

RESOLUTION NO. 2018-___

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MERCED, CALIFORNIA,
MODIFYING THE PLANNING
COMMISSION'S DENIAL OF
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**

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, Medallion Wellness appealed the Planning Commission decision to approve Commercial Cannabis Business Permit #4008; and

WHEREAS, the City Council held a noticed public hearing on October 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; and

WHEREAS, at the duly noticed public hearing on October 25, 2018, the City Council reversed the decision of the Planning Commission to approve Commercial Cannabis Business Permit #18-14R and remanded the matter back to the Planning Commission for the Planning Commission to make a finding of fact as to whether the properties located at 732 W. 13th Street and 760 W. 13th Street meet the definition of a “school” per City of Merced Ordinance #2480 and whether the property located at 863 W. 15th Street is within 1,000 feet of a school; and

WHEREAS, the Planning Commission held a noticed public hearing on November 14, 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; and

WHEREAS, at the duly noticed public hearing on November 14, 2018, the Planning Commission determined that the properties at 732 W. 13th Street and 760 W. 13th Street meet the definition of a “school” per City of Merced Ordinance #2480, and that the property located at 863 W. 15th Street is within 1,000 feet of a school; and

WHEREAS, on November 14, 2018, the Planning Commission, after hearing all evidence and testimony and after exercising its independent judgment, the Planning Commission adopted Resolution #4010 (as shown at Exhibit B) denying Commercial Cannabis Business Permit #18-14R; and

WHEREAS, Harvest of Merced appealed the Planning Commission decision to deny Commercial Cannabis Business Permit #18-14R; and

WHEREAS, the City Council held a noticed public hearing on December 3, 2018, at which time all those interested in the matter were provided the opportunity to speak or 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. 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 substantial evidence to modify the Planning Commission's decision, and hereby modifies the decision of the Planning Commission denying Commercial Cannabis Business Permit #18-14R, as modified by the direction of the City Council at its meeting of December 3, 2018.

PASSED AND ADOPTED by the City Council of the City of Merced at a special 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

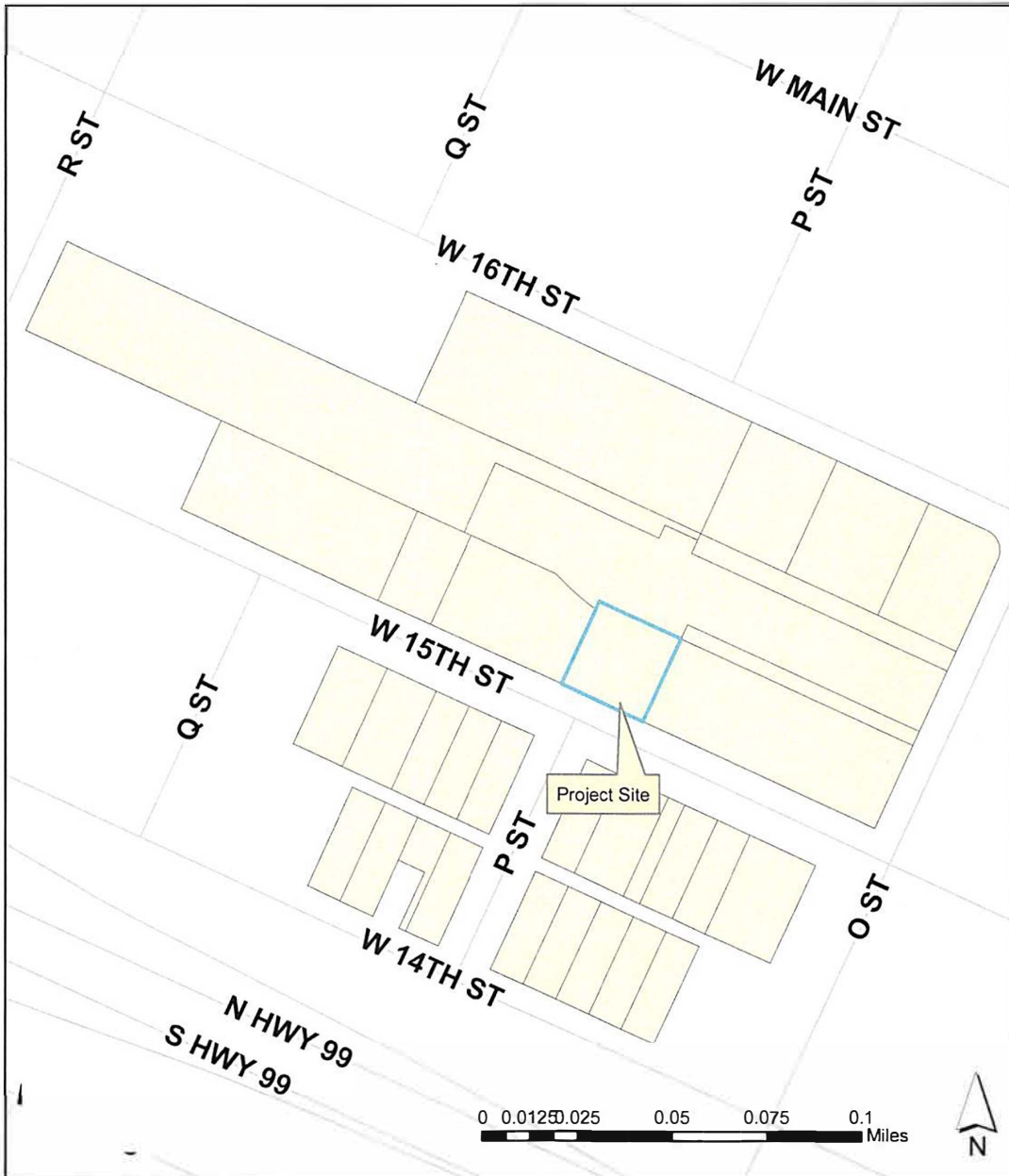
(SEAL)

APPROVED AS TO FORM:

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.



CITY OF MERCED
Planning Commission

Resolution #4010

WHEREAS, the Merced City Planning Commission at a special meeting of November 14, 2018, held a public hearing and re-considered **Commercial Cannabis Business Permit #18-14R**, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for both medicinal and adult use cannabis and cannabis-related products on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th St.; also known as Assessor's Parcel Number (APN) 031-173-012; and,

WHEREAS, the Merced City Planning Commission concurs with the finding of fact for denial in Staff Report #18-30, as follows:

- 1) Based on the evidence on the record, both in the staff report and from the public testimony on November 14, 2018, the Planning Commission finds that 863 W. 15th St. is within 1,000 feet of a school, as defined in MMC 20.44.170(C).47.

And,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby deny Commercial Cannabis Business Permit #18-14R.

Upon motion by Commissioner PADILLA, seconded by Commissioner RASHE, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: Commissioner Martinez

PLANNING COMMISSION RESOLUTION # 4010

Page 2


November 14, 2018

Adopted this 14th day of November 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary