

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, August 22, 2018

Chairperson DYLINA called the meeting to order at 7:01 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Mary Camper, Scott G. Drexel, Michael Harris, Jeremy Martinez, Peter Padilla, Sam Rashe, and Chairperson Robert Dylina

Commissioners Absent: None

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Principal Planner Hren, Interim Deputy City Attorney Flores, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

M/S PADILLA-MARTINEZ, and carried by unanimous voice vote, to approve the Agenda as submitted.

2. **MINUTES**

M/S PADILLA-DREXEL, and carried by unanimous voice vote, to approve the Minutes of August 8, 2018, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Commercial Cannabis Business Permit #18-27, #18-28, and #18-31, initiated by Blue Fire, Inc., on two properties owned by REM Land Group, LLC. These applications are requests to permit the Cultivation of up to 22,000 square feet of cannabis and Distribution of cannabis and cannabis-based products on a parcel of 3.6 acres; and Distribution of cannabis and cannabis-based products on a separate parcel of 2.08 acres. The first parcel, for which the permits seek both Cultivation and Distribution activities, is 1985 W. Olive Avenue, Suite A, within Planned Development (P-D) #12, with a General Plan designation of Industrial (IND). The second parcel, for which the permit seeks Distribution activities, is 1975 W. Olive Avenue within Planned Development (P-D) #12, with a General Plan Designation of Industrial (IND).

Principal Planner HREN reviewed the report on this item. He noted a memo from staff recommending the addition of Conditions #17, #18, and #19, which was provided to the Commission prior to the meeting. For further information, refer to Staff Report #18-19.

Public testimony was opened at 7:20 p.m.

Speakers from the Audience in Favor:

CALEB COUNTS, Connected Cannabis Co., Consultant to Blue Fire, Inc., Sacramento

DEVIN STETLER, Applicant, Modesto

RON ROBERTS, Property Owner, Oakdale

Mr. STETLER talked about the facility's security and he indicated that bringing in a well-designed facility into the area might displace/remove any cases of loitering or vandalism that is frequently reported at this time.

Public testimony was completed at 7:38 p.m. and then re-opened by Chairperson DYLINEA to allow a member from the audience to speak.

Speakers from the Audience in Opposition:

GWEN KELLER, Resident near the project site, Merced

JEFF KELLER, Resident near the project site, Merced

Mr. and Mrs. KELLER voiced concerns of having a Cannabis business near their neighborhood. They brought up the odors and the possibility of an influx in crime in their community.

Mr. ROBERTS spoke in rebuttal. He assured the audience and the Commission that their facility is secure and that no one can enter without expressed consent via a pre-scheduled appointment.

Public testimony was completed at 7:53 p.m.

The Commission voiced concerns including the applicant's lack of experience in the industry and their method of addressing public complaints.

Director of Development Services McBRIDE addressed the Commission and assured them that the City has developed a well-researched system of regulations for these businesses and informed the Commission that the City reserves the right to revoke licenses if the businesses do not comply with those regulations.

Planning Manager ESPINOSA added that the businesses are obligated to renew their licenses every year, which will include a review by the Director of Development Services of the business' overall compliance.

M/S PADILLA-RASHE, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-19 and #18-40, and approve Commercial Cannabis Business Permits #18-27, #18-28, and #18-31, subject to the Findings and sixteen (16) Conditions set forth in Staff Report #18-19, with the addition of Conditions #17, #18, and #19 as follows (RESOLUTION #4002):

(Note: ~~Strikethrough~~ and deleted language, underline added language.)

“ 17. The room labeled as ‘Manufacturing’ on the submitted floor plan for 1985 W. Olive Avenue, Suite A, is listed as a potential future use of space and neither this room nor any other room on this property is to be utilized for any activity that would require a Commercial Cannabis Business Permit for Manufacturing unless such a permit is obtained from the City of Merced; furthermore, all uses for this room must be in compliance with all other conditions of Commercial Cannabis Business Permits #18-28 and #18-31.

“18. Third party peer review for unlisted mechanical equipment shall be obtained at the expense of the applicant as part of the plan submittal for building review.

“19. The applicant shall, at their own expense, repair or cause to be repaired all damaged sidewalk along the frontage of 1985 and 1975 W. Olive Avenue.”

