



CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

Minutes Planning Commission

Wednesday, May 19, 2021

7:00 PM

A. CALL TO ORDER

Chairperson HARRIS called the Regular Meeting to order at 7:01 PM

A.1. Moment of Silence

A.2. Pledge of Allegiance to the Flag

Commissioner BUTTICCI led the Pledge of Allegiance to the Flag.

B. ROLL CALL

Clerk's Note: Commissioner DYLINA was absent, excused.

The Planning Commission has one vacancy at this time.

Present: 5 - Chairperson Michael Harris, Member Stephanie Butticci, Member Dorothea White,
Member Jose Delgadillo, and Vice Chair Mary Camper

Absent: 1 - Member Robert Dylina

C. ORAL COMMUNICATIONS

There were no public comments.

D. CONSENT CALENDAR

Approval of the Consent Agenda

A motion was made by Member Delgadillo, seconded by Member White, to approve the Consent Agenda. The motion carried by the following vote:

Aye: 5 - Chairperson Harris
Member Butticci
Member White
Member Delgadillo
Vice Chair Camper

No: 0

Absent: 1 - Member Dylina

D.1

SUBJECT: Planning Commission Minutes of May 5, 2021

ACTION:

Approving and filing the Planning Commission Minutes of May 5, 2021

This Consent Item was approved.

E. PUBLIC HEARINGS AND ACTION ITEMS

E.1

SUBJECT: Conditional Use Permit #1254 and Site Plan Review #474, initiated by Vermeltfoort Architects, Inc., on behalf of Chase Partners, LTD., property owner. This application involves a request to sell beer and wine for off-site consumption for a new gas station (7-Eleven), generally located at the northeast corner of Olive Avenue and State Highway 59 (1995 W Olive Avenue), within a zoning classification of Planned Development (P-D) #12. The property currently has a General Plan designation of Commercial Office (CO) and Industrial (IND); a General Plan designation of Business Park (BP) has been proposed and recommended for approval by the Planning Commission via General Plan Amendment #20-02 and Site Utilization Plan Revision #2 to P-D #12. **PUBLIC HEARING**

ACTION:

Approve/Disapprove/Modify

- 1) Environmental Review #21-07 (CEQA Section 15162 Findings)
- 2) Conditional Use Permit #1254
- 3) Site Plan Review #474

SUMMARY

7-Eleven is requesting approval to sell beer and wine for off-site consumption at a proposed gas station and 4,088 square-foot convenience mart (1995 W Olive Avenue). The subject site is a vacant parcel located at the northeast corner of Olive Avenue and State Highway 59. A conditional use permit is required for any business that wants to sell alcoholic beverages for off-site consumption in a building of 20,000 square feet or less. A gas station/convenience market requires a Site Plan Permit in a Business Park Zone. A Finding of Public Convenience or Necessity (adopted by City Council) is required, because the subject site is located within a Census Tract that is considered over-concentrated by Alcoholic Beverage Control standards. Staff is recommending approval of this application subject to conditions.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #21-07 [CEQA Section 15162 Findings], Conditional Use Permit #1254, and Site Plan Review Permit #474, including the adoption of the Draft Resolution at Attachment A subject to the conditions in Exhibit A and the findings/considerations in Exhibit B.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #21-305. (Members of the public were given the opportunity to leave email and voicemail messages as well prior to the meeting, none were received).

Public testimony was opened at 7:11 PM

Speaker Via Teleconference in Favor:

Mike Singelyn, Applicant

Speaker from the Audience in Favor:

Sherrie Olson, Consultant

There were no speakers in opposition to the project.

Public testimony was closed at 7:15 PM

A motion was made by Vice Chair Camper, seconded by Member White, and carried by the following vote, to find that the previous environmental review (Initial Study #20-36 for General Plan Amendment #20-36 for General Plan Amendment #20-02 and Site Utilization Plan Revision #2 for Planned Development #12) remains sufficient and no further documentation is required (CEQA Section 15162 Findings) and approve Conditional Use Permit #1254 and Site Plan Review Permit #474, subject to the Findings and Conditions set forth in Staff Report #21-305 (RESOLUTION #4064).

