

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, June 17, 2020

Chairperson HARRIS called the Meeting to order at 7:02 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Stephanie Butticci, Mary Camper, Jose Delgadillo, Robert Dylina, Sam Rashe, Dorothea Lynn White, and Chairperson Michael Harris

Commissioners Absent: None

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Associate Planner Mendoza-Gonzalez, Deputy City Attorney Campbell, and Recording Secretary Gates

1. APPROVAL OF AGENDA

M/S DELGADILLO-WHITE, and carried by the following vote, to approve the Agenda as submitted.

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

NOES: None

ABSENT: None

ABSTAIN: None

2. MINUTES

M/S RASHE-DYLINA, and carried by the following vote, to approve the Minutes of June 3 and 10, 2020, as submitted.

AYES: Commissioners Butticci, Camper, Delgadillo, Dylina, Rashe, White, and Chairperson Harris
NOES: None
ABSENT: None
ABSTAIN: None

3. **COMMUNICATIONS**

None

4. **ITEMS**

Secretary's Note: Commissioner DYLINA recused himself prior to the reading of Item 4.1 due to a previous business relationship with the applicant.

4.1 Vacation #20-03, initiated by Mohammed Jawad, to vacate a 315-square-foot easement within the vacant parcel at 1001 W. 16th Street, generally located at the northwest corner of 16th Street and Q Street.

As a Consent item, there was no Staff Presentation. For further information, refer to Staff Report #20-14

M/S CAMPER-RASHE, and carried by the following vote, to find that the proposed Vacation #20-03 (to vacate a 315-square-foot easement within the vacant parcel at 1001 W. 16th Street, generally located at the northwest corner of 16th Street and Q Street), is consistent with the *Merced Vision 2030 General Plan*.

AYES: Commissioners Butticci, Camper, Delgadillo, Rashe, White, and Chairperson Harris
NOES: None
ABSENT: None
ABSTAIN: Commissioner Dylina

Commissioner Dylina returned to the dais.

4.2 Conditional Use Permit #1243, initiated by El Portal Owners Association and Leonard Ostericher, property owners. This

application involves consideration of a Comprehensive Sign Package (including a 20-foot-tall double-sided pylon sign with digital boards) for the Plaza at El Portal. The site is generally located on the southwest and northwest corner of El Portal Drive and G Street, within Planned Development (P-D) #44, with Office Commercial (CO) and Thoroughfare Commercial (CT) General Plan designations.

Associate Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #20-11.

Public testimony was opened at 7:15 p.m.

Speakers from the Audience in Favor:

CHARLIE GAY, Applicant, Merced

LEONARD OESTRICHER, Applicant, Merced

There were no speakers in opposition to the project.

Public testimony was closed at 7:28 p.m.

M/S DYLINEA-RASHE, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #20-11 and approve Conditional Use Permit #1243, subject to the Findings and twenty-three (23) Conditions set forth in Staff Report #20-11, amending Condition #19 as follows (RESOLUTION #4041):

(New language underlined, deleted language ~~strike-through~~.)

- “19. Advertisement slides on the changeable copy sign shall be spaced apart in time by at least 15 ~~30~~ seconds between rotations due to its location adjacent to residential uses. The timing between slides may be modified by the Director of Development Services or be referred to the Site Plan Review Committee if determined appropriate by the Director of Development Services.”

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

NOES: None

ABSENT: None

ABSTAIN: None

- 4.3 Conditional Use Permit #1239 and Site Plan Review #456, initiated by Yosemite Village, LLC, property owner. This application involves a request to develop an apartment complex with 220 residential units on 11.98 acres and reserving a 3.54-acre outparcel for future retail, generally located on the north side of Yosemite Avenue between Compass Pointe Avenue and El Redondo Drive. The property has a General Plan designation of Neighborhood Commercial (CN) and is zoned Planned Development (P-D) #46

Associate Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #20-12.

Public testimony was opened at 7:57 p.m.

Speaker from the Audience in Favor:

TERRY JOHNSON, Applicant, Merced

Speaker from the Audience Neutral:

JOEL MOSES, Merced

There were no speakers in opposition to the project.

Public testimony was closed at 8:29 p.m.

M/S DYлина-WHITE, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #20-04 and approve Conditional Use Permit #1243, and Site Plan #456 subject to the Findings and twenty-seven (27) Conditions set forth in Staff Report #20-11, amending Conditions #8 and #10 as follows (RESOLUTION #4042):

(New language underlined, deleted language ~~strike-through~~.)

“8. All buildings shall be regularly maintained to keep the building finishes in good condition and aesthetically pleasing. The buildings visible from Yosemite Avenue shall have a diversity of colors and textures.

“10. The applicant shall install a bus stop or shelter along the project site (with a full pullout unless deemed infeasible by the City Engineer or undesirable by the transit authority) to qualify for a 10% parking reduction as allowed under MMC Section 20.38.050.”

