNING AND  
COMMUNITY DEVELOPMENT  
1010 10<sup>th</sup> Street, Suite 3400  
Modesto, California 95354

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**NOTICE OF EXEMPTION**

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**Project Title:** Use Permit Application No. PLN2022-0122 – Empire Health and Wellness

**Applicant Information:** Darron Silva, 4725 Yosemite Boulevard, Modesto, CA 95357, (209) 216-8966

**Project Location:** 4725 Yosemite Boulevard (State Route 132), between A and B Streets, in the Community of Empire. Stanislaus County APN: 133-012-005.

**Description of Project:** Request to obtain a Use Permit to allow operation of an existing retail commercial cannabis business with delivery services, within an existing 3,720 square-foot building, in the General Commercial (C-2) zoning district.

**Name of Agency Approving Project:** Stanislaus County Planning Commission

**Lead Agency Contact Person:** Teresa McDonald, Associate Planner

**Telephone:** (209) 525-6330

**Exempt Status:** (check one)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Section 15301 (Existing Facilities) & 15061 (Common Sense Exemption)
- Statutory Exemptions. State code number: \_\_\_\_\_
- Common Sense Exemption. (Section 15061) (b)(3)

**Reasons why project is exempt:** The project is the continued operation of an existing facility. Per CEQA Guidelines Section 15061, CEQA applies only to projects which have the potential for causing a significant effect on the environment. As stipulated by the Existing Facilities Exemption, the proposed project is consistent with the exemption as it consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. There is also no evidence in the record that this action will have a direct or significant physical impact on the environment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Teresa McDonald  
Associate Planner

**SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS**

**PROJECT: UP APP NO. PLN2022-0122 - EMPIRE HEALTH AND WELLNESS**

REFERRED TO:	RESPONDED			RESPONSE			MITIGATION MEASURES		CONDITIONS			
	2 WK	30 DAY	PUBLIC HEARING NOTICE	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	NO
CA DEPARTMENT OF CANNABIS CONTROL	X		X	X				X		X		X
CA DEPT OF FISH & WILDLIFE	X		X		X							
CA DEPT OF TRANSPORTATION DIST 10	X		X	X				X		X	X	
CA RWQCB CENTRAL VALLEY REGION	X		X	X				X		X	X	
CITY OF: MODESTO	X		X	X				X		X		X
COOPERATIVE EXTENSION	X		X		X							
FIRE PROTECTION DIST: STAN CONSOLIDATED	X		X		X							
IRRIGATION DISTRICT: MID	X		X		X							
MOSQUITO DISTRICT: EASTSIDE	X		X		X							
STAN COUNTY EMERGENCY MEDICAL	X		X		X							
MUNICIPAL ADVISORY COUNCIL: EMPIRE	X		X		X							
PACIFIC GAS & ELECTRIC	X		X		X							
RAILROAD: MODESTO EMPIRE & TRACTOR	X		X		X							
SAN JOAQUIN VALLEY APCD	X		X	X				X		X	X	
SCHOOL DISTRICT 1: EMPIRE UNION	X		X		X							
SCHOOL DISTRICT 2: MODESTO	X		X	X	X							
STAN CO AG COMMISSIONER	X		X		X							
STAN CO BUILDING PERMITS DIVISION	X		X		X							
STAN CO CEO	X		X		X							
STAN CO DER	X		X		X							
STAN CO ERC	X		X		X							
STAN CO FARM BUREAU	X		X		X							
STAN CO HAZARDOUS MATERIALS	X		X		X							
STAN CO PUBLIC WORKS	X		X	X				X		X	X	
STAN CO SHERIFF	X		X	X				X		X		X
STAN CO SUPERVISOR DIST 5:CONDIT	X		X		X							
STAN COUNTY COUNSEL	X		X		X							
STANISLAUS FIRE PREVENTION BUREAU	X		X		X							
STANISLAUS LAFCO	X		X		X							
SURROUNDING LAND OWNERS			X		X							
TELEPHONE COMPANY: ATT	X		X		X							
US MILITARY AGENCIES (SB 1462) (5 agencies)	X		X		X							