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RECORDED IN OFFICIAL RECORDS OF FRESNO COUNTY, CALIFORNIA	
AT <u>6</u> MIN PAST	<u>9</u> A M
JAN 28 1993	
WILLIAM C. GREENWOOD County Recorder	FEE \$ ☒

-----ABOVE SPACE FOR RECORDER'S USE-----

**STATEMENT OF COVENANTS
AFFECTING LAND DEVELOPMENT
(Rezoning Application No. R-90-49)**

RECITALS

A. **Shehadey and Shehadey**, a California General Partnership, hereinafter referred to as "**the Covenantor**," is the owner of that certain real property in the City of Fresno, County of Fresno, State of California, hereinafter referred to as "**the Subject Property**" and more particularly described:

Lots 1 through 8 inclusive and Lots 35 through 42, inclusive, in Block 1 La Sierra Tract, according to the map thereof recorded in Book 5 Page 49 of Record of Surveys, Fresno County Records.

Together with that portion of the alley lying adjacent to the West line of Lots 6 and 7 in block 1 of La Sierra Tract and the East line of Lots 36 and 37 in Block 1 of La Sierra Tract, and lying between the North line of said Lot 6 projected Westerly and the South line of said Lot 7 projected Westerly as said lots are shown on the map of La Sierra Tract, except therefrom the South 5.0 feet and the North 10.0 feet, as vacated by the City of Fresno by Resolution #6122 recorded August 10, 1960 in Book 4425 Page 8 of Official Records, Document No. 5845.

Excepting the North 10 feet of Lots 1 through 6 and Lots 37 through 42.

The North half of Lot 32 and all of Lots 33 and 34 in Block 1 of La Sierra Tract, as per map recorded in Book 5 Page 49 of Record of Surveys, Records of Fresno County.

Lots 9 and 10 in Block 1 of La Sierra Tract, according to the map thereof recorded in Book 5 Page 49, of Record of Surveys, Fresno County Records.

B. The Covenantor hereby warrants that any and all parties having record title interest in the Subject Property which may ripen into a fee have subordinated to this instrument.

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C. All such instruments of Subordination, if any, are attached hereto and made a part of this instrument.

D. The Covenantor has applied to the City of Fresno for a district amendment changing the C-6 and R-3 Zone District classification to the C-M/cz Zone District classification for the Subject Property.

E. The City of Fresno desires to obtain covenants from the Covenantor to insure that the Subject Property is not developed, used, or maintained in such a way as to adversely affect adjoining properties.

COVENANTS, CONDITIONS, AND RESTRICTIONS

For favorable action on, and approval of, the Covenantor's application for an amendment to the Zone District classification of the Subject Property as referred to hereinabove, the Covenantor hereby covenants that the Subject Property shall be held, conveyed, encumbered, used, occupied, developed, maintained, and improved subject to the following covenants, conditions, and restrictions, which are for the purpose of enhancing attractiveness, usefulness, value, and desirability of the Subject Property, the surrounding property, and the public at large and to minimize possible adverse effects on the public health, safety, peace, and general welfare. Each of the covenants, conditions, and restrictions contained in this Statement will run with the Subject Property and shall be binding on each successive owner of the Subject Property and his heirs, administrators, successors, and assigns.

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1. Covenantor hereby covenants as follows:

- A. The project shall retain the existing building at the southwest corner of East Belmont and North Roosevelt Avenues as depicted on attached Exhibit "L-1".
- B. Retention and renovation of the facade of the existing building immediately south of the building at the southwest corner, as shown on Exhibit "L-1", as is physically possible and economically practical. If the facade fails, due to structural distress, it should be rebuilt to resemble the existing historical structure as closely as possible using the remnant bricks from the fallen facade. All precautions in concert with common practices standard to the industry shall be taken to save the facade intact. However, no implicit guarantee can be given that the facade will not fail during the demolition and renovation process.
- C. The new construction in the infill areas on the east side of the property shall be compatible with the existing structure as shown on Exhibit "L-2".
- D. The new construction contemplated immediately west of the facade described above shall be no higher than the height of the facade for a minimum of twenty feet west of the facade.
- E. The new building to be constructed immediately west of the 30' existing building at the northwest corner of the site as shown on Exhibit "L-1" shall be of a height equal to or slightly greater than the westerly portion of said building, but in no case higher than forty feet and shall be compatible with the existing structure to the east as shown on Exhibit "L-2".
- F. The owner shall provide and maintain street trees in tree wells in the sidewalk on the west side of the property south to the entry driveway. These trees and major trees planted along the remainder of the west and south sides of the property shall be a species that attain a minimum height of thirty feet (30'0") at maturity.
- G. The future high density frozen storage building proposed for phase three shall be set back a minimum of fifty feet (50'-0") east of Ferger Avenue to the height of sixty feet (60'-0"), or sixty-six feet with a minor deviation as provided by the Fresno Municipal Code.

