

**PROPOSED CONDITIONS
CONDITIONAL USE PERMIT #1231**

If the City Council wishes to approve Conditional Use Permit #1231, staff recommends the approval include Environmental Review #19-18 (Mitigated Negative Declaration), and the following conditions:

- *1) The proposed shall be constructed/designed in substantial compliance with the Site Plan, Floor Plan, Elevations, and Renderings (Attachments C, D, E, F, and G of Planning Commission Staff Report #19-22), 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) The Project shall comply with the applicable conditions set forth in Resolution #3049 for General Plan Amendment #14-06 and Zone Change #421 previously approved for this site.
- *4) All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
- *5) The approval of this Conditional Use Permit is contingent on City Council approval of General Plan Amendment #19-02 and Zone Change #426. The effective date of the Conditional Use Permit approval will be the effective date of the City Council approval of the General Plan Amendment and Zone Change. If the General Plan Amendment and Zone change are not approved, the Planning Commission's approval of the Conditional Use Permit will be null and void.
- *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 (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.
- *7) 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.
- *8) 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

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lights, parks and open space. CFD procedures shall be initiated before final map approval or issuance of a building permit, whichever comes first. 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.

- *9) The project shall comply with all mitigation measures outlined in the Mitigation Monitoring Program for Initial Study #19-18 (Exhibit B of Planning Commission Resolution #K) and all applicable mitigation measures outlined in the Mitigation Monitoring Program for Initial Study #14-32 (Appendix A of Initial Study #19-18, Attachment K of Staff Report #19-22).
- *10) All signs shall comply with the North Merced Sign Ordinance and Section 20.62.040 (B)(2) of the City's Zoning Ordinance for signs in a Neighborhood Commercial (C-N) zone.
- *11) The applicant shall construct all missing improvements along the property frontage on Yosemite Avenue and McKee Road including, but not limited to, sidewalk, curb, gutter, street lights, and street trees.
- *12) All necessary right-of-way along the property frontage, including Yosemite Avenue, McKee Road, and Whitewater Way, needed for public improvements shall be dedicated prior to the issuance of the first building permit.
- *13) Appropriate turning radii shall be provided within the parking areas to allow for Fire Department and refuse truck access.
- *14) Parking lot trees shall be installed per City Parking Lot Landscape Standards and Section 20.38.070 (F). At a minimum, parking lot trees shall be provided at a ratio of one tree for every six parking spaces. Trees 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).
- *15) All projects on this site shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
- *16) Prior to issuance of the first grading/building permit for any project on the site, the applicant shall demonstrate compliance with San Joaquin Valley Air Pollution Control District Rule 9510 to the Planning Department. Changes to the site plan resulting from compliance with Rule 9510 are subject to review by City Staff or the Planning Commission, as determined by the Director of Development Services.
- *17) Bicycle parking for all projects on the site shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.
- *18) All landscaping on the site shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Section 20.36 – Landscaping.

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- *19) Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.
- *20) All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or parkstrips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.
- *21) If it is determined by the Fire Department that emergency vehicle access to Whitewater Way is needed to adequately serve the site or the surrounding area, the developer shall work with the City to provide such access, including an emergency gate with appropriate knox boxes, etc. as required by the Fire Department.
- *22) For buildings over 30 feet tall, a minimum 26-foot-wide drive aisle shall be provided for emergency vehicle access. The developer shall work with the Fire Department to determine the areas that need the 26-foot-wide drive aisle.
- *23) A fire control room may be required for the buildings on the site. The applicant shall work with the Fire Department to determine the location of the fire control room. Additional fire control rooms may be required at the discretion of the Fire Chief.
- *24) Each building shall be provided with a Fire Department Connection.
- *25) Buildings that do not provide an elevator (other than a freight elevator) shall be provided with an additional exit. The developer shall work with the Chief Building Official to determine the number of exits required for each building.
- *26) Each unit shall be provided with cooking facilities, other than a hot plate or microwave, as well as bathroom facilities per the California Building Code definition of an "Efficiency Dwelling Unit."
- *27) A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.
- *28) All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards, subject to a storm drain plan approved by the City Engineer.
- *29) The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
- *30) All parking lot and other exterior lighting shall be oriented in such a way so that it does not spill over onto adjacent properties.
- 31) Each unit shall be only be rented to a single occupant. At no time shall more than one person reside in each unit.
- 32) The owner/developer shall work with the City Engineer and Public Works Director to determine the best method for wastewater discharge from the site. This may be accomplished by providing an on-site storage system to capture wastewater and store it for discharge to the City's wastewater system during off-peak hours. The City Engineer and/or

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Public Works Director shall have final approval of the method used.

- 33) Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks as well as the number of containers needed to adequately serve the site. Use of a trash compactor should be considered to reduce the number of pick-ups per week.
- 34) A minimum 6-foot high concrete block wall shall be installed along the southern property line. The height of the wall could be increased, not to exceed 8-feet tall, if required by the Planning Commission. A minimum five-foot wide landscaping area shall be provided to allow for the planting of vines or other appropriate landscape material.
- 35) Drive-thru uses, bars, nightclubs, and large convenience markets similar to a 7-Eleven type store are not allowed. Small convenience markets intended to serve the tenants or the immediate neighborhood could be allowed. Restaurants serving alcohol could be allowed with Conditional Use Permit approval.
- 36) All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.
- 37) All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.
- 38) All mechanical equipment shall be screened from public view.

(*) Denotes non-discretionary conditions.