Aye: 5 - Chairperson Harris
 Member Butticci
 Member White
 Member Delgadillo
 Vice Chair Camper

No: 0

Absent: 1 - Member Dylina

F. INFORMATION ITEMS

F.1 **SUBJECT: Report by Planning Manager of Upcoming Agenda Items**

ACTION

Information only.

Planning Manager ESPINOSA went over items for the next several Planning Commission meetings.

F.2**SUBJECT: Calendar of Meetings/Events**

June 7	City Council, 6:00 p.m.
9	Planning Commission, 7:00 p.m.
21	City Council, 6:00 p.m.
22	Bicycle/Pedestrian Advisory Commission, 4:00 p.m.
23	Planning Commission, 7:00 p.m.
July 6	City Council, 6:00 p.m. (Tuesday)
7	Planning Commission, 7:00 p.m.
19	City Council, 6:00 p.m.
21	Planning Commission, 7:00 p.m.

G. ADJOURNMENT

Clerk's Note: The Regular Meeting adjourned at 7:25 PM

A motion was made by Chairperson Harris, seconded by Vice Chair Camper, to adjourn the Regular Meeting in honor of Jeff Booth, local dentist. The motion carried by the following vote.

Aye: 5 - Chairperson Harris
Member Butticci
Member White
Member Delgadillo
Vice Chair Camper

No: 0

Absent: 1 - Member Dylina

CITY OF MERCED
Planning Commission

Resolution #4064

WHEREAS, the Merced City Planning Commission at its regular meeting of May 19, 2021, held a public hearing and considered **Conditional Use Permit #1254** and **Site Plan Review #474**, submitted by Robert Vermeltoort, on behalf of Chase Partners, LTD., property owner. This application involves a request to sell beer and wine for off-site consumption for a new gas station (7-Eleven), generally located at the northeast corner of Olive Avenue and State Highway 59 (1995 W Olive Avenue), within a zoning classification of Planned Development (P-D) #12, The property currently has a General Plan designation of Commercial Office (CO) and Industrial (IND); a General Plan designation of Business Park (BP) has been proposed and recommended for approval by the Planning Commission via General Plan Amendment #20-02 and Site Utilization Plan Revision #2 to P-D #12 (and approved by City Council on May 3, 2021). The property is more particularly described as Adjusted Parcel 1 as described in the Grant Deed recorded as Document No. 2020047663, on December 10, 2020, in Merced County Records; also known as a portion of Assessor's Parcel Number (APN) 058-030-037; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through K (Exhibit B) of Staff Report #21-305; and,

WHEREAS, the Merced City Planning Commission concurs with the Findings for Conditional Use Permits in Merced Municipal Code Section 20.68.020 (E), and Site Plan Review Permits in Merced Municipal Code Section 20.68.050 (F) and other Considerations as outlined in Exhibit B; 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 find that the previous environmental review (Initial Study #20-36 for General Plan Amendment #20-02 and Site Utilization Plan Revision #2 for Planned Development #12) remains sufficient and no further documentation is required (CEQA Section 15162 Findings) and approve Conditional Use Permit #1254 and Site Plan Review Permit #474, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

Upon motion by Commissioner Camper, seconded by Commissioner White, and carried by the following vote:

AYES: Commissioners Camper, Butticci, Delgadillo, White, and Chairperson Harris

NOES: None

ABSENT: Commissioner Dylina (one vacancy)

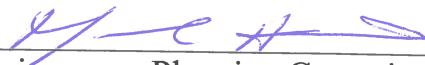
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4064

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May 19, 2021

Adopted this 19th day of May, 2021



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachments:

Exhibit A - Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4064
Conditional Use Permit #1254/Site Plan Review #474

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) - Attachment D of Staff Report #21-305, except as modified by the conditions.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
4. The Project shall comply with the conditions set forth in General Plan Amendment #20-02, Site Utilization Plan Revision #2 to Planned Development #12, previously approved for this development.
5. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply, including the Post Construction Standards for Storm Water that became effective July 1, 2015.
6. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, suits, or proceeding. Developer/applicant shall be

responsible to immediately prefund the litigation cost of the City including, but not limited to, City's attorney's fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and to provide all required deposits to fully fund the City's defense immediately but in no event later than five (5) days from that date of a demand to do so from City. In addition, the developer/applicant shall be required to satisfy any monetary obligations imposed on City by any order or judgment.

5. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
6. Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
7. Appropriate turning radii shall be provided within the parking areas to allow for Fire engine and refuse truck access.
8. The developer shall work with the City Engineer to determine the requirements for storm drainage on the site. The developer shall provide all necessary documentation for the City Engineer to evaluate the storm drain system. All storm drain systems shall be installed to meet City Standards and state regulations.
9. Merced Municipal Code Section 20.38.080 -Bicycle Parking identifies Gas and Service Stations as being exempt from installing short term and long-term bicycle parking. However, bicycle parking spaces may still be required per the California Green Code during the building permit stage.
10. Any missing or damaged improvements along the property frontage shall be installed/repaired to meet City Standards. Any improvements that do not meet current City Standards shall be replaced to meet all applicable standards.
11. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

12. The applicant shall work with the City's Refuse Department to determine the proper location for a trash enclosure and if a recycling container will be required to comply with AB 341. The container(s) shall be enclosed within a refuse enclosure built to City Standards.
13. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
14. A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are prohibited.
15. All signs shall comply with the City's Sign Ordinance. All signs shall be located outside of the 10-foot visual corner at the driveway entrances on Olive Avenue and Highway 59 and shall maintain a minimum 3-foot setback from all property lines.
16. Future signage (including gas price signs), parking lot lights, and building lights shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots or be a nuisance to adjacent properties. This shall be done in compliance with the California Energy Code requirements. Any lighting on the building shall be oriented to shine downward and not spill-over onto adjacent parcels.
17. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws, and other nuisance-related issues.
18. The proprietor and/or successors in interest and management shall be prohibited from advertising or promoting beer & wine and/or distilled spirits on the motor fuel islands and no self-illuminated advertising for beer or wine shall be located on the building or in the windows.
19. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, installing traffic calming measures, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
20. The area within the convenience market dedicated to the display and sale of beer and wine shall not exceed the amount shown at Attachment D of Staff Report #21-305.

21. The City reserves the right to periodically review the area for potential problems. If in the opinion of the Police Chief, problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and in conformance with the procedures outlined in the Merced Municipal Code.
22. No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine cooler containers shall be sold as part of a pack or carton. However, wine bottles or cartons of sizes 750 ml or larger may be sold as single-serving containers.
23. No alcohol shall be displayed within five feet of the cash register or the front door.
24. No beer shall be displayed or stored outside of the cooler areas.
25. No display or sale of beer or wine shall be made from an ice tub.
26. Employees shall be at least 21 years old to sell alcohol.
27. No advertisement of alcoholic beverages shall be displayed on motor fuel islands, in landscaped areas, or outside the buildings or windows.
28. No sale of alcoholic beverages shall be made from a drive-up window.
29. The business shall comply with all applicable requirements from the Merced County Health Department.
30. All mechanical equipment shall be screened from public view.
31. The parking lot layout shall comply with all applicable City Standards. Parking lot trees shall be provided at a ratio of one tree for every six parking spaces. These trees shall be installed per the City's Parking Lot Landscape Standards, shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list).
32. All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
33. Detailed landscape plans, including irrigation plans, shall be submitted at the building permit stage.

34. All landscaping in the public right-of-way shall comply with State Water Resources Control Board Resolution No. 2015-0032 “To Adopt an Emergency Regulation for Statewide Urban Water Conservation” and the City’s Water Conservation Ordinance (Merced Municipal Code Section 15.42). Xeriscape or artificial turf shall be used in place of natural sod or other living ground cover. If turf is proposed to be installed in park-strips or on-site, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed. All irrigation provided to street trees, parking lot trees, or other landscaping shall be provided with a drip irrigation or micro-spray system.
35. This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcoholic Beverage Control (ABC), City of Merced, and other regulatory agencies.
36. A permanent tamper-proof outdoor trash receptacle shall be installed near the main entrance to the convenience market.
37. Prior to obtaining a license from the Alcoholic Beverage Control to sell alcohol, the business (for the convenience market) shall obtain approval for a Finding of Public Convenience or Necessity from the Merced City Council.
38. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks, and open space. CFD procedures shall be initiated before issuance of the first certificate of occupancy or filing of a parcel map. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
39. Cross access and parking easements shall be recorded with any parcel map associated with the project.

