

RESOLUTION NO. 2018-_____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MERCED, CALIFORNIA,
REVERSING THE PLANNING
COMMISSION'S APPROVAL OF
COMMERCIAL CANNABIS BUSINESS
PERMIT #18-14R, DENYING ISSUANCE OF
COMMERCIAL CANNABIS PERMIT
#18-14R AND CAUSING THE NEXT
HIGHEST-SCORING APPLICATION FOR
A COMMERCIAL CANNABIS BUSINESS
PERMIT USING THE CITY'S MERIT-
BASED SCORING CRITERIA TO BE
HEARD FOR ONE OF THE AVAILABLE
FOUR COMMERCIAL CANNABIS
BUSINESS PERMITS TO OPERATE A
RETAIL DISPENSARY OF CANNABIS AND
CANNABIS-BASED PRODUCTS AT A
FUTURE PUBLIC HEARING AT A
MEETING OF THE PLANNING
COMMISSION**

WHEREAS, the Planning Commission of the City of Merced ("Planning Commission") at its meetings of September 18 and September 19, 2018 held public hearings, and considered Commercial Cannabis Business Permit #18-14R to allow Harvest of Merced, LLC. to operate a retail dispensary for medicinal and adult use cannabis and cannabis-related products, including delivery services, at 863 W. 15th Street (as shown on the map at Exhibit A); also known as Assessor's Parcel Number 031-073-012; and

WHEREAS, after hearing all of the evidence and testimony on September 18, 2018, the Planning Commission re-opened the public hearing on September 19, 2018 at the request of Medallion Wellness and its agents ("Medallion") to hear additional testimony; and

WHEREAS, on September 19, 2018, the Planning Commission, after hearing all evidence and testimony and after exercising its independent judgment, the Planning Commission adopted Resolution #4008 adopting a Categorical Exemption regarding Environmental Review #18-27 (Categorical Exemption) and approving Commercial Cannabis Business Permit #18-14R subject to the findings and conditions attached thereto; and

WHEREAS, the Appellant (Medallion) appealed the Planning Commission decision to approve Commercial Cannabis Business Permit #4008; and

WHEREAS, the Appellant (Medallion) has not appealed the Planning Commission's decision to adopt a Categorical Exemption regarding Environmental Review #18-27 (Categorical Exemption); and

WHEREAS, the City Council held a noticed public hearing on September 25, 2018, at which time all those interested in the matter were provided the opportunity to speak or to provide written or oral testimony regarding the application.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT.
Based upon the evidence and testimony in the record before the Planning Commission at the public hearing, the City Council hereby adopts Environmental Review #18-27 (Categorical Exemption), pursuant to the provisions of the California Environmental Quality Act.

SECTION 2. COMMERCIAL CANNABIS BUSINESS PERMIT.
Based upon the evidence and testimony in the record before the Planning Commission at the public hearing, the City Council finds that there is not substantial evidence to support the Planning Commission's decision, and hereby reverses the decision of the Planning Commission thereby denying Commercial Cannabis Business Permit #18-14R, together with findings attached hereto as Exhibit "B".

Because this denial leaves unfulfilled one of the four allowable Commercial Cannabis Business Permits for the purpose of operating a retail dispensary of cannabis and cannabis-based products, the next-highest-scoring application for a Commercial Cannabis Business Permit for such purpose, using the City's merit-based scoring criteria, shall be heard at a future public hearing at a meeting of the Planning Commission.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2018, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

