

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #17-09 (Categorical Exemption) and Conditional Use Permit #1219, subject to the following conditions:

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) -- Attachment C, except as modified by the conditions.
- *2) All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions"—except for Condition #16 which has been superseded by Code) shall apply.
- *3) 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, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
- *4) 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.
- 5) Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
- 6) All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
- 7) The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
- 8) 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.
- 9) The proprietor and/or successors in interest and management shall be prohibited from advertising or promoting beer & wine and/or distilled spirits on the building or in the windows. No self-illuminated advertising for beer or wine shall be permitted.

- 10) No beer shall be displayed or stored outside of the cooler areas.
- 11) No display or sale of beer or wine shall be made from an ice tub.
- 12) Employees on duty between the hours of 9 p.m. and 11 p.m. shall be at least 21 years of age to sell alcohol.
- 13) Alcohol sales shall cease by 12:00 a.m. regardless of the business hours for the store in general.
- *14) 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.
- 15) The area within the convenience market dedicated to the display and sale of alcoholic beverages beer shall not be more than 3 cooler spaces (typical of those found in a grocery store or convenience market) or 65 square feet. The area dedicated to the display and sale of wine on free-standing shelves or coolers shall not exceed 40 square feet.
- 16) The City reserves the right to periodically review the area for potential problems. If 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.
- 17) 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 containers that are 750 ml or larger may be sold as single-serving containers
- 18) The business shall comply with all applicable requirements from the Merced County Health Department.
- *19) 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.
- 20) This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.
- 21) A permanent tamper-proof outdoor trash receptacles shall be installed near the main entrance to the convenience market.

(*) Denotes non-discretionary conditions.