

Referral Early Consultation

Date: May 20, 2022

То:	Distribution List (See Attachment A)
From:	Teresa McDonald, Associate Planner Planning and Community Development
Subject:	STAFF APPROVAL APPLICATION NO. PLN2022-0047 – LIBITZKY HOLDINGS
Respond By:	June 6, 2022

****PLEASE REVIEW REFERRAL PROCESS POLICY****

The Stanislaus County Department of Planning and Community Development is soliciting comments from responsible agencies under the Early Consultation process to determine: a) whether or not the project is subject to CEQA and b) if specific conditions should be placed upon project approval.

Therefore, please contact this office by the response date if you have any comments pertaining to the proposal. Comments made identifying potential impacts should be as specific as possible and should be based on supporting data (e.g., traffic counts, expected pollutant levels, etc.). Your comments should emphasize potential impacts in areas which your agency has expertise and/or jurisdictional responsibilities.

These comments will assist our Department in preparing a staff report to present to the Planning Commission. Those reports will contain our recommendations for approval or denial. They will also contain recommended conditions to be required should the project be approved. Therefore, please list any conditions that you wish to have included for presentation to the Commission as well as any other comments you may have. Please return all comments and/or conditions as soon as possible or no later than the response date referenced above.

Thank you for your cooperation. Please call (209) 525-6330 if you have any questions.

Applicant:	Libitzky Holdings
Project Location:	1224 Kiernan Avenue (SR 219), at the southeast corner of Tully Road and Kiernan Avenue, in the Modesto area.
APN:	046-001-001
Williamson Act Contract:	N/A
General Plan:	Planned Development
Current Zoning:	Planned Development (P-D) (358)

Project Description: Request to amend the approved development plan of Planned Development (P-D) 358. P-D (358) was approved by the Board of Supervisors on August 17, 2021 under General Plan Amendment and Rezone Application No. PLN2019-0081 – Libitzky Management Corporation, allowing the site to be developed with a 300,000 square-foot building for various light industrial uses. This request would allow the future building to be increased to 318,080 gross square feet in size and allow the parking lot to be reconfigured with parking spaces for 169 vehicles and 79 trailers. A Staff Approval is required to amend the development plan in accordance with Chapter 21.40.080(A) of the Zoning Ordinance. An increase in vehicle/truck trips, hours of operation, or number of employees is not included in this request. The proposed building will be served by an on-site septic system and will share access and connect to the existing public water system and

storm water basin of the adjacent parcel to the east. The site has access to County-maintained Tully Road and Caltrans-maintained Kiernan Avenue (SR 219). The project site is located within the City of Modesto's Local Agency Formation Commission (LAFCO) adopted Sphere of Influence (SOI) and the approved development standards require the project to comply with City's development standards.

Full document with attachments available for viewing at: http://www.stancounty.com/planning/pl/act-projects.shtm



STAFF APPROVAL APPLICATION NO. PLN2022-0047 – LIBITZKY HOLDINGS Attachment A

Distribution List

x	DER GROUNDWATER RESOURCES DIVISION	Х	STAN CO BUILDING PERMITS DIVISION
Х	CA DEPT OF TRANSPORTATION DIST 10	Х	STAN CO DER
Х	STAN CO PUBLIC WORKS	Х	STANISLAUS FIRE PREVENTION BUREAU
Х	CITY OF: MODESTO	Х	IRRIGATION DIST: MODESTO
Х	FIRE PROTECTION DIST: SALIDA		

STANISLAUS COUNTY CEQA REFERRAL RESPONSE FORM

TO: Stanislaus County Planning & Community Development 1010 10th Street, Suite 3400 Modesto, CA 95354

FROM:

SUBJECT: STAFF APPROVAL APPLICATION NO. PLN2022-0047 – LIBITZKY HOLDINGS

Based on this agency's particular field(s) of expertise, it is our position the above described project:

_____ Will not have a significant effect on the environment.

May have a significant effect on the environment.

_____ No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) – (attach additional sheet if necessary)

1.

- 2.
- 3.
- 4.

Listed below are possible mitigation measures for the above-listed impacts: *PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED* (*PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.*):

1. 2. 3.

4.

In addition, our agency has the following comments (attach additional sheets if necessary).

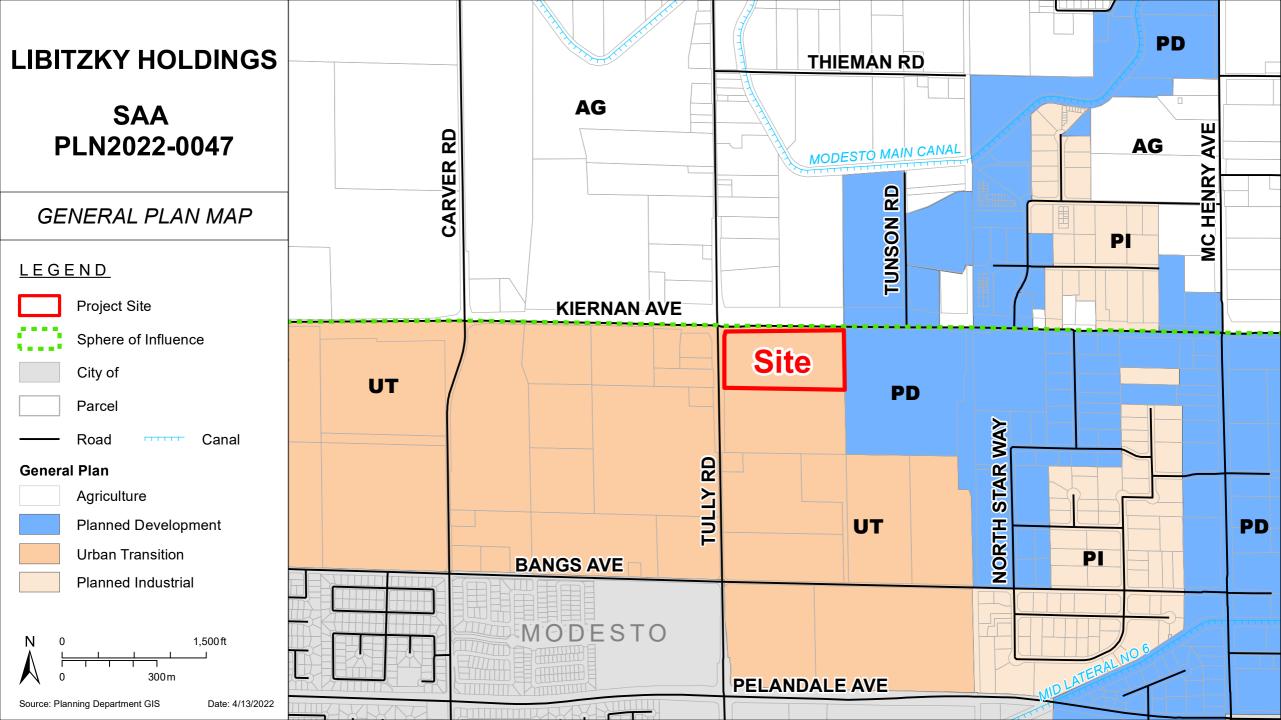
Response prepared by:

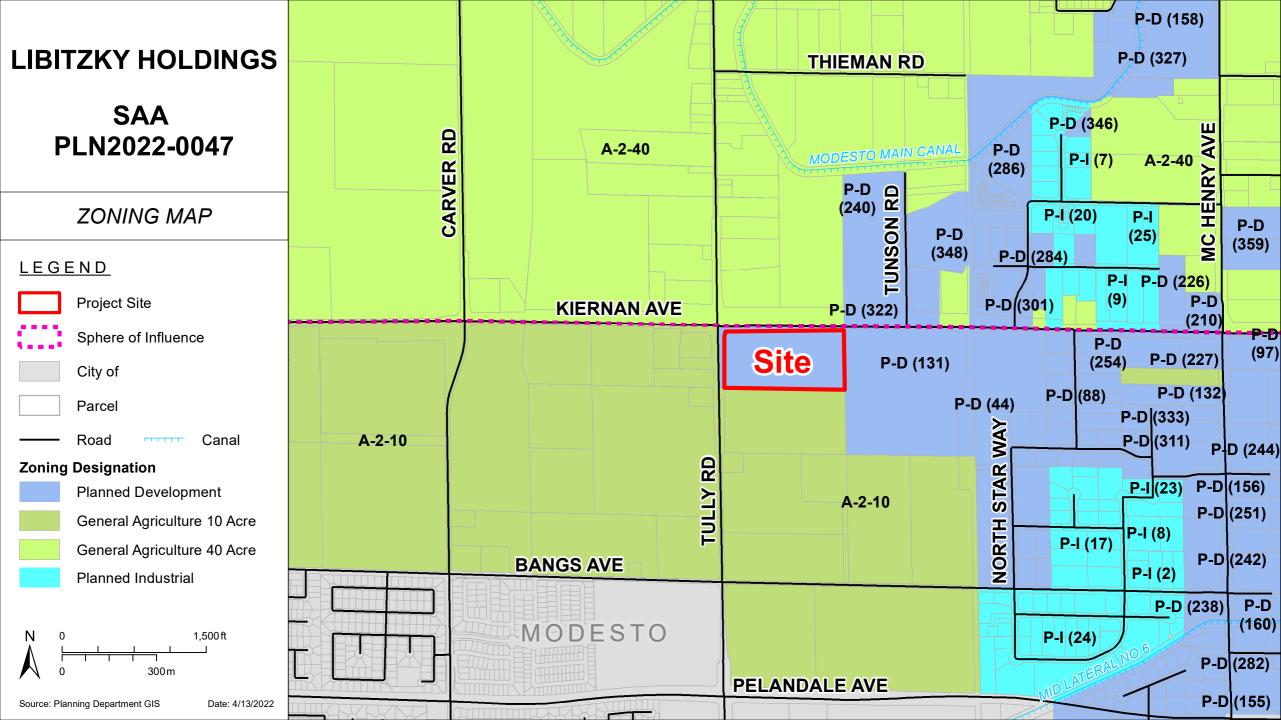
Name

Title

Date









LIBITZKY HOLDINGS

SAA PLN2022-0047

2021 AERIAL SITE MAP

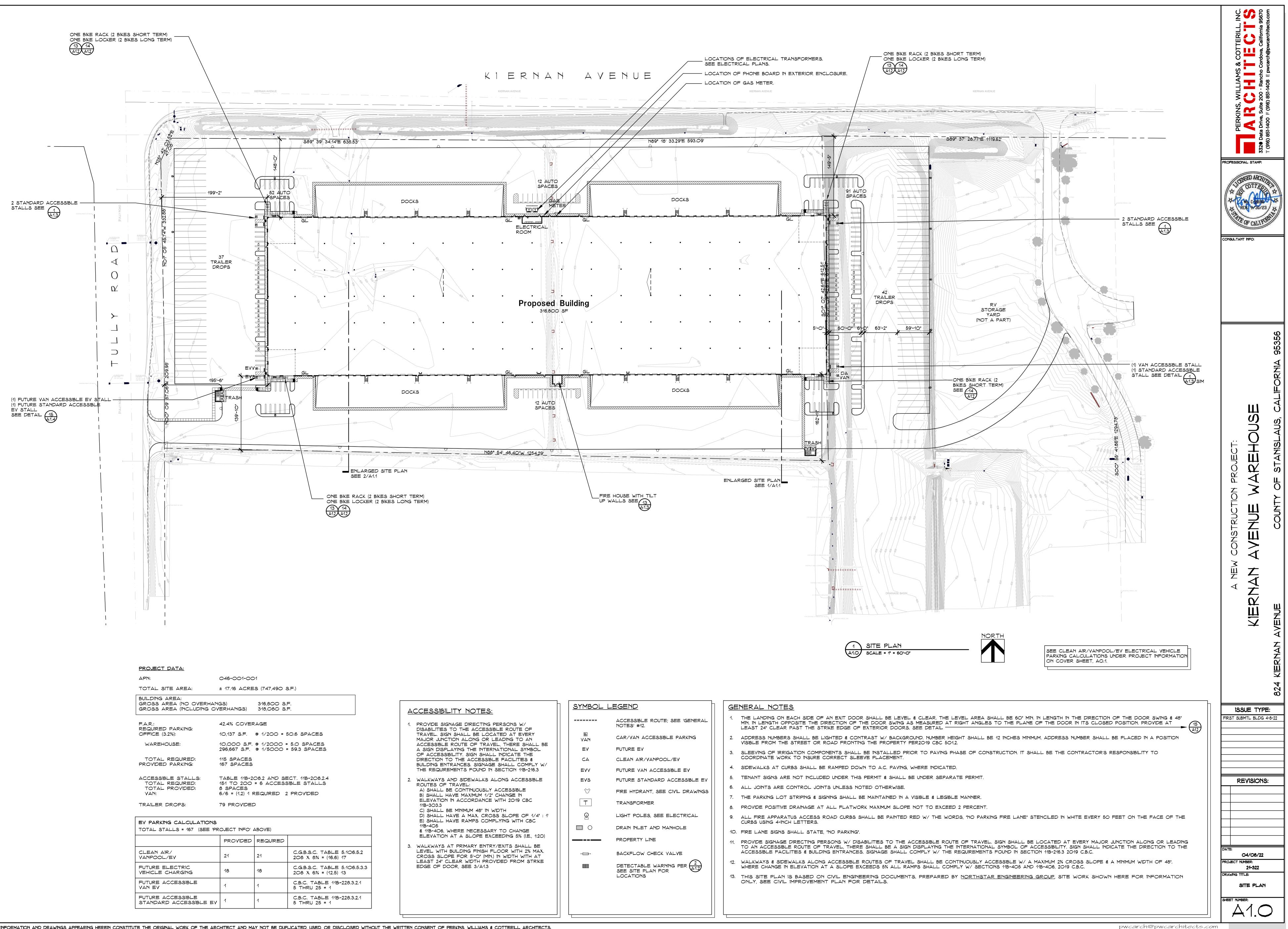
<u>LEGEND</u>

Project Site

----- Road

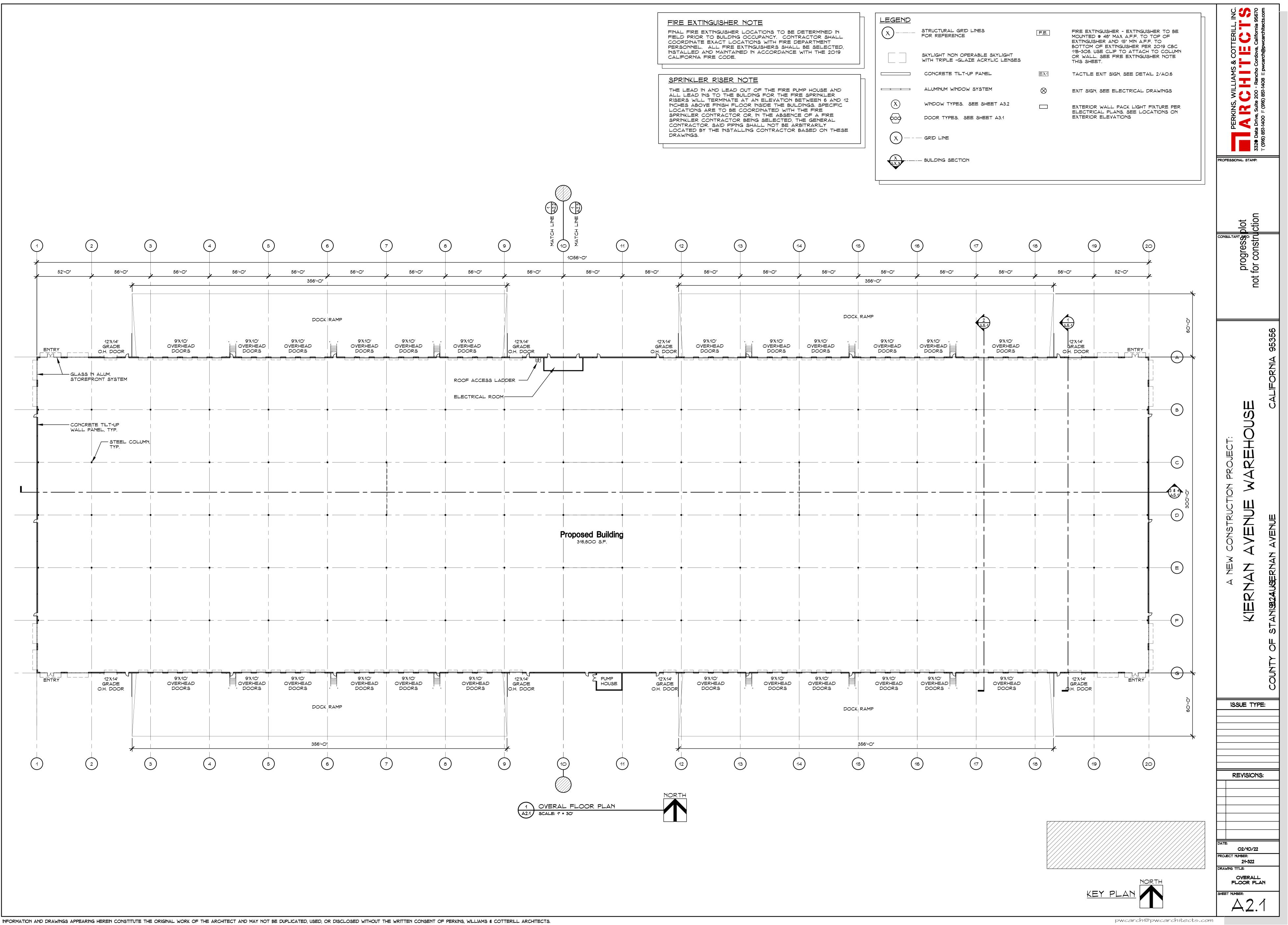


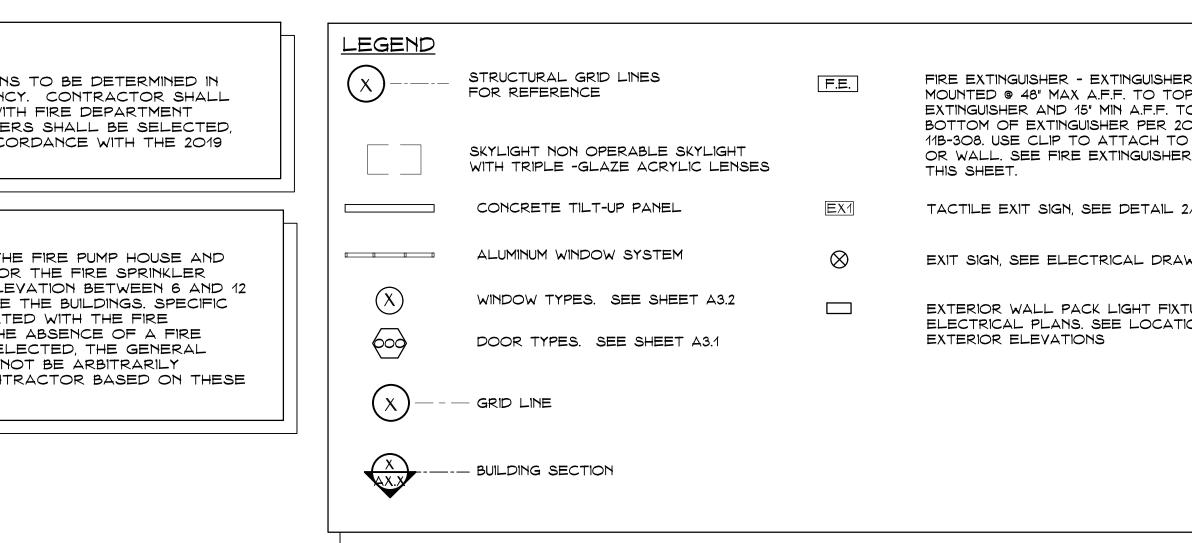


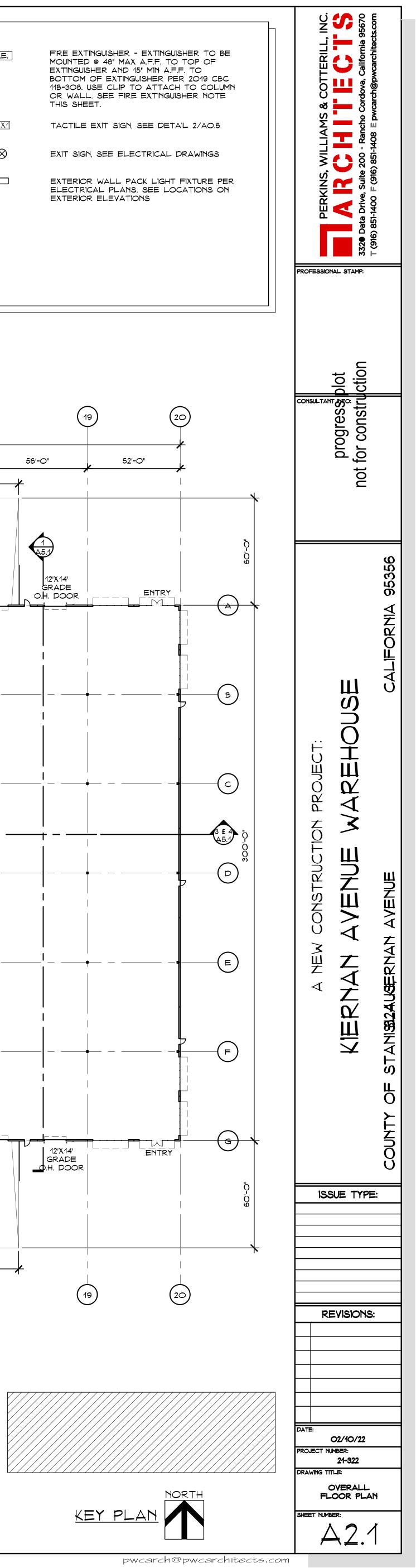


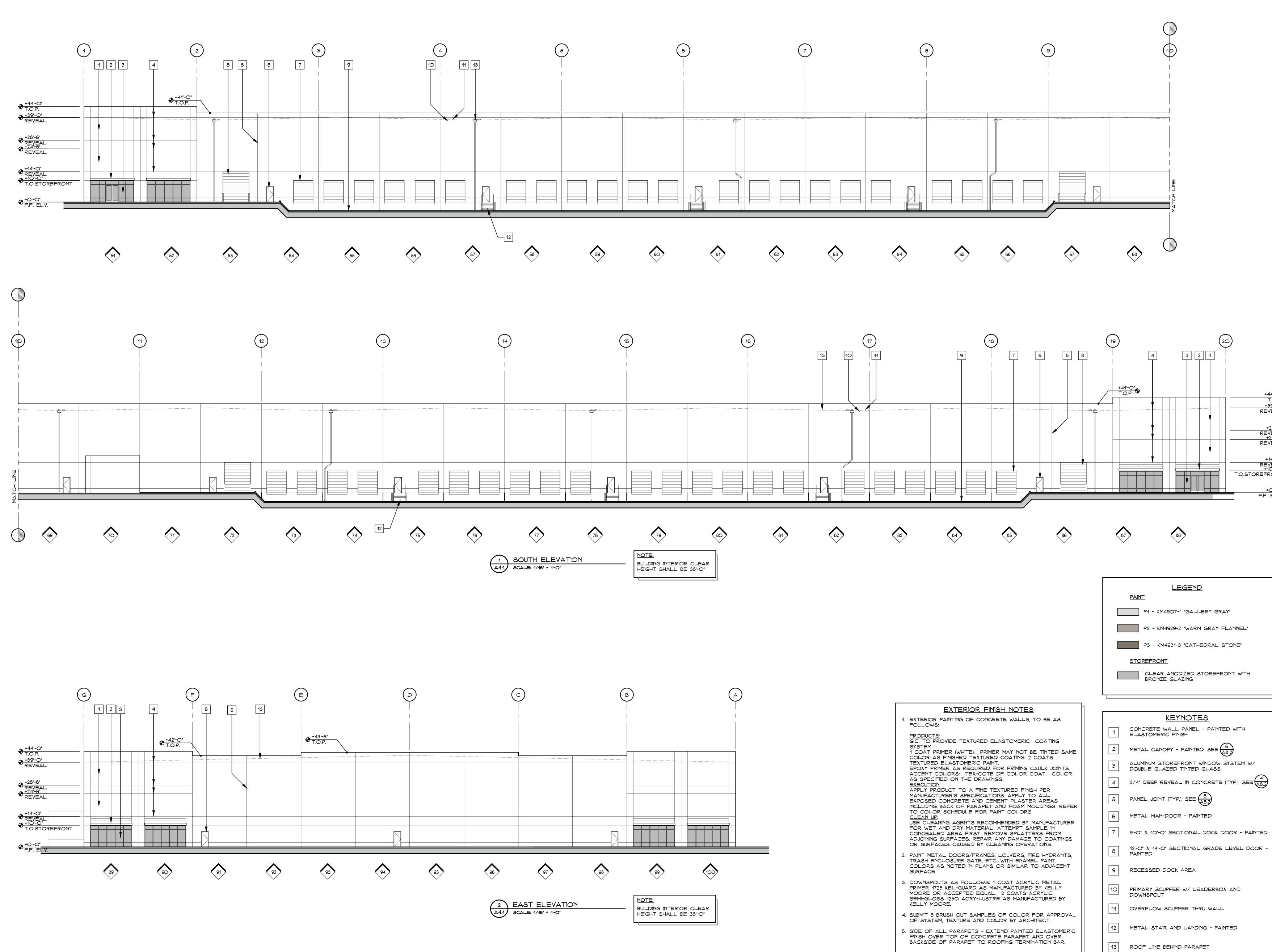
INFORMATION AND DRAWINGS APPEARING HEREIN CONSTITUTE THE ORIGINAL WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED, OR DISCLOSED WITHOUT THE WRITTEN CONSENT OF PERKINS, WILLIAMS & COTTERILL ARCHITECTS.

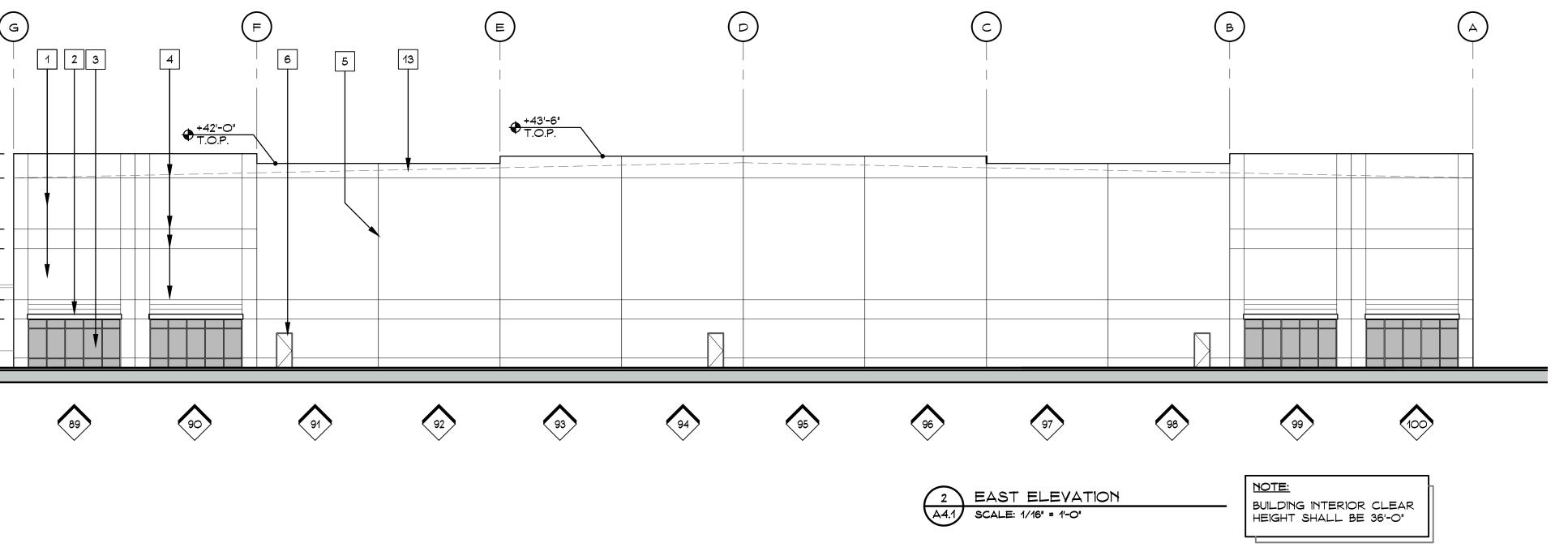
ACCESSIBILITY NOTES:	STROL			<u> </u>
1. PROVIDE SIGNAGE DIRECTING PERSONS W/		ACCESSIBLE ROUTE; SEE 'GENERAL NOTES' #12.		1
DISABILITIES TO THE ACCESSIBLE ROUTE OF TRAVEL. SIGN SHALL BE LOCATED AT EVERY MAJOR JUNCTION ALONG OR LEADING TO AN	NAN VAN	CAR/VAN ACCESSIBLE PARKING		2
ACCESSIBLE ROUTE OF TRAVEL, THERE SHALL BE A SIGN DISPLAYING THE INTERNATIONAL SYMBOL OF ACCESSIBILITY, SIGN SHALL INDICATE THE	EV	FUTURE EV		3