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

NOES: None

ABSENT: None

ABSTAIN: None

4.2 Commercial Cannabis Business Permit #18-32, #18-33, and #18-34, initiated by Connected Cannabis Co., on property owned by REM Land Group, LLC. These applications are requests to permit the Cultivation of up to 22,000 square feet of cannabis, the Distribution of cannabis and cannabis-based products, and the Manufacturing of cannabis-based products using both volatile and non-volatile methods at 1985 W. Olive Avenue, Suite B, a parcel of 3.6 acres within Planned Development (P-D) #12, with a General Plan designation of Industrial (IND).

Principal Planner HREN reviewed the report on this item. He noted a memo from staff recommending the addition of Conditions #16 and #17, which was provided to the Commission prior to the meeting. For further information, refer to Staff Report #18-20.

Public testimony was opened at 8:08 p.m.

Speakers from the Audience in Favor:

CALEB COUNTS, Connected Cannabis Co., Applicant, Sacramento
RON ROBERTS, property owner, Oakdale

The Commission asked questions of the applicant regarding their years of experience in the industry and their chosen method of security.

Mr. COUNTS stated that Connected Cannabis Co. uses armed guards to patrol their facilities after business hours.

Mr. ROBERTS described the layout of the camera systems on the premises.

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 8:14 p.m.

M/S PADILLA-HARRIS, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-48, and approve Commercial Cannabis Business Permits #18-32, #18-33, and #18-34, subject to the Findings and fifteen (15) Conditions set forth in Staff Report #18-20, with the addition of Conditions #16 and #17 as follows (RESOLUTION #4003):

(Note: ~~Strikethrough~~ and deleted language, underline added language.)

“16. Third party peer review for unlisted mechanical equipment shall be obtained at the expense of the applicant as part of the plan submittal for building review.

“17. The applicant shall, at their own expense, repair or cause to be repaired all damaged sidewalk along the frontage of 1985 W. Olive Avenue.”

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

NOES: None

ABSENT: None

ABSTAIN: None

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

6. **ADJOURNMENT**

There being no further business, Chairperson DYLINEA adjourned the meeting at 8:19 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINEA, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #4002

WHEREAS, the Merced City Planning Commission at its regular meeting of August 22, 2018, held a public hearing and considered **Commercial Cannabis Business Permits #18-27, #18-28, and #18-31**, initiated by Blue Fire. Inc., on two properties owned by REM Land Group, LLC. These applications are requests to permit the Cultivation of up to 22,000 square feet of cannabis and Distribution of cannabis and cannabis-based products on a parcel of 3.6 acres; and Distribution of cannabis and cannabis-based products on a separate parcel of 2.08 acres. The first parcel, for which the permits seek both Cultivation and Distribution activities, is 1985 W. Olive Avenue, Suite A, within Planned Development (P-D) #12, with a General Plan designation of Industrial (IND). The second parcel, for which the permit seeks Distribution activities, is 1975 W. Olive Avenue within Planned Development (P-D) #12, with a General Plan Designation of Industrial (IND); also known as Assessor's Parcel Numbers (APNs) 058-030-036 and 058-030-004; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #18-19; 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 adopt a Categorical Exemption regarding Environmental Review #18-19 and Environmental Review #18-40, and approve Commercial Cannabis Business Permits #18-27, #18-28, and #18-31, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dyline

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 4002

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August 22, 2018

Adopted this 22nd day of August, 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 4002
Commercial Cannabis Business Permits #18-27, #18-28, and #18-31

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) -- Attachments B and D of Staff Report #18-19, except as modified by the conditions.
2. All conditions and requirements contained in Ordinance #2480 (Attachment F of Staff Report #18-19) shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
5. 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 (with counsel selected by the City), 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 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.

6. 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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The proposed project shall provide that all cultivation and distribution activities occur indoors within a fully enclosed and secure structure, and ensure that the property on which the structure sits is secure and appropriately screened. The details of the property's fencing, security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
9. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment G of Staff Report #18-19) at the time of submittal for building permits for tenant improvement.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. The facility operated by the applicants shall be secured from intentional or accidental access by any person not employed, contracted or otherwise authorized on the premises, including any tenants of other buildings on the same property.
12. Fire sprinklers shall be modified to accommodate the building configuration and process configuration prior to occupancy.

13. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
14. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with 20.44.170(L).4, “Commercial Cannabis Business Permit Renewal (All Types)”, at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.
15. Commercial Cannabis Business Permit (CCBP) #18-27 is expressly for the purposes of cannabis distribution activities and does not permit the use of the facility at 1975 W. Olive Avenue for use as a dispensary or retail sales facility. An application for a CCBP for operation of a Dispensary at this address has been received by the City of Merced and will be processed separately. Any portion of the application materials for CCBP #18-27 that refer to Retail Sales or Dispensary activities shall not be undertaken without a valid permit from the City of Merced expressly for Dispensary use.
16. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to the cultivation and distribution of cannabis and cannabis-based products may be authorized with the approval of the City’s Chief Building Official, Fire Chief, and Director of Development Services.
17. The room labeled as ‘Manufacturing’ on the submitted floor plan for 1985 W. Olive Avenue, Suite A, is listed as a potential future use of space and neither this room nor any other room on this property is to be utilized for any activity that would require a Commercial Cannabis Business Permit for Manufacturing unless such a permit is obtained from the City of Merced; furthermore, all uses for this room must be in compliance

with all other conditions of Commercial Cannabis Business Permits #18-28 and #18-31.

18. Third party peer review for unlisted mechanical equipment shall be obtained at the expense of the applicant as part of the plan submittal for building review.
19. The applicant shall, at their own expense, repair or cause to be repaired all damaged sidewalk along the frontage of 1985 and 1975 W. Olive Avenue.

n:\shared\planning\PC Resolutions\CCBP #18-27, 18-28, 18-31 Exhibit A

CITY OF MERCED
Planning Commission

Resolution #4003

WHEREAS, the Merced City Planning Commission at its regular meeting of August 22, 2018, held a public hearing and considered **Commercial Cannabis Business Permits #18-32, #18-33, and #18-34**, initiated by Connected Cannabis Co., on a property owned by REM Land Group, LLC. These applications are requests to permit the Cultivation of up to 22,000 square feet of cannabis, the Distribution of cannabis and cannabis-based products, and the Manufacturing of cannabis-based products using both volatile and non-volatile methods at 1985 W. Olive Avenue, Suite B, a parcel of 3.6 acres within Planned Development (P-D) #12, with a General Plan designation of Industrial (IND); also known as Assessor's Parcel Number (APN) 058-030-036; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #18-20; 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 adopt a Categorical Exemption regarding Environmental Review #18-48 and approve Commercial Cannabis Business Permits #18-32, #18-33, and #18-34, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

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

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 4003

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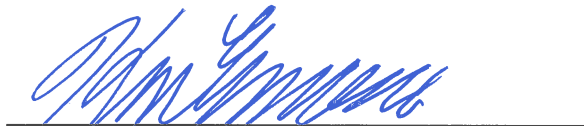
August 22, 2018

Adopted this 22nd day of August, 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #4003
Commercial Cannabis Business Permits #18-32, #18-33, and #18-34

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) -- Attachments B-1 and D of Staff Report #18-20, except as modified by the conditions.
2. All conditions and requirements contained in Ordinance #2480 (Attachment F of Staff Report #18-20) shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
5. 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 (with counsel selected by the City), 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 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.

6. 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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The proposed project shall provide that all manufacturing, cultivation, and distribution activities occur indoors within a fully enclosed and secure structure, and ensure that the property on which the structure sits is secure and appropriately screened. The details of the property's fencing, security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
9. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment G of Staff Report #18-20) at the time of submittal for building permits for tenant improvement.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. The facility operated by the applicants shall be secured from intentional or accidental access by any person not employed, contracted or otherwise authorized on the premises, including any tenants of other buildings on the same property.
12. Fire sprinklers shall be modified to accommodate the building configuration and process configuration prior to occupancy.

13. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
14. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with 20.44.170(L).4, “Commercial Cannabis Business Permit Renewal (All Types)”, at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.
15. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to the cultivation and distribution of cannabis and cannabis-based products may be authorized with the approval of the City’s Chief Building Official, Fire Chief, and Director of Development Services.
16. Third party peer review for unlisted mechanical equipment shall be obtained at the expense of the applicant as part of the plan submittal for building review.
17. The applicant shall, at their own expense, repair or cause to be repaired all damaged sidewalk along the frontage of 1985 W. Olive Avenue.

n:shared:planning:PC Resolutions: CCBP #18-32, 18-33, 18-34 Exhibit A