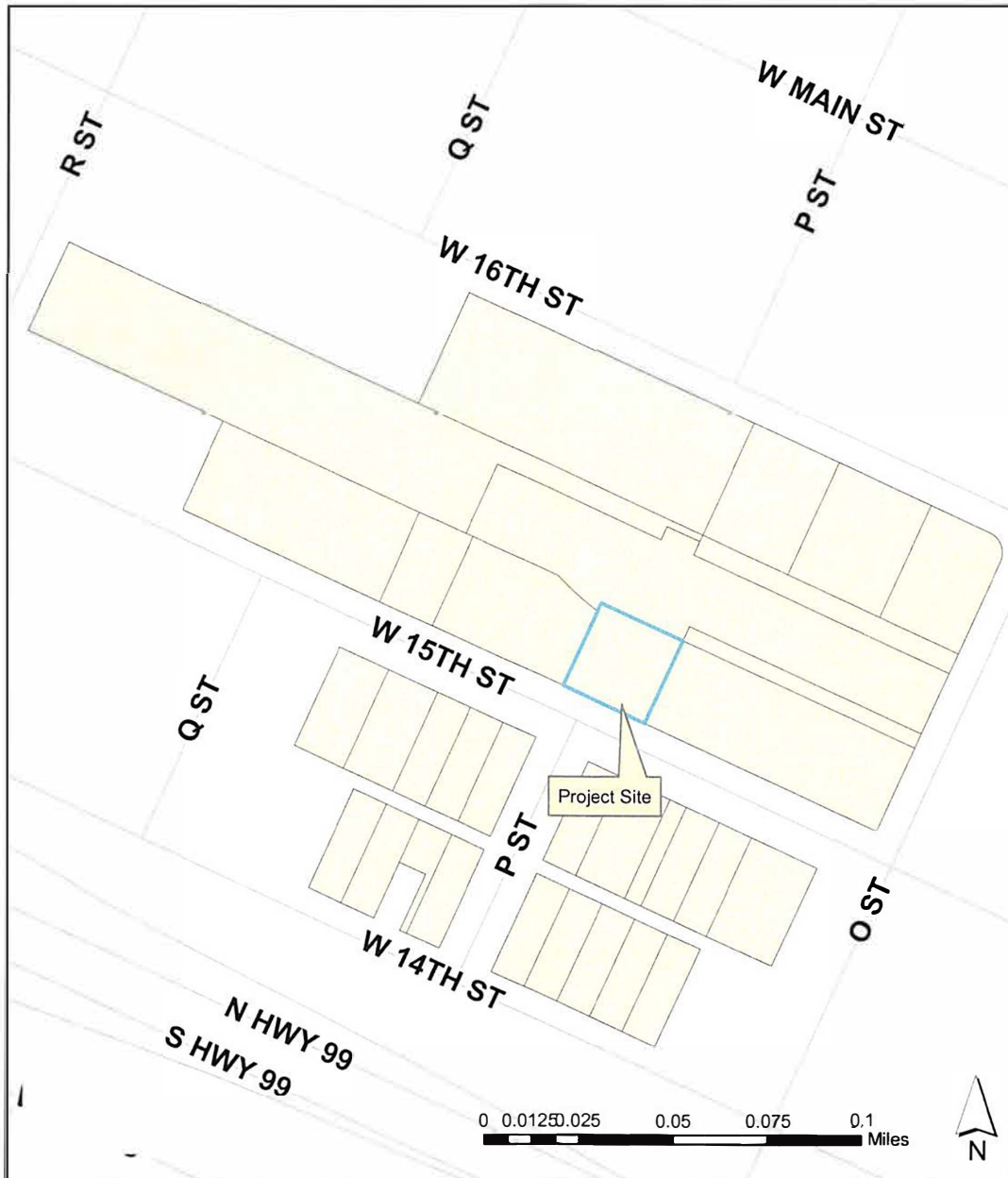
(SEAL)

APPROVED AS TO FORM:

K. Lopez 10.19.18
City Attorney Date

EXHIBIT A
LEGAL DESCRIPTION

Parcel 3 as described in Document #2009-022222 of Merced County Records; also known as Assessor's Parcel Number (APN) 031-173-012.



FINDINGS FOR DENIAL
COMMERCIAL CANNABIS BUSINESS PERMIT #18-14R

Land Use Issues

- A) The subject site is within 1,000 feet from a school that is currently in existence, which would be in violation of the requirements of Section 20.44.17(E).3.f of City of Merced Ordinance #2480 for retail cannabis businesses if this permit were to be approved.