DIRECTION TO THE ACCESSIBLE FACILITIES & BUILDING ENTRANCES. SIGNAGE SHALL COMPLY W/	СА	CLEAN AIR/VANPOOL/EV		
THE REQUIREMENTS FOUND IN SECTION 11B-216.3	EVV	FUTURE VAN ACCESSIBLE EV		4
2. WALKWAYS AND SIDEWALKS ALONG ACCESSIBLE ROUTES OF TRAVEL:	EVS	FUTURE STANDARD ACCESSIBLE EV		5
A) SHALL BE CONTINUOUSLY ACCESSIBLE B) SHALL HAVE MAXIMUM 1/2" CHANGE IN	\diamond	FIRE HYDRANT, SEE CIVIL DRAWINGS		6
ELEVATION IN ACCORDANCE WITH 2019 CBC 11B-303.3	Т	TRANSFORMER		7 8
C) SHALL BE MINIMUM 48" IN WIDTH D) SHALL HAVE A MAX. CROSS SLOPE OF 1/4" : 1' E) SHALL HAVE RAMPS COMPLYING WITH CBC	P	LIGHT POLES, SEE ELECTRICAL		g
11B-405 & 11B-406, WHERE NECESSARY TO CHANGE		DRAIN INLET AND MANHOLE		1
ELEVATION AT A SLOPE EXCEEDING 5% (I.E., 1:20)		PROPERTY LINE		1
3. WALKWAYS AT PRIMARY ENTRY/EXITS SHALL BE LEVEL WITH BUILDING FINISH FLOOR WITH 2% MAX. CROSS SLOPE FOR 5'-O" (MIN.) IN WIDTH WITH AT	- -	BACKFLOW CHECK VALVE		
LEAST 24" CLEAR WIDTH PROVIDED FROM STRIKE EDGE OF DOOR, SEE 3/A1.3		DETECTABLE WARNING PER (2) SEE SITE PLAN FOR		1
				1
			ļ	