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- H. All noise producing equipment on the building shall meet the standards of the City of Fresno. Truck noise shall not exceed the level of forty-five decibels (45db) inside adjacent residences between the hours of 10:00 p.m. and 6:00 a.m. If noise levels exceed that criteria, mediation measures shall be imposed by the City of Fresno which could include restrictions on hours of operation.
- I. All truck maneuvering and parking shall take place on site and shall be subject to the requirements of the City of Fresno.

2. The conditions of this Statement are intended to benefit the public and public properties. Accordingly, the City of Fresno shall have the right to enforce this Statement by any legal or equitable means against the Covenantor and such person or persons in actual possession of Subject Property who directly or who through any agent violate the terms hereof. All obligations of the Covenantor under this Statement shall inure solely to the benefit of the City of Fresno. There are no third party beneficiaries of such obligations nor shall the right of the City of Fresno be transferable in any manner to any person other than to a successor municipal corporation whose geographic boundaries include the Subject Property.

3. Covenantor covenants that, in the event of failure to comply with the conditions set forth in this Statement, Covenantor will not object to the redistricting of the Subject Property to a land use zoning district which the Council of the City of Fresno determines is proper without compliance with such conditions. In such event, Covenantor waives any right to have any uses or improvements installed subsequently to the change of land use zoning district herein requested considered, or treated as non-conforming uses or improvements after such redistricting.

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4. The foregoing conditions shall remain in full force and effect until such time as the City of Fresno, pursuant to the district amendment procedure of the Fresno Municipal Code, finds the enforcement of such condition is no longer equitable.

5. The provisions of this Statement shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof. Whenever the context so requires, any gender includes the other genders, the singular includes the plural, and the plural includes the singular.

MS:nh:SENT121/+1682

DATED: 1/5/1, 19923^{1/2}

Accepted By:

CITY OF FRESNO,

By:

[Signature]
Alvin P. Solis, Director
Development Department

ATTEST:

JACQUELINE L. RYLE

By:

Cindy Hamby
Deputy

APPROVED AS TO FORM:

~~HARVEY WALLACE~~
City Attorney

JAMES P. LOUGH

COVENANTOR:

Shehadey and Shehadey, a
California General Partnership

LARRY & ELAYNE SHEHADEY TRUST

By:

Larry Shehadey
LARRY SHEHADEY, Trustee

By:

Richard Shehadey
RICHARD SHEHADEY

By:

[Signature]
Deputy

NOTARY ACKNOWLEDGMENT

State of California)

County of Fresno) SS

STATE OF CALIFORNIA

COUNTY OF Fresno

SS.

On January 5, 1993 before me, Mary Steensen,
Notary Public
personally appeared Richard Shehadey (here insert name and title of the officer),



_____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Mary Steensen
Signature

STATE OF CALIFORNIA

COUNTY OF Fresno



(Seal)

ACKNOWLEDGMENT - All Purpose - Wolcotts Form 237CA - Rev. 1-91
©1991 WOLCOTTS, INC. (price class 8-2)

} ss.

On January 8, 1993 before me, Mary Steensen
Notary Public (here insert name and title of the officer),
personally appeared Larry Stehadey

_____, personally known to me (or proved to me on
the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),
or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Mary Steensen
Signature

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CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
)
COUNTY OF FRESNO) ss.