**Findings and Considerations
Planning Commission Resolution #4064
Conditional Use Permit #1254 and Site Plan #474**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Business Park (BP) and the zoning classification of Planned Development (P-D) #12 with approval of a Conditional Use Permit and Site Plan Review Permit. The Project would achieve the following General Plan Land Use Goals and Policies:
1. Land Use Policy L-2.1: Encourage further development of appropriate commercial and industrial uses throughout the City.
 2. Land Use Policy L-2.6: Provide neighborhood commercial centers in proportion to residential development in the City.
 3. Land Use Policy L-3.2.A: Encourage infill development and compact urban form.

Alcohol Sales

- B) This request requires a Conditional Use Permit because 7-Eleven will be less than 20,000 square feet in size per MMC 20.10.020. In addition, alcohol sales shall require a Finding of Public Convenience or Necessity from City Council, because the applicant is seeking a new license in an overconcentrated Census Tract.

In order for the Planning Commission to approve or deny a request for the sale of alcoholic beverages for off-site consumption, it must consider the following criteria and make findings to support or deny each criterion per MMC 20.44.010:

Criteria #1

The proposed use will not result in an "undue concentration" of establishments dispensing alcoholic beverages as defined by Section 23958 and 23958.4 of the California Business and Professional Code and giving consideration to the California Department of Alcoholic Beverage Control's guidelines related to number and proximity of such establishments within a 500-foot radius of the site.

Finding #1:

The subject site is located within Census Tract #10.03. In checking with the State of California Alcoholic Beverage Control, this census tract is over concentrated with business selling alcohol as 3 licenses are allowed outright, but there are currently 5 active sites. The City Council will need to approve a Finding of Public Convenience or Necessity for this use (Condition #37 of Planning Commission Resolution #4064).

Criteria #2

The proposed use will not adversely affect the economic and societal welfare of the pertinent community or residentially-zoned community in the area of the City involved, after giving consideration to the distance of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds, and other similar uses; and other establishments dispensing, for sale or other considerations, alcoholic beverages including beer and wine.

Finding #2:

The nearest residential uses (single-family homes) are located approximately 544 feet east of the subject site. (Attachment B of Staff Report #21-305). While the property directly south across Olive Avenue is zoned for Residential Use, it is currently occupied by the Merced County Food Bank and has no ongoing or proposed residential uses on the property. The nearest sensitive use (besides residential properties) is Carol Gabriault Park, which is located approximately 852 feet away from the subject site. The Park is also across Olive Avenue from the subject site, a major arterial roadway traversing the City of Merced. There is no reason to believe the proposed use will adversely affect the economic or societal welfare of the community in the area.

Additionally, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) allows alcoholic beverages to be sold from a store located adjacent to a store selling cannabis products as long as each store has separate access. (See Bureau of Cannabis Control, 16 CCR 5026(c) and (d).) There is a cannabis dispensary located directly to the east of the proposed project site. Each store does have separate access, and thus this arrangement is permissible according to state regulations.

Criteria #3

The crime rate in the area of the proposed site with particular attention given to those crimes involving public intoxication, the illegal sale of narcotics, disturbing the peace, and disorderly conduct.

Finding #3:

Between April 1, 2020, and March 31, 2021, the Merced Police Department recorded 265 incidents within a 500-foot radius of the subject site. The table below shows the number of incidents within that area involving public intoxication, assaults, MMC violations, and narcotics violations (totaling 16 incidents during the 12-month period). As shown on the attached Incident Map (Attachment G of Staff Report #21-305), the majority of those incidents occurred at the intersection of Olive Avenue and Highway 59 and at the Wal-Mart to the southeast. Most incidents were either traffic accidents or alarms. The number of incidents reported City-wide for the same time period was 73,200. Based on the total number of calls within the City, the 16 calls to this area relating to the items of attention equal 0.02% of the overall calls for service within the City.

