

CITY OF MERCED
Planning Commission

Resolution #4018

WHEREAS, the Merced City Planning Commission at its regular meeting of April 3, 2019, held a public hearing and considered **Conditional Use Permit #1229**, initiated by 59 Petroleum, LLC, on behalf of Louann Bianchi, property owner. This application involves a request to sell beer and wine for off-site consumption for a new gas station (Arco AM/PM), generally located at the northwest corner of Santa Fe Drive/Olive Avenue and N. Highway 59 (3297 Santa Fe Drive), within a zoning classification of Thoroughfare Commercial (C-T), and a General Plan designation of Thoroughfare Commercial (CT) once the annexation to the City is completed; also known as Assessor's Parcel Number (APN) 057-200-067; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through E of Staff Report #19-10; 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 #19-05, and approve Conditional Use Permit #1229, 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 Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: Commissioner Camper

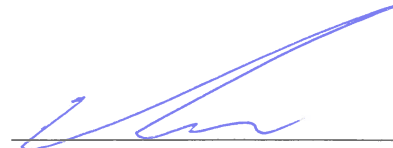
ABSTAIN: None

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April 3, 2019

Adopted this 3 day of April 2019.



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #4018
Conditional Use Permit #1229

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) -- Attachment D of Staff Report #19-10, 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in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions"—except for Condition #16 which has been superseded by Code) shall apply.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 Project shall comply with the conditions set forth in Planning Commission Resolution #3095 for Pre-zoning Application #15-01 and General Plan Amendment #15-04, previously approved for this project (Attachment I of Staff Report #19-10).
4. 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.

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. All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
8. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
9. 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.
10. No display or sale of beer or wine shall be made from an ice tub.
11. Employees shall be at least 21 years old to sell alcohol.
12. 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.
13. The area within the convenience market dedicated to the display and sale of beer shall not be more than 7 cooler spaces (typical of those found in a grocery store or convenience market) or 150 square feet, in addition to 60 square feet outside the cooler area. The area dedicated to the display and sale of wine on free-standing shelves or coolers shall not exceed 20 square feet.
14. 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.

15. 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.
16. No alcohol shall be displayed within five feet of the cash register or the front door.
17. No advertisement of alcoholic beverages shall be displayed on motor fuel islands, in landscaped areas, or outside the buildings or windows.
18. No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
19. No sale of alcoholic beverages shall be made from a drive-up window.
20. The business shall comply with all applicable requirements from the Merced County Health Department.
21. 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.
22. A permanent tamper-proof outdoor trash receptacle shall be installed near the main entrance to the convenience market.
23. The conditional use permit will only become valid on the date that the annexation to the City is complete. If the annexation is not completed within two years of this Planning Commission date, the approval will be null and void, and a new conditional use permit would need to be applied for.

n:\shared\planning\PC Resolutions: CUP #1229 Exhibit A