On January 27, 1993 before me, Cindy Hamby
personally appeared Alvin Boies, Development Director
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me
that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by
his/~~her/their~~ signature(s) on the instrument(s) the person(s), or the entity upon behalf
of the CITY OF FRESNO of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

JACQUELINE L. RYLE, CMC
CITY CLERK

By Cindy Hamby
DEPUTY

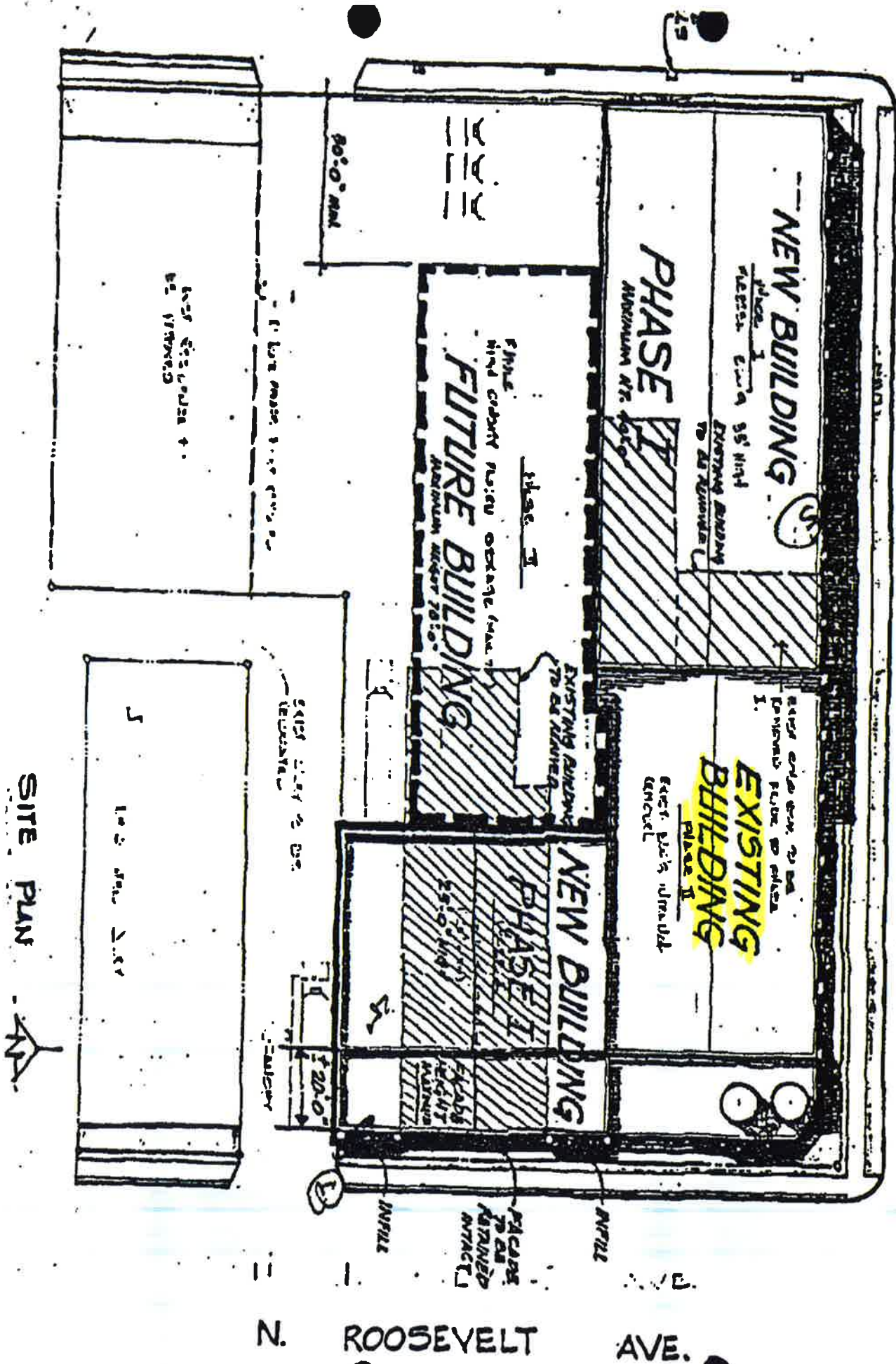


EXHIBIT "L-2"

Architectural Compatibility