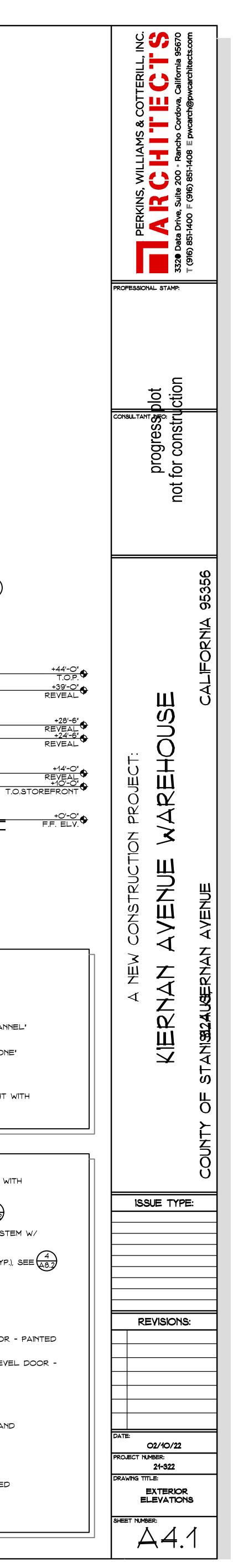


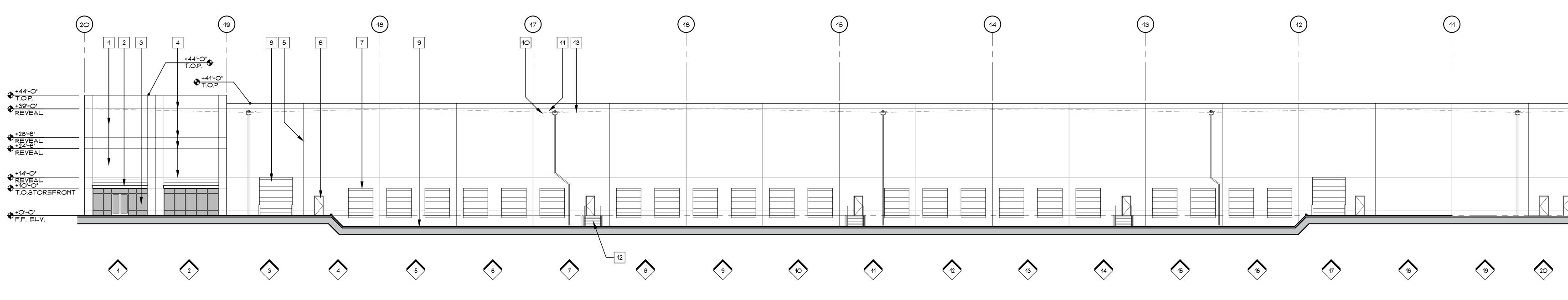


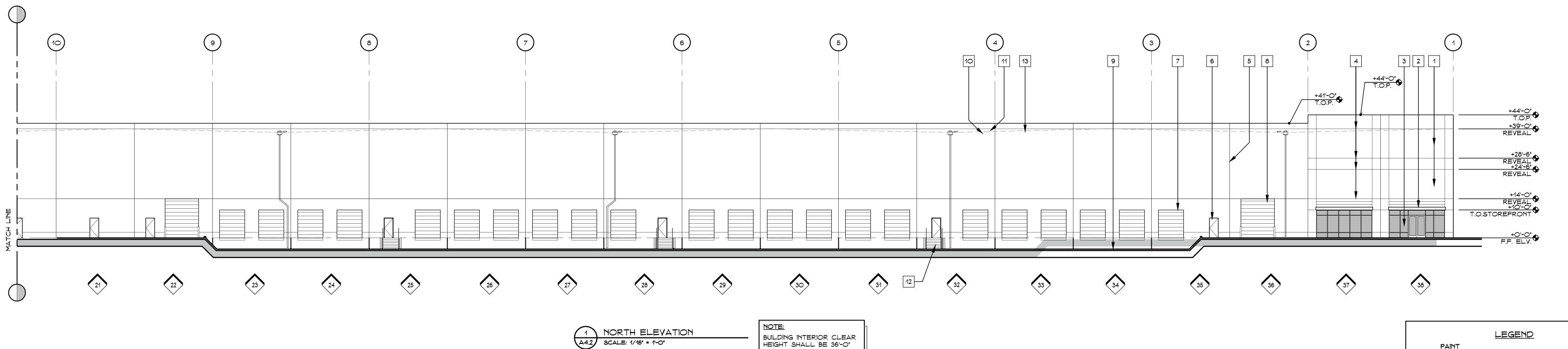


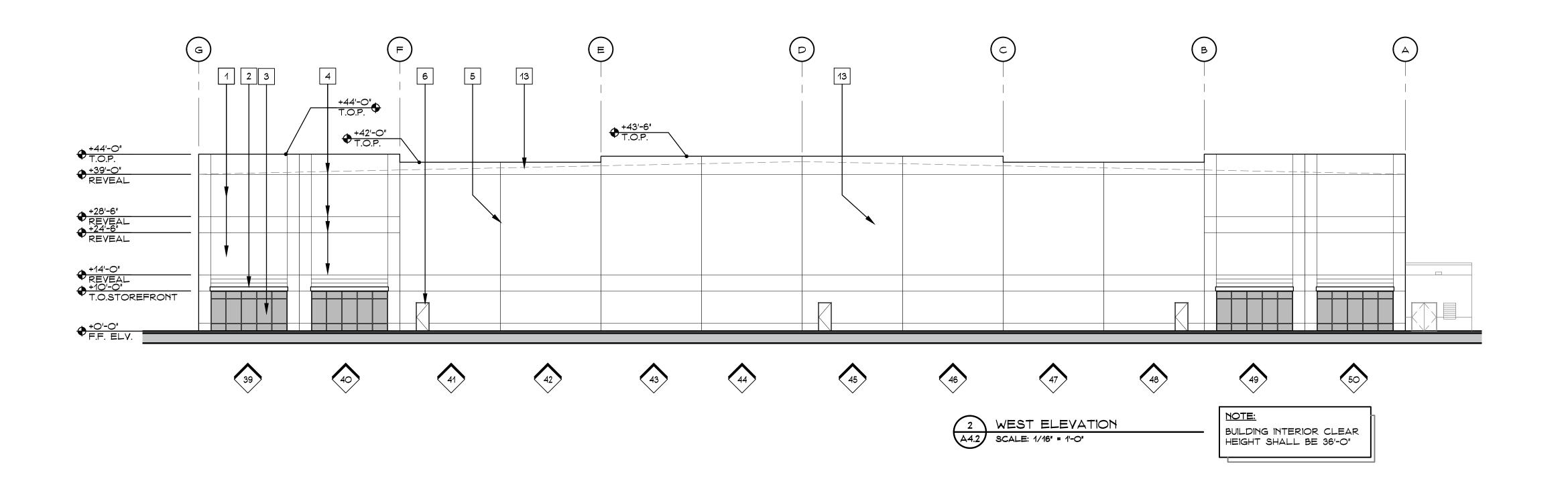


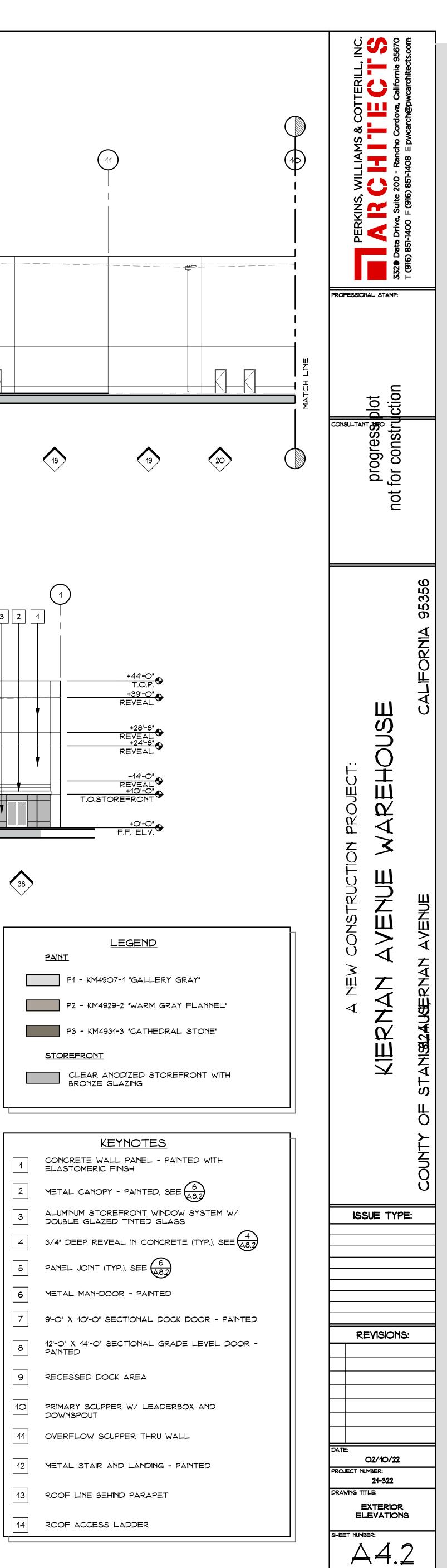


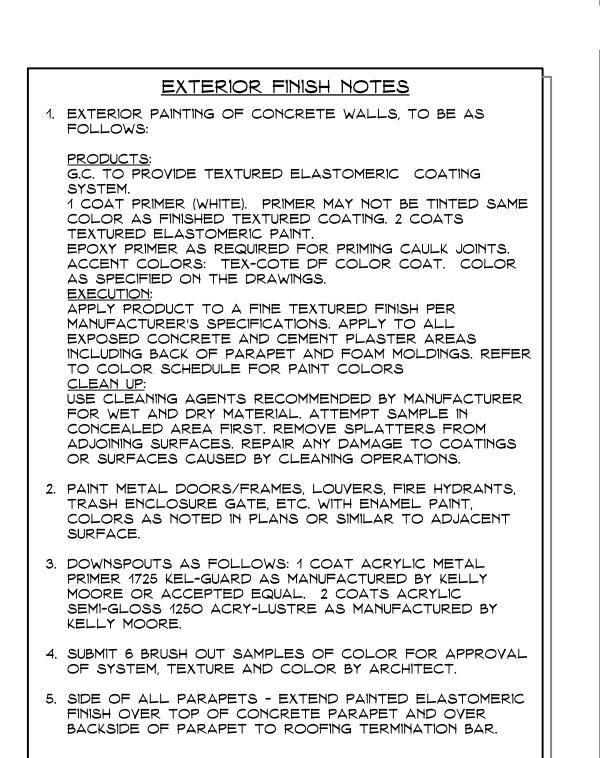


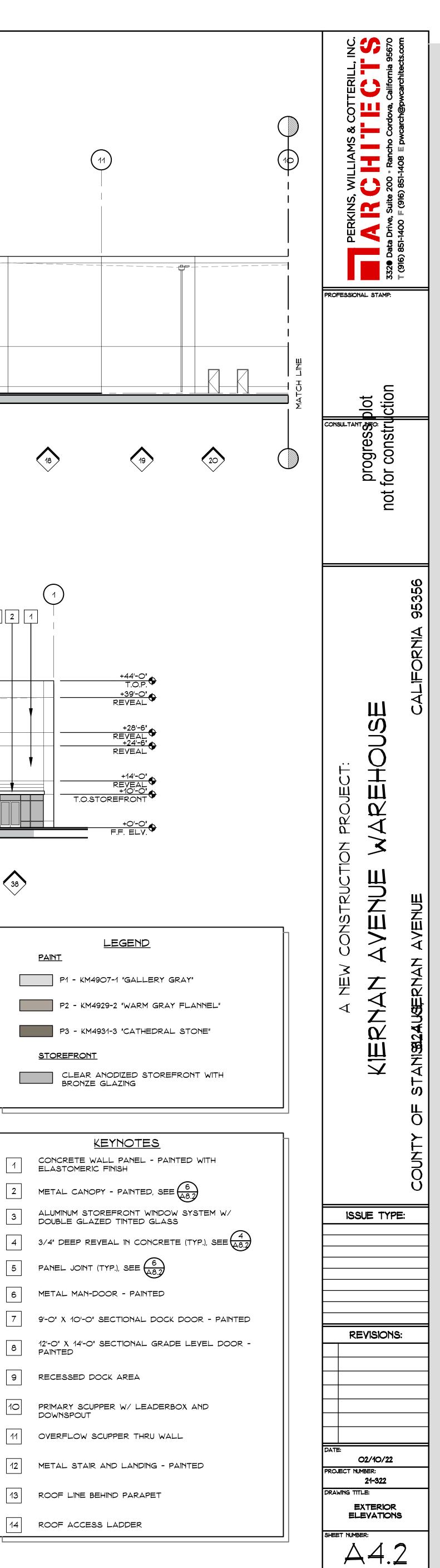












THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS BOARD ACTION SUMMARY

DEPT: Planning and Community Development

BOARD AGENDA:7.3 AGENDA DATE: August 17, 2021

SUBJECT:

Conduct a Public Hearing to Consider the Planning Commission's Recommendation of Approval for General Plan Amendment and Rezone Application Number PLN2018-0081- Libitzky Management Corporation, a Request to Amend the General Plan and Zoning Designation of a 17.16 Acre Site, from Urban Transition (UT) and General Agriculture (A-2-10) to Planned Development (P-D), to Allow the Construction of a 300,000 Square-Foot Building for Various Light Industrial Uses, Located at 1224 Kiernan Avenue (SR 219), at the Southeast Corner of Tully Road and Kiernan Avenue, in the Modesto Area; and, Adoption of a Negative Declaration

BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2021-0392

On motion of Supervisor	Withrow	Seconded by Supervisor	Grewal
and approved by the followin	g vote,	• • • •	
Ayes: Supervisors: B. Condi	t, Withrow, Grewal,	C. Condit, and Chairman Chiesa	
Noes: Supervisors:	None		
Excused or Absent: Supervis	ors: None		
Abstaining: Supervisor:	None		
1) X Approved as rec	ommended		
2) Denied			
3) Approved as am	ended		
4) Other:			

MOTION:

INTRODUCED, WAIVED THE READING. AND ADOPTED ORDINANCE C.S. 1305

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS AGENDA ITEM

DEPT: Planning and Community Development

BOARD AGENDA:7.3 AGENDA DATE: August 17, 2021

CONSENT

CEO CONCURRENCE: YES

4/5 Vote Required: No

SUBJECT:

Conduct a Public Hearing to Consider the Planning Commission's Recommendation of Approval for General Plan Amendment and Rezone Application Number PLN2018-0081- Libitzky Management Corporation, a Request to Amend the General Plan and Zoning Designation of a 17.16 Acre Site, from Urban Transition (UT) and General Agriculture (A-2-10) to Planned Development (P-D), to Allow the Construction of a 300,000 Square-Foot Building for Various Light Industrial Uses, Located at 1224 Kiernan Avenue (SR 219), at the Southeast Corner of Tully Road and Kiernan Avenue, in the Modesto Area; and, Adoption of a Negative Declaration

STAFF RECOMMENDATION:

- Conduct a public hearing to consider the Planning Commission's recommendation of approval for General Plan Amendment and Rezone application number PLN2018-0081 – Libitzky Management Corporation, a request to amend the General Plan and zoning designation of a 17.16 acre site, from Urban Transition (UT) and General Agriculture (A-2-10) to Planned Development (P-D), to allow the construction of a 300,000 square-foot building for various light industrial uses, located at 1224 Kiernan Avenue (SR 219), at the southeast corner of Tully Road and Kiernan Avenue, in the Modesto area.
- 2. Adopt the Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgment and analysis.
- Order the filing of a Notice of Determination with the Stanislaus County Clerk Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
- 4. Find, based on the discussion in this report, and the whole of the record that:
 - a. The General Plan Amendment will maintain a logical land use pattern without detriment to existing and planned land uses.
 - b. The County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service.
 - c. The amendment is consistent with the General Plan goals and policies.

