

Resolution No. **2021-01-14-0302**

STOCKTON PLANNING COMMISSION

RESOLUTION DENYING A COMMISSION USE PERMIT TO ESTABLISH A RETAIL STOREFRONT CANNABIS BUSINESS, ADMINISTRATIVE USE PERMIT TO ESTABLISH A RETAIL NON-STOREFRONT (DELIVERY ONLY) CANNABIS BUSINESS, AND A WAIVER OF CANNABIS BUSINESS LOCATION REQUIREMENTS – ALL CONCERNING A 4,123 SQUARE FOOT COMMERCIAL SPACE AT 6709 PLYMOUTH ROAD, SUITES C & D (APPLICATION NO. P20-0596)

The applicant, Alissa Metzger, submitted a Commission Use Permit, Administrative Use Permit, and Waiver application to establish a 4,123-square foot retail storefront cannabis business and a retail non-storefront (delivery only) cannabis business in a Commercial General (CG) zoned parcel, located at 6709 Plymouth Road, Suites C & D (Exhibit 1); and

The applicant is a general pool winner of the City's 2019 Commercial Cannabis Lottery; used to designate how many applicants are allowed to apply for certain commercial cannabis types, including Retail Storefront; and

On December 10, 2020, the Planning Commission conducted a duly noticed public hearing on the application, in compliance with Stockton Municipal Code (SMC) section 16.88, at which point all persons wishing to be heard were provided such opportunity; and

On December 10, 2020, and prior to acting on the requested actions, the Planning Commission considered the California Environmental Quality Act (CEQA) determination reflected in the findings below;

On December 10, 2020, the Planning Commission approved Motion 2020-12-10-0501, based on verbalized findings (by a vote of 4-3) to deny the Project; now, therefore,

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF STOCKTON, AS FOLLOWS:

- A. The foregoing recitals are true and correct and incorporated by reference.
- B. All findings must be made in the affirmative to approve the project.
- C. Based on the staff report, staff presentation, comments received, and the public hearing, the Planning Commission makes the following findings based on substantial evidence in the record:

USE PERMIT FINDINGS (COMMISSION AND ADMINISTRATIVE)

As evidenced below, not all findings of fact as required by Stockton Municipal Code (SMC) Section 16.168.050 for use permit (Commission or administrative) can be made, and therefore, the project cannot be approved:

1. The proposed uses are allowed within the subject zoning district with the approval of a use permit but do not comply with all other applicable provisions of this Development Code and the Municipal Code because Retail Storefront Commercial Cannabis and Non-storefront Retail (delivery only) Commercial Cannabis is allowed in a Commercial, General (CG) zone with a Use Permit and does not meet the location requirement which requires 600' foot separation from a childcare center and a waiver from the location requirements is not approved by the Planning Commission because there the proposed project location does not include a significant unique situation that would justify the modification from the location requirements, in accordance with SMC Sections 16.80.195 (A) (6) (a) for retail storefront and SMC 16.80.195 (B) (4) (a) for retail non-storefront.
2. The proposed use would not maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located because operating a facility engaged in retail storefront commercial cannabis and retail non-storefront (delivery only) commercial cannabis would not improve the security of the existing shopping center and could increase crime due to the nature of the business (e.g. cash-only transactions).
3. The proposed use is consistent with the general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan because the project is a commercial land use consistent with the Commercial land use designation of the General Plan and it is consistent with General Plan Policy LU-4.2 to attract employment and generating businesses that support the economic diversity of the City.
4. The subject site would not be physically suitable for the type and density/intensity of use being proposed including the provision of services (e.g., sanitation and water), public access, and the absence of physical constraints (e.g., earth movement, flooding, etc.) because in the current COVID-19 pandemic climate, given the small, confined space of the property which is adjacent to a hotel to the north, it is not suitable to provide proper social distancing and the intensity of use creates increased traffic and higher intensity that is not suitable for the space.
5. The establishment, maintenance, or operation of the proposed use at the location proposed and for the time period(s) identified would endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, peace, or general welfare of persons residing or working in the neighborhood of the proposed use because the project is located within 600' of a childcare center, is

- located within an area with a high crime rate, is located too close to multi-family residential housing.
6. The design, location, size, and operating characteristics of the proposed use would not be compatible with the existing, and future land uses on-site and in the vicinity of the subject property. Although the design and size of the proposed use are compatible, the location and operating characteristics of the proposed use would not be compatible because the property size and the number of parking spaces are not adequate for the use, and the property is located within 600' of a childcare center.
 7. The proposed use qualifies for a California Environmental Quality Act (CEQA) Categorical Exemption under section 15301, Class 1, for Existing Facility, because the proposed project would occur within an existing commercial building and the project involves no expansion of use. Class 1 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.