Incidents and Cases Reported (April 1, 2020 – March 31, 2021)

Incident/Case Type	Number of Incidents
Public Intoxication	0
Assault	1
MMC*	4
Narcotics violations	0
Disturbance	2
Drunk Driver**	9

*Municipal Code Violations regarding open containers, drinking in public, etc.

**MMC 20.44.010(B)(3) does not specify drunk driving as an item of particular attention, though it is similar enough to a listed item of particular attention, “public drunkenness”, that it is presented here for consideration.

Planning staff consulted with the Merced Police Department regarding alcohol sales at this location; the Police Department did not have any significant concerns with this request and is not requiring any conditions of approval not normally associated with alcohol sales for off-site consumption. Based on the information provided by the Police Department, staff does not anticipate that the approval of this request would adversely affect the economic and social welfare of the surrounding area.

Neighborhood Impact/Interface

- C) The site as it currently stands does not directly border, nor does it border across an adjacent roadway, a residential use. A public hearing notice was circulated in the Merced County Times and mailed to property owners within 300 feet of the subject site ten days prior to this public hearing. As of the date that this report was prepared, staff did not receive any comments from the community about this project.

Signage

- D) All signs on the site would be required to comply with the North Merced Sign Ordinance and the Business Park sign regulations (Condition #15). Final sign/design details will be reviewed by staff during the building permit stage to ensure compliance with the City’s Sign Ordinance, Building Codes, and Conditions of Approval. The convenience market shall be prohibited from advertising or promoting alcohol on the motor fuel island and must ensure that future signage is shielded or oriented in a way that does not allow “spill-over” onto adjacent lots or be a nuisance to adjacent properties (Condition #16 of Staff Report #21-305). A digital LED gas price sign may be allowed, but shall be designed, located, and illuminated in a way that does not significantly impact the adjacent residential properties. The sign locations as shown on the Site Plan at Attachment C of Planning Commission Staff Report #21-305 are not approved, including the monument sign located on Highway 59 within Caltrans’ right-of-way, which cannot be approved.

Traffic/Circulation

- E) The subject site is located at the northeast corner of Olive Avenue and State Highway 59. Vehicle access would be available from a driveway along State Highway 59 and two driveways along Olive Avenue, one of which is existing and also serves the adjacent property to the east.

Traffic and circulation components for this site were originally analyzed as a part of the environmental study conducted for the site under the approval of General Plan Amendment #20-02. CEQA states that a future project may utilize an existing adopted Initial Study through a CEQA Section 15162 Finding, if the project is consistent with Zoning/General Plan, and if the scope of the project is consistent with the previous project studied. In this case, the gas station is the same as was proposed in the Initial Study, so the Section 15162 finding can be made.

Parking

- F) The parking requirement for a convenience market is one parking space for every 250 square feet of floor area. Based on the proposed 4,088 square-foot building, 17 parking spaces are required (fuel island parking does not count towards required parking). The site has a total of 26 parking spaces. The request complies with City parking requirements.

Public Improvements

- G) In accordance with Section 17.04.050 and 17.04.060 of the Merced Municipal Code, any damaged or missing public improvements shall be repaired or installed if the permit value of the project exceeds \$100,000.00. The need for repairs or replacement of any improvements would be evaluated at the building permit stage by the City's Engineering Department (Condition #19 of Staff Report 21-305).

Landscaping

- H) The proposed project includes landscaping along Olive Avenue, Highway 59, and throughout the parking lot. Plant species should be drought tolerant and all irrigation systems must comply with the latest requirements for water conservation (Condition #34 of Staff Report 21-305).

Mandatory Conditional Use Permit Findings

- I) In order for the Planning Commission to approve or deny a conditional use permit, they must consider the following criteria and make findings to support or deny each criteria per MMC 20.68.020 (E) – Findings for Approval.

1. *The proposed use is consistent with the purpose and standards of zoning district, the general plan, and any adopted area or neighborhood plan, specific plan, or community plan.*

The proposed project complies with the General Plan designation of Business Park (BP) and the zoning designation of Planned Development (P-D) #12 with approval of this conditional use permit and site plan review permit.

2. *The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the subject property.*

The site plan for this site was approved as a part of General Plan Amendment #21-02 and Site Utilization Plan Revision #2 to Planned Development #12 on May 3, 2021. The proposed use fits within the character and design of that site plan. Staff does not anticipate that the approval of this proposal would significantly change the character of the neighborhood or create any unusual circumstance for the surrounding area.