- d. The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring improvements.
- 5. Find that the proposed Planned Development zoning is consistent with the General Plan designation of Planned Development.
- Approve General Plan Amendment and Rezone application number PLN2018-0081 – Libitzky Management Corporation, subject to the attached Development Standards.
- 7. Introduce, waive the reading, and adopt an ordinance for the approved Rezone application number PLN2018-0081 Libitzky Management Corporation.

DISCUSSION:

This is a request to amend the General Plan and zoning designations of a 17.16 acre parcel from Urban Transition and General Agriculture (A-2-10) to Planned Development (P-D), to allow for the construction of a 300,000 square-foot building for various light industrial uses, consistent with the Planned Industrial (P-I) zoning district. Jackrabbit, a designer and fabricator of agricultural equipment, is expected to occupy 150,000 square-feet of the proposed building. No showroom is planned, but there will be an area for parts sales for existing Jackrabbit customers. No other tenants have been identified for the remaining 150,000 square feet of building space at this time. This request allows the remainder of the building to be improved for one or more users.

The hours of operation, employee numbers, and customer numbers have been estimated, not just for Jackrabbit, but for the entire development. The proposed hours of operation are 24 hours a day, seven days a week, with 250 employees on a maximum shift, and three shifts per day. A maximum of 25 daily customers and 1,488 truck/vehicle trips are anticipated per day, which includes an estimated maximum 1,347 daily employee trips.

The project site will utilize access, storm drainage and a public water system located on the adjacent parcel to the east, which is under the same ownership. Easements for use of the shared access and storm drain basin will be recorded. The site will also have its own right-in right-out access to Tully Road. A six-foot-tall chain link-fence is proposed along the south and east property lines, and a six-foot-tall wrought iron fence is proposed along the north and west property lines along the site's road frontages. The project also includes a monument sign at the corner of the Kiernan Avenue and Tully Road frontage, which may be up to 24 square-feet in size and a maximum height of six feet. Landscaping in planters and one shade tree per eight parking spaces (486 total parking spaces are proposed) is proposed in the parking areas along with light poles, and a perimeter landscape strip along Kiernan Avenue and Tully Road, which will include large species evergreen and deciduous trees. Evergreen and deciduous trees are also proposed along the southern property line.

The project site is located at 1224 Kiernan Avenue (SR 219), at the southeast corner of Tully Road and Kiernan Avenue, in the Modesto area. The project site currently consists of an almond orchard and is surrounded by orchards and ranchettes to the north, south, and west; light industrial uses and RV storage to the east; City of Modesto to the south; and a church and a Modesto Irrigation District (MID) substation to the west.

Use Permit application number PLN2013-0005 – Holy Family Church, was approved by the Planning Commission on December 18, 2014 to construct a 20,000 square-foot church facility on a neighboring parcel to the south located at 4524 Tully Road. The church site is separated from the project site by a 17 acre parcel planted in an almond orchard. The church has not been developed yet, but the Use Permit is still active, and development is anticipated to occur. A Use Permit application for a second church to the west of the project site has been submitted and is being processed by the Planning and Community Development Department (Use Permit application number PLN2018-0069 – Hindu Temple). During the processing of this request, the Hindu Temple application has incorrectly been identified as a second church requesting to expand when it is actually a request to establish a new church facility.

A detailed project description, and maps of the project, as well as a more detailed discussion of the issues, general plan and zoning consistency, and environmental review conducted for the project can be found in the Planning Commission Staff Report (see Exhibit 1 – July 1, 2021 Planning Commission Staff Report of Attachment 1 – July 15, 2021 Planning Commission Memo). The project was originally scheduled to be heard at the July 1, 2021 Planning Commission meeting; however, the meeting was cancelled due to lack of a quorum. The Planning Commission memo for the July 15, 2021 meeting included a request, by the Department of Environmental Resources (DER), that Development Standard number 21 be revised as follows to reflect that the water system is public, not private, and to correct a minor grammatical error:

21. Prior **to** the installation of any private public water **system** infrastructure for the site, the property owner shall provide to the Department of Environmental Resources an application for amended water supply permit along with a full technical report demonstrating that the water system will meet all requirements of a Non-transient Noncommunity water system: capacity, source water, treatment plant modifications, water works standards, and the California Environmental Quality Act (CEQA).

As discussed in the Issues section of the July 1, 2021 Planning Commission Report (Exhibit 1 of Attachment 1), during review of the project a phone call was received from Helder Garcia, who resides at 5121 Tully Road on a 4.9 acre parcel. Mr. Garcia had concerns relating to additional traffic created from the project, noise, and the potential for light from the project site shining onto his property.

A Traffic Impact Analysis (TIA) was prepared for this project to evaluate the potential traffic impacts associated with the proposed project and found that impacts associated with transportation are expected to be less-than significant with development standards in place.

The project is subject to the County General Plan's noise standards which require new industrial/commercial land uses not be permitted if resulting noise levels will exceed 60 Ldn (or CNEL) in noise sensitive areas. While a noise study has not be conducted for this project, the site itself is impacted by the noise generated from State Route 219 (Kiernan Avenue), which has an overall noise level of 68 dB Ldn according to the General Plan Noise Support Documentation. Given the site's separation from sensitive noise receptors by Tully Avenue and State Route 219 and that the operational work is to occur indoors, noise impacts are expected to be less than significant. Development

standards have been placed on the project to ensure compliance with the General Plan's Noise Element and Chapter 10.46 of the County Code – Noise Control and will require the on-site noise to be assessed and mitigation applied if necessary.

With regards to lighting concerns, a development standard has been applied to this project that requires the on-site lighting be limited to 15 feet in height, and a photometric light plan, along with light design and shielding, will be required to prevent light spill and trespass.

The project site is located within the Local Agency Formation Commission (LAFCO) adopted Sphere of Influence (SOI) of the City of Modesto. The County's 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 that 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.

In accordance with the County's General Plan SOI policy, the project was referred to the City of Modesto, who requested a traffic study to confirm that the center turn lane on Tully Road is long enough to accommodate the proposed truck traffic coming from the north into the site without interfering with the northbound traffic attempting to enter the left turn lane to go west on Kiernan Avenue. The City also identified that striping modifications may be needed to separate these two potentially-conflicting turning movements. The TIA prepared for this project found that while right turn only access will ultimately be required, full access will be feasible in the near term because there is room for concurrent northbound and southbound left turns in the two-way left-turn lane. However, because the access limitation is a City development standard, the City requested that the development be limited to right turn only access on Tully Road prior to onset of any use on the site, unless otherwise approved by the City. The City has also identified that the project will need to be developed to City standards for landscaping, fencing, parking lot requirements, and signage. As such, development standards have been added to the project to ensure City standards are met, including the City's lighting standards.

The Planning Commission considered this item at a public hearing on July 15, 2021. Following staff's presentation, Chair Zipser asked how large the building is and how much Jackrabbit intends to occupy, and staff replied that the entire building will be 300,000 square-feet with Jackrabbit planning to occupy half of the building. During the public hearing, several members of the public spoke in opposition to the project. Many expressed frustrations with the impact the North County Corridor project has had on their property and neighborhood. Helder Garcia, mentioned earlier in this report, expressed concerns with increased traffic and accompanying noise, light from the project site, impacts to property values, and stated that there are other locations better suited for this project. One of the commissioners asked where Mr. Garcia's property was located and it was pointed out on a map. Mr. Garcia also stated that there will be impacts to the site due to nearby farming operations. Susan Wedegaertner, who resides at 1348 Kiernan Avenue, expressed concerns regarding the hours of operation,

amount of truck trips, light, noise (both existing and additional noise from the project), loss of farmland, and stated there are various vacant buildings the business could utilize instead of constructing a new building. Fred Luchessa, who owns the almond orchard directly south of the project site, expressed concerns regarding spray drift from his farming operation, traffic on Tully Road, loss of farmland, and encouraged the development to wait until public sewer is available to avoid potential septic issues. Joel Frank Degraef, who resides on Kiernan Avenue, stated the project is creating an island of commercial development, and expressed concern with the road's ability to handle the truck traffic and the option for an unidentified user to occupy a portion of the building. Brad Johnson, a resident of Salida, stated he lives across from an almond harvesting equipment manufacturing business and shared that low frequency sound from the business goes through his house. He also stated the project should be required to connect to public sewer, the driveways should be one directional, and the gates should be set back from the road (Tully Road) to avoid truck queuing in the public roadway. Mr. Johnson also asked who the property owner was and if the property had been previously owned by the Holy Family Church, and staff stated the property owner is Kevin Perkins, manager of Libitzky Holdings, LP.

Dave Romano, the applicant's representative, spoke in favor of the project. He provided some background as to how the property owner acquired the subject property and stated that the project site is adjacent to industrial development owned by the same property owner. Mr. Perkins acquired the project site through a land trade with the Holy Family Church. Mr. Romano stated the project site was chosen because of the robust access to Kiernan Avenue will allow the truck traffic to easily circulate to and from the freeway, and other vacant buildings would not be appropriate for the proposed use. Mr. Romano explained that the site is in the City of Modesto's SOI, is designated as Business Park in the City's General Plan, and that the City is in support of the project. Mr. Romano clarified that the septic system will be located at the northeastern area of the parcel and ultimately will be connected to public sewer once the infrastructure is in place. Commissioner Buehner asked if the 250 employees are for 150,000 square-feet of the building, meaning the number of employees could double depending on who the end user is for the other 150,000 square-feet. Mr. Romano stated yes and clarified that the Traffic Analysis accounted for Jackrabbit occupying the entire building, and other industrial uses, taking into account the most intense end user. Commissioner Buehner asked questions about the proposed septic system and availability to connect to City sewer, and stated he was not opposed to the project but was opposed to it not being connected to City sewer. Mr. Romano stated City sewer was approximately half a mile away and the proposed septic has a 100% expansion area. While Mr. Romano was still addressing the Planning Commission, Brad Johnson, speaking from the audience, asked for an answer regarding the gates. Mr. Romano stated that there will not be a gate at the Kiernan Avenue entrance and that if there is a gate on Tully Road it will be an exit only gate at the property line. The planned site circulation is for truck traffic to enter from Kiernan Avenue and exit from Tully Road, so truck queuing will not occur.

Following the close of the public hearing, Commissioner Willerup stated that Jackrabbit is a local company supporting farmers by producing products for the nut industry, the proposed project will create jobs, and will streamline getting equipment to farmers. Commissioner Willerup further stated that while he understands the concerns about urban growth, he is in favor of the project. Commissioner Buehner stated he is in support of the project provided it connects to City sewer and would like it required as a condition of approval. Commissioner Beekman asked staff if connecting to City sewer would require an out of boundary service extension, LAFCO approval, and if it is usually approved for health reasons. Staff clarified that it would require LAFCO approval and it was discussed that such an approval for an extension could be problematic since the extension would be to serve new development and not for health reasons. Commissioner Zipser stated that while he is protective of farmland, the site is in the City's SOI, planned for growth, and that he is in favor of the project.

On a vote of 6-1, the Planning Commission recommended that the Board of Supervisors approve the project, as outlined in the July 1, 2021 Planning Commission Staff Report, with the revision to Development Standard number 21 as outlined in July 15, 2021 Planning Commission Memo.

POLICY ISSUE:

In order to consider an amendment to the General Plan and a rezone request, the Board of Supervisors must hold a public hearing. In order to approve an amendment to the General Plan, the decision-making body must find that the amendment will maintain a logical land use pattern without detriment to existing and planned land uses; that the County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service; and that the amendment is consistent with the General Plan goals and policies. Additionally, in order to approve a rezone, it must be found to be consistent with the General Plan. In this case, provided the General Plan designation is amended to Planned Development, the proposed Planned Development zoning designation would be consistent.