As evidenced below, not all findings required by SMC Section 16.176.040 for a waiver of the location requirements in SMC Sections 16.80.195 (A) (6) (a) for retail storefront and SMC 16.80.195 (B) (4) (a) for retail non-storefront are met:

- A. The granting of the waiver to allow the project location to be less than the minimum 600' distance from a childcare center will result in specific standards not being addressed and creates undue hardship to the community. The granting of the waiver will create hardship to the community because it will increase crime and the project is located within 300' of multi-family residential housing to the northeast of the location.
- B. The granting of the waiver, to allow the project location to be less than the minimum 600' distance from a childcare center, will not allow for the economic viability and use of the site because the current COVID-19 pandemic will increase traffic and intensity of use which will prevent social distancing and result in operational problems due to limited space and off-street parking.
- C. The granting of the waiver to allow the project location to be less than the minimum 600' distance from a childcare center, despite recommended conditions, will be detrimental to the public convenience, health, interest, safety, or general welfare of the City or injurious to the property or improvements in the zone or neighborhood in which the property is located due to the fact that the proposed project is in a high-crime rate area, within 600' of a daycare center, and there is a potential for an increased level of service needed in this area that may produce added stress to public safety services of the City.
- D. The granting of the waiver to allow the project location to be less than the minimum 600' distance from a childcare center, will be consistent with the general land uses,

objectives, policies, and programs of the General Plan, any applicable specific plan, precise road plan, or master development plan, and the intent of the Development Code.

- E. The granting of the waiver to allow the project location to be less than the minimum 600' distance from childcare center will conflict with the Stockton Municipal Code regulation because the proposed use does not meet the standards in SMC 16.80.195 as shown in the findings above, and as a result, the project will compromise the safety of children due to a reduced separation. The proposed use will also increase the density due to the COVID-19 pandemic which will cause increased traffic and limited availability to off-site parking.

- F. The granting of the waiver would be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. (Ord. 023-07 C.S. § 120; prior code § 16-590.040)

Planning Commission Action

Based on its review of the entire record herein, including the December 10, 2020, Planning Commission staff report, all supporting, referenced and incorporated documents, and all comments received at the public hearing, and the findings above, the Planning Commission approved Motion 2020-12-10-0501 to deny the requested Commission Use Permit, Administrative Use Permit, and Waiver request by a vote of 4-3 (Commissioners Garcia, Mallett, and Rizvi dissenting).

PASSED, APPROVED, and ADOPTED: December 10, 2020.



WAQAR RIZVI, CHAIR
City of Stockton Planning Commission

ATTEST:



WILLIAM CREW, SECRETARY
City of Stockton Community Development



Cannabis Dispensary Land Use Permit Application

6709 Plymouth Road, Suite C+D
Stockton, CA 95207

APN: 097-60-003

WMB
ARCHITECTS

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Stockton, CA 95207

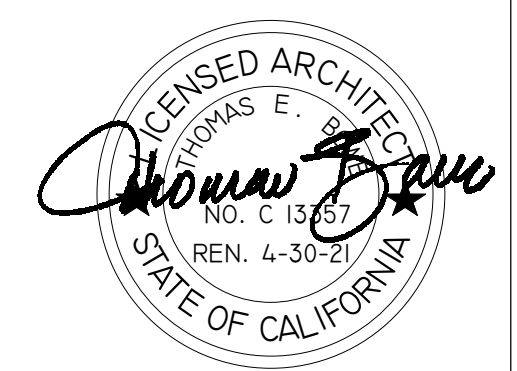
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Cannabis Dispensary -
Land Use Permit
6709 Plymouth Road, Suite C+D
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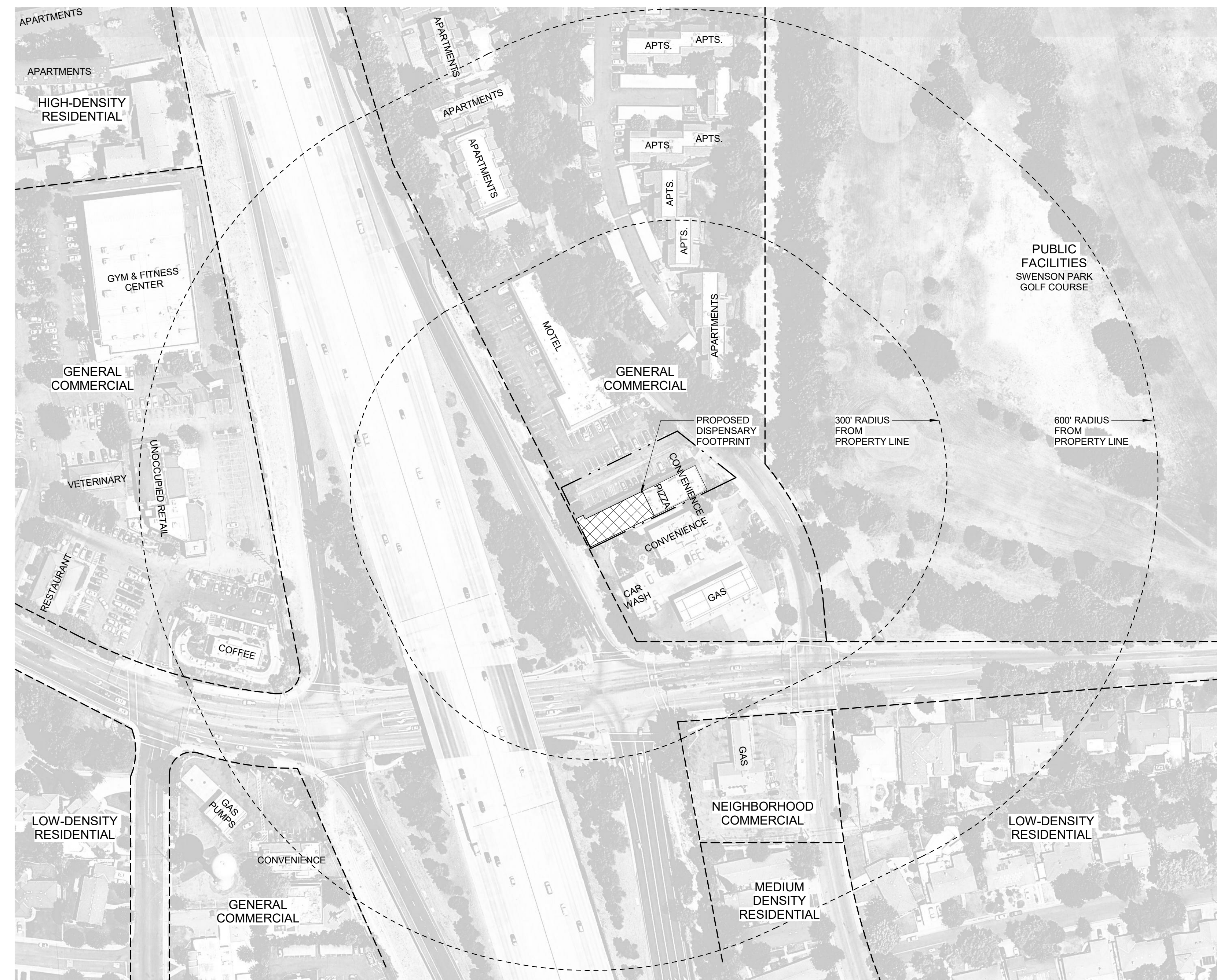
TITLE SHEET /
NEIGHBORHOOD CONTEXT