3. *The proposed use will not be detrimental to the public health, safety, and welfare of the city.*

As shown under Finding B, staff does not anticipate that this proposal would be detrimental to the public health, safety, and welfare of the City. Planning staff consulted with the Merced Police Department regarding alcohol sales at this location; the Police Department did not have any significant concerns with this request and is not requiring any conditions of approval not normally associated with alcohol sales for off-site consumption. Based on the information provided by the Police Department, staff does not anticipate that the approval of this request would adversely affect the public health, safety, and welfare of the City.

4. *The proposed use is properly located within the City and adequately served by existing or planned services and infrastructure.*

The subject site is properly located within the City and can be served by existing or planned services and infrastructure.

Mandatory Site Plan Review Findings

- J) A Site Plan Review Permit is required for this project per MMC 20.68.050 and per the Interface requirements at MMC 20.32. In order for the Planning Commission to approve or deny a site plan review permit, they must consider the following criteria and make findings to support or deny each criteria per MMC 20.68.050 (F) "Findings for Approval for Site Plan Review Permits." These findings are provided below.

1. *The proposed project is consistent with the General Plan, and any adopted area, specific, community, or neighborhood plan.*

The proposed project complies with the General Plan designation of Business Park (BP) with approval of this conditional use permit and site plan review permit. The proposed project is not inconsistent with any adopted specific, community, or neighborhood plan for this area.

2. *The proposed project complies with all applicable provisions of the Zoning Ordinance and Municipal Code.*

The proposed project complies with all applicable provisions of the Zoning Ordinance, Municipal Code, and Planned Development #12 with approval of this conditional use permit and site plan review permit. Conditions of approval for

Resolution #4064 (Exhibit A) explicitly ensure that Zoning Ordinance and Municipal Code provisions are adhered to.

3. *The design and layout of the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.*

The layout of the proposed project does not interfere with use and enjoyment of existing and future neighboring properties and structures. The property will use, in part, the existing access point along Olive Avenue that is shared by the property to the east. Condition #4 of Resolution #4064 requires that the Project shall comply with the conditions set forth in General Plan Amendment #20-02, Site Utilization Plan Revision #2 to Planned Development #12, previously approved for this development. That document includes a condition of approval requiring an access agreement between this parcel and the parcel to the east, ensuring that this development's access does not interfere with the neighboring property's existing and future enjoyment.

4. *The proposed architectural design makes use of appropriate materials, texture and color, and will remain aesthetically appealing and appropriately maintained.*

The materials, texture, and color of the proposed design are consistent with the approved designs set forth in General Plan Amendment #20-02 and Site Utilization Plan Revision #2 to Planned Development #12, previously approved for this development.

5. *Any proposed landscaping design, including color, location, size, texture, type, and coverage of plant materials, as well as provisions for irrigation, maintenance, and protection landscaping elements, will complement structures and provide an attractive environment.*

The proposed landscape complements the structures and provides an attractive environment, providing screening and complementing the overall site. Conditions #31, 32, 33, and 34 of Resolution #4064 require landscaping to meet City and State standards for size, canopy, species, irrigation, water conservation, and maintenance of landscaping.

6. *The proposed design will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity of the proposed project.*

As shown under Finding B, staff does not anticipate that this proposal would be detrimental to the public health, safety, and welfare of the City. Planning staff consulted with the Merced Police Department regarding alcohol sales at this location; the Police Department did not have any significant concerns with this request and is not requiring any conditions of approval not normally associated with alcohol sales for off-site consumption. Based on the information provided by the Police Department, staff does not anticipate that the approval of this request would adversely affect the public health, safety, and welfare of the City, nor that it would be injurious to the property or improvements in the vicinity of the proposed project.

Environmental Clearance

- K) Planning staff has conducted an environmental review (Environmental Review #21-07) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and recommends that the previous environmental review (Initial Study #20-36 for General Plan Amendment #20-02 and Site Utilization Plan Revision #2 for Planned Development #12) remains sufficient and no further documentation is required (CEQA Section 15162 Findings) (Attachment H of Staff Report #21-305).