FISCAL IMPACT:

Costs associated with processing the application, setting the public hearing, publishing of required notices, and conducting the hearing have been covered by the application fee deposit plus revenue from additional invoicing to reflect actual costs accrued.

BOARD OF SUPERVISORS' PRIORITY:

Approval of this action supports the Board of Supervisor's priority of *Developing a Healthy Economy* and *Delivering Efficient Public Services & Community Infrastructure* by providing a land use determination consistent with the overall goals and policies of the Stanislaus County General Plan.

STAFFING IMPACT:

Planning and Community Development Department staff is responsible for reviewing all applications, preparing all reports, and attending meetings associated with the proposed General Plan Amendment and Rezone application.

CONTACT PERSON:

Angela Freitas, Planning and Community Development Director Telephone: (209) 525-6330

ATTACHMENT(S):

- 1. July 15, 2021 Planning Commission Memo
- July 15, 2021 Planning Commission Minutes Excerpt Proposed Ordinance and Sectional District Map 2.
- 3.

ATTACHMENT 1



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

 1010 10th Street, Suite 3400, Modesto, CA 95354

 Planning Phone: (209) 525-6330
 Fax: (209) 525-5911

 Building Phone: (209) 525-6557
 Fax: (209) 525-7759

July 15, 2021

- MEMO TO: Stanislaus County Planning Commission
- FROM: Department of Planning and Community Development

SUBJECT: GENERAL PLAN AMENDMENT AND REZONE APPLICATION NO. PLN2018-0081 – LIBITZKY MANAGEMENT CORPORATION

This item was originally scheduled to be heard at the July 1, 2021 Planning Commission meeting; however, the meeting was cancelled due to lack of a quorum. The July 1, 2021 Planning Commission Staff Report is provided as Exhibit 1 of this memo.

Since the original public release of the July 1, 2021 Planning Commission Staff Report, the Department of Environmental Resources (DER) has requested a revision to Development Standard No. 21 to reflect that the water system is public, not private, and to correct a minor grammatical error. Development Standard No. 21 is proposed to be revised as follows with new wording reflected in **bold** and deleted word(s) in strikethrough text:

21. Prior **to** the installation of any private public water **system** infrastructure for the site, the property owner shall provide to the Department of Environmental Resources an application for amended water supply permit along with a full technical report demonstrating that the water system will meet all requirements of a Non-transient Non-community water system: capacity, source water, treatment plant modifications, water works standards, and the California Environmental Quality Act (CEQA).

RECOMMENDATION

Staff recommends the Planning Commission recommend that the Board of Supervisors approve the subject application as outlined in Exhibit 1 - July 1, 2021 Planning Commission Staff Report, with the revision of Development Standard No. 21 as reflected in this memo.

Attachments:

Exhibit 1 - July 1, 2021 Planning Commission Staff Report

STRIVING TOGETHER TO BE THE BEST!

STANISLAUS COUNTY PLANNING COMMISSION

July 1, 2021

STAFF REPORT

GENERAL PLAN AMENDMENT AND REZONE APPLICATION NO. PLN2018-0081 LIBITZKY MANAGEMENT CORPORATION

REQUEST: TO AMEND THE GENERAL PLAN AND ZONING DESIGNATION OF A 17.16 ACRE PARCEL FROM URBAN TRANSITION AND A-2-10 (GENERAL AGRICULTURE) TO PLANNED DEVELOPMENT, TO ALLOW THE CONSTRUCTION OF A 300,000 SQUARE-FOOT BUILDING FOR VARIOUS LIGHT INDUSTRIAL USES.

APPLICATION INFORMATION

Applicant: Property owner:	Kevin Perkins dba Libitzky Holdings, LP Kevin Perkins dba Libitzky Holdings, LP
Agent:	David Romano, P.E., Newman Romano, LLC
Location:	1224 Kiernan Avenue (SR 219), at the southeast corner of Tully Road and Kiernan Avenue, in the Modesto area.
Section, Township, Range:	5-3-9
Supervisorial District:	Four (Supervisor Grewal)
Assessor's Parcel:	046-001-001
Referrals:	See Exhibit G
	Environmental Review Referrals
Area of Parcel(s):	17.16± acres
Water Supply:	Private well
Sewage Disposal:	Private septic system
General Plan Designation:	Urban Transition
Community Plan Designation:	N/A
Existing Zoning:	A-2-10 (General Agriculture)
Sphere of Influence:	Modesto
Williamson Act Contract No.:	N/A
Environmental Review:	Negative Declaration
Present Land Use:	Almond orchard
Surrounding Land Use:	Orchards and ranchettes to the north, south,
	and west; light industrial uses and RV
	storage to the east; City of Modesto to the
	south; two churches, and a MID substation to
	the west.

RECOMMENDATION

Staff recommends the Planning Commission recommend that the Board of Supervisors 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 recommend approval of this project, Exhibit A provides an overview of all the findings required for project approval.

PROJECT DESCRIPTION

This is a request to amend the General Plan and zoning designations of a 17.16 acre parcel from Urban Transition and A-2-10 (General Agriculture) to P-D (Planned Development), to allow the construction of a 300,000 square-foot building for various light industrial uses, consistent with the P-I (Planned Industrial) zoning district (see Exhibit B-6 – *Maps, Site Plan, and Elevations*). Jackrabbit, a designer and fabricator of agricultural equipment, is expected to occupy 150,000 square feet of the proposed building. No showroom is planned, but there will be an area for parts sales for existing Jackrabbit customers. No other tenants have been identified for the remaining 150,000 square feet of building space at this time. This request allows the remainder of the building to be improved for one or more users.

The hours of operation, employee numbers, and customer numbers have been estimated, not just for Jackrabbit, but for the entire development. The proposed hours of operation are 24 hours a day, seven days a week, with 250 employees on a maximum shift, and three shifts per day. A maximum of 25 daily customers and 1,488 truck/vehicle trips are anticipated per day. The project proposes to share access, and to connect to the existing public water system and storm water basin, located on the adjacent parcel to the east.

The site will also have right-in right-out access to Tully Road. The proposed building will be served by an on-site septic system. A reciprocal access agreement will be recorded for the adjacent parcel. A six-foot-tall chain link-fence is proposed along the south and east property lines, and a six-foot-tall wrought iron fence is proposed along the north and west property lines along the site's road frontages. The project also includes a monument sign at the corner of the Kiernan Avenue and Tully Road frontage, which may be up to 24 square-feet in size and a maximum height of six feet. Landscaping in planters and one shade tree per eight parking spaces (486 total parking spaces are proposed) is proposed in the parking areas along with light poles, and a perimeter landscape strip along Kiernan Avenue and Tully Road, which will include large-species evergreen and deciduous trees. Evergreen and deciduous trees are also proposed along the southern property line. Conceptual landscaping and the proposed sign location may be found in Exhibit B-6 – *Maps, Site Plan, Elevations*.

Proposed development standards recognize the County's Sphere of Influence (SOI) Policy, see discussion below in the General Plan Consistency section, requiring the project comply with City of Modesto's development standards (i.e., landscaping, signage, parking, building design, lighting, setbacks, height restrictions, lot coverage, etc.).

SITE DESCRIPTION

The project site is located at 1224 Kiernan Avenue (SR 219), at the southeast corner of Tully Road and Kiernan Avenue, in the Modesto area. The project site currently consists of an almond orchard and is surrounded by orchards and ranchettes to the north, south, and west; light industrial uses and RV storage to the east; City of Modesto to the south; and two churches and a Modesto Irrigation District (MID) substation to the west. Use Permit Application No. PLN2013-

0005 – Holy Family Church, was approved by the Planning Commission on December 18, 2014 to construct a 20,000 square-foot church facility on a neighboring parcel to the south located at 4524 Tully Road. The church has not been developed yet, but the Use Permit is still active, and development is anticipated to occur. There are two existing churches to the west of the project site across Tully Road; one of which, the Hindu Temple, currently has a request to expand the existing temple and build a community center, currently being processed under Use Permit Application No. PLN2018-0069 – Hindu Temple.

The project site is located within the City of Modesto's Local Agency Formation Commission (LAFCO) adopted SOI and has access to County-maintained Tully Road and Caltrans-maintained Kiernan Avenue (SR 219).

ISSUES

In response to the projects Early Consultation referral, the San Joaquin Valley Air Pollution Control District (SJVAPCD) responded that the project may exceed the District's levels of significance for emissions. Accordingly, an Air Quality and Greenhouse Gas Analysis (AQA/GHG analysis) was prepared as discussed in the Environmental Review section of this report. While AQA/GHG analysis have not typically required for a project of this type, requests for these types of analysis are becoming more common from the SJVAPCD. The analysis for this project found the project would have a less then significant impact.

During the review of this project a phone call was received from Helder Garcia, who lives approximately .10 miles northwest of the project site, on the west side of Tully Road, between Thieman Road and Kiernan Avenue, on a 4.9 acre parcel. Mr. Garcia had concerns relating to additional traffic created from the project, noise, and the potential for light from the project site shining onto his property. A Traffic Impact Analysis (TIA) was prepared for this project to evaluate the potential traffic impacts associated with the proposed project and found that impacts associated with transportation are expected to be less-than significant with development standards in place. A discussion of the TIA is provided below in the Environmental Review section of this report. The project is subject to the to the County General Plan's noise standards which require new industrial/commercial land uses not be permitted if resulting noise levels will exceed 60 Ldn (or CNEL) in noise sensitive areas. While a noise study has not be conducted for this project, the site itself is impacted by the noise generated from State Route 219 (Kiernan Avenue), which has an overall noise level of 68 dB Ldn according to the General Plan Noise Support Documentation. Given the site's separation from sensitive noise receptors by Tully Avenue and State Route 219 and that the operational work is to occur indoors, noise impacts are expected to be less than significant. Development Standards have been placed on the project to ensure compliance with the General Plan's Noise Element and Chapter 10.46 of the County Code - Noise Control and will require the on-site noise to be assessed and mitigation applied if necessary. Regarding lighting concerns, the project is located within the City of Modesto's LAFCO adopted SOI and, as such, is subject to the City's standards, which limits lighting to 15 feet in height. Accordingly, a development standard has been applied to this project that requires the on-site lighting meet the City of Modesto's standards. Additionally, a photometric light plan, along with light design and shielding, will be required to prevent light spill and trespass.

GENERAL PLAN CONSISTENCY

General Plan Amendments affect the entire County and any evaluation must give primary concern to the County as a whole; therefore, a fundamental question must be asked in each case: "Will this amendment, if adopted, generally improve the economic, physical and social well-being of

the County in general?" Additionally, the County in reviewing General Plan amendments shall consider how the levels of public and private service might be affected; as well as how the proposal would advance the long-term goals of the County. In each case, in order to take affirmative action regarding a General Plan Amendment application, it must be found that the General Plan Amendment will maintain a logical land use pattern without detriment to existing and planned land uses and that the County and other affected government agencies will be able to maintain levels of service consistent with the ability of the government agencies to provide a reasonable level of service. In the case of a proposed amendment to the Land Use diagrams of the Land Use Element, an additional finding that the amendment is consistent with the goals and policies of the General Plan must also be made.

This project includes a request to amend the General Plan Land Use designation of one parcel from Urban Transition to Planned Development (P-D). The Land Use Element of the General Plan states the purpose of the Urban Transition designation is to ensure that land remains in agricultural usage until urban development consistent with a city's general plan designation is approved. Generally, urban development will only occur upon annexation to a city, but such development may be appropriate prior to annexation provided the development is not inconsistent with the land use designation of the general plan of the affected city. If this is to occur, a change in the General Plan designation consistent with the adopted goals and policies to some other land use designation shall be required. The Land Use Element of the General Plan describes the P-D designation as a designation intended for land which, because of demonstrably unique characteristics, may be suitable for a variety of uses without detrimental effects on other property.

The project site is located in the City of Modesto's LAFCO adopted SOI. The City's General Plan has designated the site as Business Park. The purpose and intent of the City of Modesto's Business Park General Plan Land Use Designation is to provide for areas of light industrial and employment-intensive uses, and to produce an environment conducive to industries and employers seeking an aesthetically attractive "campus-like" setting. For projects located within a LAFCO adopted Sphere of Influence (SOI), the County's 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 that 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. Goal 5, Policy 26 of the Land Use Element states that development must meet the applicable development standards of the affected city. 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.

In accordance with the County's General Plan SOI policy, the project was referred to the City of Modesto, who requested a traffic study to confirm that the center turn lane on Tully is long enough to accommodate the proposed truck traffic coming from the north into the site without interfering with the northbound traffic attempting to enter the left turn lane to go west on Kiernan Avenue. The City also identified that striping modifications may be needed to separate these two potentially-conflicting turning movements. The Traffic Impact Analysis (TIA) prepared for this project found that while right turn only access will ultimately be required, full access will be feasible in the near term because there is room for concurrent northbound and southbound left turns in the Two-Way Left-Turn lane (see Traffic Impact Analysis attached to Exhibit E – *Initial Study*). However, because the access limitation is a City development standard, the City requested that the development be limited to right turn only access on Tully Road prior to onset of any use on the site, unless otherwise approved by the City. The City has also identified that the project will

need to be developed to City standards for landscaping, fencing, parking lot requirements, and signage. As such, Development Standards have been added to the project to ensure City standards are met.

During the project referral process, a response was received from the Department of Conservation (DOC) requesting the use of permanent agricultural conservation easements, on land of at least equal quality and size, to compensate for the loss of agricultural land. While the project site is currently in agricultural production and zoned A-2 (General Agriculture), the current Urban Transition designation recognizes that the site is in transition and will ultimately be developed into a non-agricultural use. Goal Two, Policy 2.15, Implementation Measure 1, of the Stanislaus County General Plan's Agricultural Element states that farmland mitigation should be applied consistent with the Farmland Mitigation Program Guidelines presented in Appendix "B" of the Agricultural Element of the General Plan. According to Appendix B, the Farmland Mitigation Program shall apply to any development project requiring a General Plan or Community Plan amendment from 'Agriculture' to a residential land use designation of the Stanislaus County General Plan. Accordingly, the Farmland Mitigation Program is not applicable to the proposed project as it does not involve an amendment from an 'Agricultural' designation. As described in the Site Description section of this report, the site's location limits the potential for the project to be growth inducing.

The Stanislaus County Agricultural Element includes Buffer and Setback Guidelines (Appendix A) applicable to new or expanding non-agricultural uses within or adjacent to the A-2 zoning district. The purpose of these guidelines is to protect the long-term health of local agriculture by minimizing conflicts such as spray drift and trespassing resulting from the interface of agricultural and non-agricultural uses, which is also required as part of the County's conversion criteria. All projects shall incorporate a minimum 150-foot-wide buffer setback, and projects which propose people intensive outdoor activities shall incorporate a minimum 300-foot wide buffer setback. Permitted uses within a buffer area include: landscaping, parking lots, and similar low-people intensive uses. Alternatives may be approved provided the Planning Commission finds that the alternative provides equal or greater protection than the existing buffer standards. No assembly or maintenance will occur outdoors. No outdoor storage area is proposed, but equipment may be parked outside in preparation of being loaded for delivery, and parking lots are a permitted use within the agricultural buffer setback area. The closest actively farmed parcel is directly to the south of the site, which currently has no land use entitlements and is also designated as Business Park in the City's General Plan and is located in the City's SOI. The project meets the 150-foot buffer to the north, south, and west, and no buffer is required to the east. While the project meets the minimum buffer setback, a six-foot-high chain link fence and evergreen and deciduous trees are proposed along the southern property line which will serve to prevent trespassing onto adjacent agricultural land consistent with the Buffer and Setback Guideline requirements.

Staff believes that the proposed project is consistent with the General Plan policies as discussed above.

ZONING ORDINANCE CONSISTENCY

The project site is currently zoned A-2-10 (General Agriculture). This is a request to rezone the parcel to Planned Development (P-D), to allow the construction of a 300,000 square-foot building for uses consistent with the P-I zoning district.

To approve a rezone, the Planning Commission must find that it is consistent with the General Plan. Pursuant to the General Plan, land within a Planned Development designation should be zoned A-2 (General Agriculture) until development occurs through Planned Development zoning. Therefore, if approved, the proposed new Planned Development zoning would be consistent with the General Plan.

As stated in the Project Description and General Plan Consistency discussion of this report, the project will need to meet City of Modesto development standards including, but not limited to landscaping, fencing, signage, lighting, parking, and building elevations. Development Standard No. 12, along with specific standards identified by the City of Modesto have been added to the project to ensure all development occurs to City standards. The project proposes a total of 486 parking spaces which exceeds the 96 spaces required according to the parking analysis provided using the City of Modesto standards of one space per 200 square-feet for offices, and one space per 2,000 square feet for warehouses up to 10,000 square-feet and one space per 5,000 square-feet after 10,000 square-feet for warehouses. The applicant has designed the project with excess parking to provide for greater flexibility as the project develops and users for the entire site are identified. No assembly, maintenance, or outdoor storage is proposed, but equipment maybe be parked outside in preparation of being loaded for delivery.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to interested parties and responsible agencies for review and comment (see Exhibit G -Environmental Review Referrals). The San Joaquin Valley Air Pollution Control District (SJVAPCD) responded to an Early Consultation project referral indicating that emissions resulting from construction and/or operation of the project may exceed the District's thresholds of significance and recommended a more detailed review of the project be conducted. The Air District also recommended that other potential air impacts related to Toxic Air Contaminants, Ambient Air Quality Standards, and Hazards and Odors be addressed. Accordingly, an Air Quality and Greenhouse Gas Analysis (AQA/GHG analysis) was prepared by Mitchell Air Quality Consulting (see Exhibit E – Initial Study). The AQA/GHG analysis, which analyzed whether the estimated criteria air pollutant and GHG emissions generated from a light industrial warehouse building of approximately 300,000 square-feet would cause significant impacts to air resources in the project area, did not identify any mitigation measures beyond compliance with mandatory regulations and found that the project would have less than significant impacts to air quality, health risk, and greenhouse gases. The AQA/GHG analysis was incorporated into the Initial Study prepared for the project.

Stanislaus County Public Works, the California Department of Transportation (Caltrans), and the City of Modesto responded to the Early Consultation project referral indicating that potential traffic and transportation impacts should be evaluated. Accordingly, a Traffic Impact Analysis (TIA) was prepared by KD Anderson & Associates, Inc., dated February 19, 2021, to evaluate the potential transportation impacts associated with the proposed project. The TIA found that impacts associated with the proposed project are expected to have a less-than significant impact with development standards in place.

In response to the CEQA Initial Study referral, the SJVAPCD recommended the project incorporate the cleanest off-road construction practices, vegetative barriers, electric lawn care equipment, solar power systems, and electric vehicle charging. The Initial Study found the project to be below the thresholds of significance for air quality, energy, and greenhouse gases without application of these recommended best practices and accordingly the recommendations may be

implemented at the discretion of the developer. A Negative Declaration has been prepared for approval prior to action on the project itself as the project will not have a significant effect on the environment (see Exhibit F - *Negative Declaration*). Development Standards reflecting referral responses have been placed on the project (see Exhibit C – *Development Standards*).

Note: Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project; therefore, the applicant will further be required to pay <u>\$2,537.25</u> for the California Department of Fish and Wildlife (formerly the Department of Fish and Game) and the Clerk Recorder filing fees. The attached Conditions of Approval ensure that this will occur.

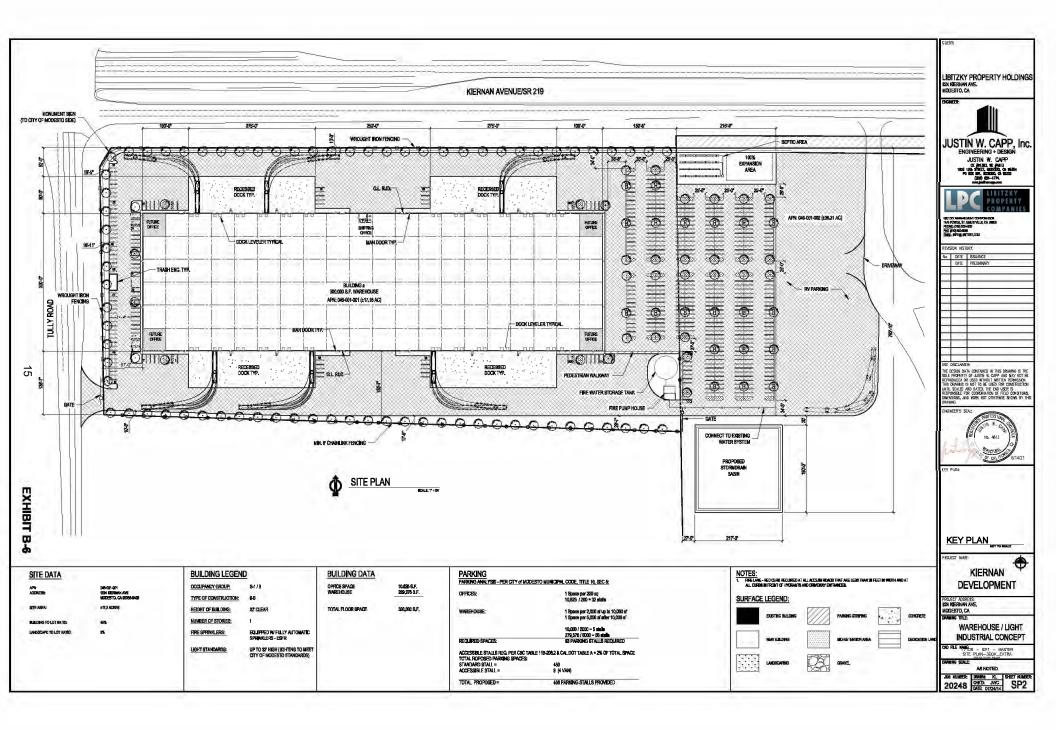
Contact Person: Teresa McDonald, Associate Planner, (209) 525-6330

Attachments:

- Exhibit A Findings and Actions Required for Project Approval
- Exhibit B Maps, Site Plan, Elevations
- Exhibit C Development Standards
- Exhibit D Development Schedule
- Exhibit E Initial Study
- Exhibit F Negative Declaration
- Exhibit G Environmental Review Referrals

Findings and Actions Required for Project Approval

- 1. Adopt the Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgment and analysis.
- 2. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
- 3. Find, based on the discussion in this report, and the whole of the record that:
 - a. The General Plan Amendment will maintain a logical land use pattern without detriment to existing and planned land uses.
 - b. The County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service.
 - c. The amendment is consistent with the General Plan goals and policies.
 - d. The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring improvements.
- 4. Find that the proposed Planned Development zoning is consistent with the General Plan designation of Planned Development.
- 5. Approve General Plan Amendment and Rezone Application No. PLN2018-0081 Libitzky Management Corporation, subject to the attached Development Standards.
- 6. Introduce, waive the reading, and adopt an ordinance for the approved Rezone Application No. PLN2018-0081 Libitzky Management Corporation.



As Approved by the Board of Supervisors August 17, 2021

DEVELOPMENT STANDARDS

GENERAL PLAN AMENDMENT AND REZONE APPLICATION NO. PLN2018-0081 LIBITZKY MANAGEMENT CORPORATION

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. Any modification of the approved development plan shall be subject to additional land use permits.
- 2. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2021), the applicant is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." 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 <u>\$2,537.25</u>, made payable to <u>Stanislaus County</u>, for the payment of California Department of Fish and Wildlife and County Clerk-Recorder filing fees.
- 3. Pursuant to Section 711.4 (e) (3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
- 4. 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.
- 5. 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.
- 6. 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 shall be consistent with City of Modesto standards.
- 7. 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.