PUBLISH HISTORY:
No. DATE PURPOSE
12.09.19 PERMIT SUBMITTAL

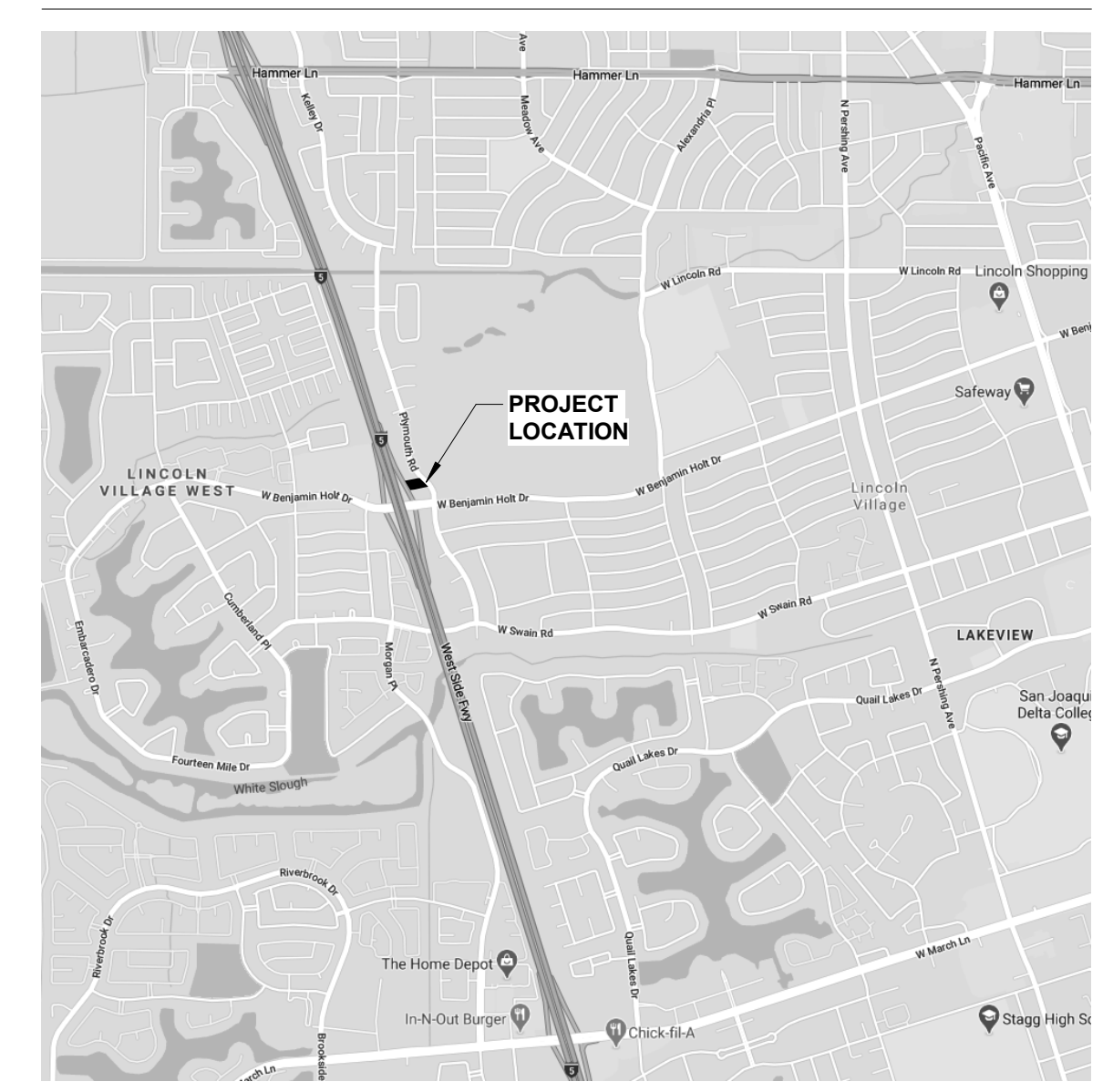
WMB PROJECT:
19-104

A1



NEIGHBORHOOD CONTEXT PLAN
SCALE: 1" = 100'-0"

VICINITY MAP



LIST OF SHEETS

- A1 TITLE SHEET / NEIGHBORHOOD CONTEXT
- A2 SITE PLAN
- A3 FLOOR PLAN

CONTACT INFORMATION

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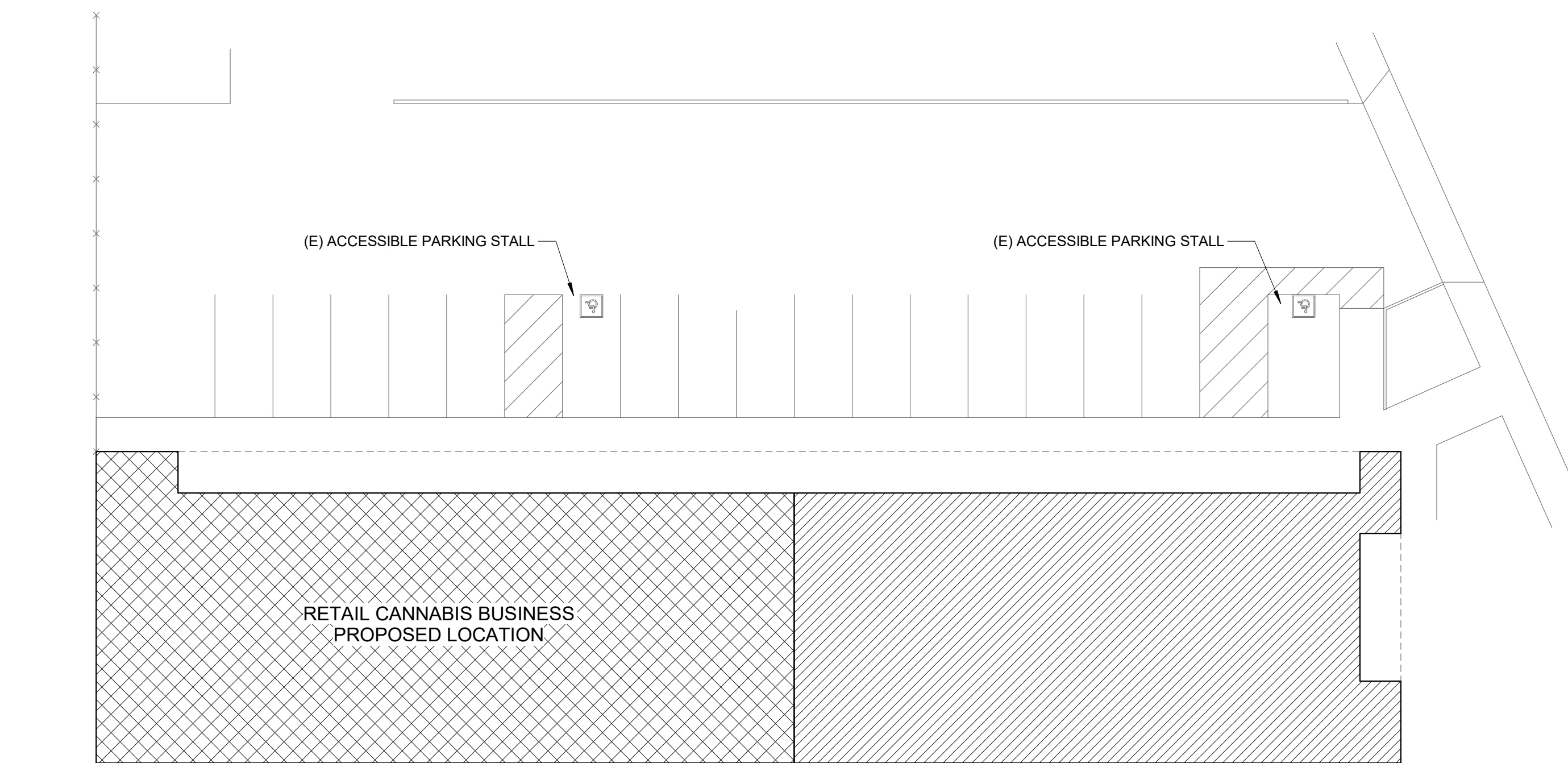
PROJECT DATA

PROJECT DESCRIPTION	CANNABIS RETAIL STOREFRONT	
PRIOR USE	HAIR SALON + SERVICES FOR DISABLED ADULTS	
	YES	NO
ALTERATION TO EXISTING BLDG	X	
ADDITION TO EXISTING BLDG		X
CHANGE OF USE		X
EXISTING FIRE SPRINKLERS		X
TYPE OF CONSTRUCTION	VB	
OCCUPANCY GROUP	M	
PARCEL SIZE	0.45 ACRES	
SUITE AREA	4,123 FT ²	
BUILDING HEIGHT	18'	UNCHANGED
NUMBER OF STORIES	1	UNCHANGED

REQUIRED PARKING STALLS

SUITE AREA	4,123 FT ²
PARKING FACTOR	SEE BELOW
REQ'D PARKING STALLS	10 STALLS
PROVIDED PARKING STALLS	17 STALLS, (E)
REQ'D ACC. STALLS	1 STALLS
PROVIDED ACC. STALLS	2 STALLS, (E)

	AREA	PARKING FACTOR	REQUIRED STALLS
RETAIL	1,950 SF	1 STALL / 250 FT ²	8 STALLS
BACK OF HOUSE	2,089 SF	1 STALL / 2,000 FT ²	2 STALLS
TOTAL:			10 STALLS

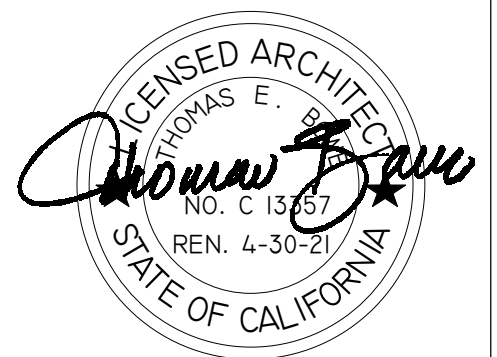


SITE PLAN
SCALE: 1/16" = 1'-0"

Cannabis Dispensary - Land Use Permit

6709 Plymouth Road, Suite C+D
Stockton, CA 95207

SITE PLAN



PUBLISH HISTORY:

DATE	PURPOSE
12.09.19	PERMIT SUBMITTAL

WMB PROJECT:
19-104