- 8. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Clerk-Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.
- 9. 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. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.
- 10. Noise levels associated with all on-site activities shall not exceed the maximum allowable noise levels as set forth in the Stanislaus County Code or the Stanislaus County General Plan. In the event of a verified noise complaint, being received by Stanislaus County, the property owner/operator shall be responsible for hiring a certified noise consultant, approved by the Stanislaus County Planning Director, to evaluate noise impacts and to identify appropriate mitigation for any identified noise impacts. The property owner/operator may arrange to pay for the County's actual costs of hiring a certified noise The property owner/operator shall implement any resulting mitigation consultant. measures required to reduce noise to allowable levels within the time frame specific by the County. The certified noise consultant's evaluation shall be completed and submitted to Stanislaus County Planning Department within 60-days of written notice being delivered to the property owner/operator. If determined necessary by the Planning Department, the property owner/operator shall pay for the County's costs to hire a third party to review the noise assessment.
- 11. No operations shall be conducted on any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration, or electrical interference detectable off the site.
- 12. All applicable development standards not otherwise specified, including parking requirements, lot coverage, setbacks, and height limits shall be developed to City of Modesto standards. The applicant/developer shall be required to have plans reviewed and approved by the City prior to issuance of any grading or building permit.

Department of Public Works

- 13. No parking, loading or unloading of vehicles will be permitted within the Stanislaus County road right-of-way.
- 14. The developer will be required to install or pay for the installation of any signs and/or markings, if warranted.
- 15. An Encroachment Permit shall be obtained for any work done in Stanislaus County rightof-way.
- 16. Prior to issuance of a grading or building permit, a drainage easement shall be recorded if the storm drainage system/basin crosses parcel lines identified as Assessor Parcel Numbers (APNs) 046-001-001 and 064-001-002. The easement shall be an appurtenant

easement and shall be drawn up by either a licensed land surveyor or a registered civil engineer licensed to practice land surveying in California.

- 17. Prior to issuance of a grading or building permit, a cross access easement shall be recorded for parcels identified as APNs: 046-001-001 and 064-001-002. The easement shall be an appurtenant easement and shall be drawn up by either a licensed land surveyor or a registered civil engineer licensed to practice land surveying in California.
- 18. A grading, drainage, and erosion/sediment control plan for the project site shall be submitted for any building permit that will create a larger or smaller building footprint. The grading and drainage plan shall include the following information:
 - a. The plan shall contain drainage calculations and enough information to verify that runoff from project will not flow onto adjacent properties and Stanislaus County road right-of-way. Public Works will review and approve the drainage calculations.
 - b. For projects greater than one acre in size, the grading drainage and erosion/sediment control plan shall comply with the current State of California National Pollutant 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 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 inspections. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site.

Department of Environmental Resources

- 19. Any applicant proposing to construct a retail food facility shall submit plans and specifications to the Department of Environmental Resources for review and written approval prior to commencing construction. (California Retail Food Code Section §114380).
- 20. The on-site wastewater treatment system (OWTS) for the proposed building(s) and any new building, shall be by individual Primary and Secondary wastewater treatment units, operated under conditions and guidelines established by Measure X. All Local Agency Management Program (LAMP) standards shall be met.
- 21. Prior to the installation of any public water system infrastructure for the site, the property owner shall provide to the Department of Environmental Resources an application for amended water supply permit along with a full technical report demonstrating that the water system will meet all requirements of a Non-transient Non-community water system: capacity, source water, treatment plant modifications, water works standards, and the California Environmental Quality Act (CEQA).

<u>Caltrans</u>

22. A Caltrans Encroachment Permit will be required for any improvement, if any, on a Caltrans maintained right-of-way.

Building Permits Division

23. Building permits are required and the project must conform with the California Code of Regulations, Title 24.

City of Modesto

- 24. Access to Tully Road shall be right in and right out only, unless otherwise approved by the City of Modesto.
- 25. Prior to issuance of a building or grading permit the City shall review and approve the plans to ensure that all storm water is managed on-site. Development shall be consistent with the City's 2011 Revised Storm Water Quality Control Measures at a minimum. The City acknowledges that the County will require compliance with its 2015 Post-Construction Standards Plan, which has somewhat higher standards than the City's plan.
- 26. Prior to start of construction, all-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions at all times during construction. Parking surfaces shall also be all-weather and hard-surfaced. Gravel driving and parking surfaces are prohibited.
- 27. Prior to issuance of a building permit, the applicant shall submit Landscape and Irrigation plans, and any applicable fees, to the City of Modesto's Parks Planning and Development Division for review and approval. Landscape and Irrigation plans shall meet current State of California water use requirements, Modesto Municipal Code requirements, and City of Modesto standards at time of submittal.
- 28. When water service becomes available, a Will Serve letter and an Outside Service Agreement shall be obtained from the City for the water connection to City water, and connection fees paid to the City prior to any connection to the City's utility mains.
- 29. The proposed gate shall be located on the property, not in the road right-of-way.
- 30. There shall be a minimum 10-foot landscaped setback from the Kiernan Avenue / SR 219 and Tully Road rights-of-way. Applicant shall plant and maintain large-species trees in this setback that shall be equally spaced at a maximum of 35 feet on center and located within seven feet of any sidewalk or curb.
- 31. Evergreen and deciduous trees shall be installed around the property to create a visual screen.

- 32. Applicant shall install parking lot shade trees in accordance with Modesto Municipal Code requirements: one shade tree for every eight parking spaces or one tree for every group of eight parking spaces or fewer, which may result in more than the minimum number of trees. Trees shall be planted within seven feet of parking stalls.
- 33. Applicant shall provide a clear vision triangle at the intersection of Tully Road and Kiernan Avenue. As described in Section 10-4.404 of the Modesto Municipal Code, the triangle is an area bounded by the front and street-side property lines and a line connecting them 25 feet from their intersection. Within the triangle, the area between three and eight feet in height measured from the top of the curb adjacent to the front yard shall be clear.
- 34. Applicant shall install bicycle parking racks as part of the project development, in accordance with the Green Building Code.
- 35. Prior to issuance of a building permit, building elevations shall be reviewed and approved by the City of Modesto. City staff will review elevations with respect to the City of Modesto's 2006 Commercial and Industrial Guidelines.
- 36. Signage shall comply with Title 10, Chapter 6, of the Modesto Municipal Code.

Modesto Irrigation District

- 37. There may be an existing 30-inch private pipeline that lies along the southeast property line of APN: 046-001-001 thence north approximately 520 feet west of the east property line. Should the pipeline be for the benefit of an adjacent parcel and still be in use it shall be protected or relocated at the developer's expense.
- 38. There is an existing 36-inch cast-in-place concrete improvement district pipeline (ID No. 27 Brown ID) that lies along a portion of the northern property line of APN: 046-001-002 thence south along the west property line. The size and location of the existing improvement district pipeline must be located and verified in the field and shown on the proposed plans prior to issuance of a building or grading permit.
- 39. Prior to issuance of a building or grading permit, the existing improvement district pipeline must be replaced within the footprint of the proposed project with a pipeline strength that meets HS20-44 loading requirements.
- 40. Pressure manholes must be installed per MID standard detail C 20 and located no more than 500 feet apart.
- 41. Prior to issuance of a building or grading permit, a 30-foot irrigation easement must be dedicated to MID by separate instrument for the existing Brown ID pipeline. The existing irrigation facilities and dedicated easement must be identified on the proposed plans.
- 42. Draft improvement plans for the proposed project area must be submitted to MID's Civil Engineering Department for review and approval prior to the start of any construction.

- 43. All work impacting MID infrastructure must be completed during the non-irrigation season (typically March 1 to November 1).
- 44. If the applicant has no plans to use MID irrigation water, the applicant must contact MID's Water Operations Department at (209) 526-7562 to request a Sign-Off of Irrigation Facilities form for the parcel.
- 45. High voltage is present within and adjacent to the project area. This includes 69,000 volts overhead transmission, 12,000 volts overhead primary, overhead secondary facilities and an overhead fiber optic cable. Use extreme caution when operating heavy equipment, using a crane, ladders, scaffolding, handheld tools or any other type of equipment near the existing MID electric lines and cables. Workers and equipment should always maintain a distance no less than 10 feet from overhead facilities. Assume all overhead electric facilities are energized.
- 46. MID requires that any trenching maintain a 1:1 horizontal distance from any existing pole, determined by the depth of the trench. If trenching encroaches on this requirement, the contractor needs to contact the MID Electric Engineering Department to brace any effected poles during the trenching process. The cost of any required pole bracing will be assumed by the requesting party. Estimates for bracing any existing poles will be supplied upon request.
- 47. MID high voltage electric facilities are located within the vicinity of the project site and require protection from dirt/dust. Construction dust control measures shall be in place during the digging of new utility trenches, grading, leveling, or digging of building foundations.
- 48. Due to the proximity of the 12,000 volts overhead high voltage lines, a minimum clearance of 12 feet is to be maintained from the overhead primary conductor to any walkable surface of the building and a minimum of eight feet from any non-walkable surface per General Order 95, and a minimum horizontal clearance of six feet between the conductor and any part of the building upon which men may work is to be maintained per General Order 95.
- 49. Prior to any construction a full set of construction plans must be submitted to Electrical Engineering Design Group.

Salida Fire Protection District

- 50. This project will be subject to Fire Service Impact Mitigation Fees as adopted by the District Board of Directors and currently in place at the time of issuance of construction permits, which shall be paid prior to issuance of a building permit.
- 51. This project shall meet the District's requirements of on-site water for fire protection prior to construction of combustible materials. Fire hydrant(s) and static source locations, connections, and access shall be approved by the District prior to issuance of a building permit.

- 52. Prior to, and during, combustible construction, the District shall approve provisions for serviceable fire vehicle access and fire protection water supplies.
- 53. A District specified Rapid Entry System (Knox) shall be installed and serviceable prior to final inspection allowing fire department access into gated areas, limited access points, and or buildings.
- 54. Buildings shall be required to have fire sprinklers meeting the standards listed within the adopted California Fire Code and related amendments.
- 55. For buildings of 30 feet or three or more stories in height, gated 2 ½ inch hose connections (Class III) for fire department use shall be installed on all floors in each required exit stairwell.
- 56. The project shall meet fire apparatus access standards. Two ingress/egress accesses to each parcel meeting the requirements listed within the California Fire Code.
- 57. If traffic signals are installed and/or retrofitted for the project, signal preemption devices shall be paid for or installed by the developer/owner and shall conform to the District's standards and requirements.
- 58. Prior to issuance of a building permit, the owner(s) of the property shall be required to form or annex into a Community Facilities District for operational services with the Salida Fire Protection District. Due to the fact this process may take 60-120 days to complete, it is recommended that advanced consideration be given to initiate this requirement early in the project.

Central Valley Regional Water Quality Control Board

59. 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 Construction Storm Water General Permit, Industrial Storm Water General Permit, Dewatering Permit, or any other applicable Regional Water Quality Control Board permit.

San Joaquin Valley Air Pollution Control District

- 60. Prior to issuance of the first building permit, the developer shall be responsible for demonstrating compliance with District Rule 9510 (Indirect Source Review), which is intended to mitigate a project's impact on air quality through project design elements or by payment of applicable off-site fees. The proposed project is subject to District Rule 9510 as it will receive a project-level discretionary approval from a public agency and will exceed 25,000 square feet of light industrial space. When subject to the rule, an Air Impact Assessment (AIA) application is required.
- 61. Prior to the start of construction, the property owner/operator shall contact the District to determine if any Air District permits or if any other District rules or permits are required, including but not limited to an Authority to Construct (ATC) for construction or demolition

of structures. The project may also be subject to the following District rules: District Rule 9410 (Employer Based Trip Reduction), Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

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 will be in strikethrough text.