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

NOES: None

ABSENT: None

ABSTAIN: None

4.4 Set Special Meeting for June 24, 2020, and Cancellation of the July 8, 2020, Planning Commission Meeting

M/S DYLINE-DELGADILLO, and carried by the following vote, to set a Special Meeting for June 24, 2020, and to cancel the Planning Commission Meeting of July 8, 2020.

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

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.

June 17, 2020

6. **ADJOURNMENT**

M/S CAMPER-RASHE, and carried by the following vote, to adjourn the meeting.

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

NOES: None

ABSENT: None

ABSTAIN: None

There being no further business, Chairperson HARRIS adjourned the meeting at 8:54 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



MICHAEL HARRIS, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #4041

WHEREAS, the Merced City Planning Commission at its regular meeting (held via teleconference) of June 17, 2020, held a public hearing and considered **Conditional Use Permit #1243**, initiated by El Portal Owners Association and Leonard Ostericher, property owners. This application involves consideration of a Comprehensive Sign Package (including a 20-foot-tall double-sided pylon sign with digital boards) for the Plaza at El Portal. The site is generally located on the southwest and northwest corner of El Portal Drive and G Street, within Planned Development (P-D) #44, with an Office Commercial (CO) and Thoroughfare Commercial (CT) General Plan designation said property being more particularly described as a Portion of Parcels 1 through 11, and Parcels A through Q as shown on that certain Parcel Map for the Plaza at El Portal Group and Parcel Map for Moonlight Investments, recorded in Volume 95, Page 46, and Volume 90, Page 4, of Merced County Records; also known as Assessor's Parcel Number (APN) 236-280-017 and 236-280-017; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through G (Exhibit B) of Staff Report #20-11; 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 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 adopt a Categorical Exemption regarding Environmental Review #20-11, and approve Conditional Use Permit #1243, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

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

NOES: None

PLANNING COMMISSION RESOLUTION # 4041

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ABSENT: None

ABSTAIN: None

Adopted this 17th day of June 2020



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4041
Conditional Use Permit #1243

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (Master Sign Program) and Exhibit 2 (Pylon Sign), - Attachments C and D of Planning Commission Staff Report #20-11, 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 other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
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 (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.
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. No temporary freestanding or moveable signs shall be allowed, unless otherwise authorized by the Municipal Code.
7. 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, 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.
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. Additional shopping center signs and monument signs may be considered for the subject site as allowed by the Merced Municipal Code.
10. Final approval of each individual tenant sign shall require a sign permit and are subject to the Sign Criteria as spelled out in Attachment C of Planning Commission Staff Report #20-11.
11. The changeable copy sign shall comply with Merced Municipal Code Section 20.36.667.L.2.C – Free-Standing or Wall-Mounted Signs, including those provisions that allow for advertising for public events as determined by the City of Merced (Attachment E of Planning Commission Staff Report #20-11).
12. The proposed changeable copy sign shall not advertise private businesses that are located off-site. Only on-site businesses shall be allowed to advertise on the changeable copy sign, except as allowed for public events.
13. The changeable copy sign cannot include any type of signs deemed a traffic hazard by the City Engineer for vehicles driving along the frontage of this site. This may include the use of scrolling text, flashing signs, or rapidly rotating advertisements.
14. Future shopping center signs such as monument signs, shall be designed to match the pylon sign. This shall require using similar colors, textures, material, and overall aesthetic style.

15. Minor modifications to Master Sign Program may be reviewed and approved by the Director of Development Services, or if deemed necessary be referred to the Site Plan Review Commission, or Planning Commission.
16. In the event that the Master Sign Program conflicts with the Merced Municipal Code, the stricter of the two shall be implemented.
17. Final locations of all signs, including required setbacks from intersections and driveways as determined by the Municipal Code, are subject to Planning Division approval at the time of issuance of a sign permit.
18. The changeable copy sign shall not display videos.
19. Advertisement slides on the changeable copy sign shall be spaced apart in time by at least 15 seconds between rotations due to its location adjacent to residential uses. The timing between slides may be modified by the Director of Development Services or be referred to the Site Plan Review Committee if determined appropriate by the Director of Development Services.
20. The pylon sign shall be located outside the vision triangle area per Merced Municipal Code Section 20.30.030 – Corner Vision Triangles, and Table 20.32.2 Required Vision Triangle Distance by Street Type.
21. The pylon sign shall be finished with an anti-graffiti protective coat.
22. Prior to construction, an illumination study shall be submitted for the changeable copy sign and approved by the Director of Development Services or designee. The purpose of the study is to ensure that illumination levels of the sign are set at a level so as not to unduly impact surrounding residential uses.
23. The changeable copy sign shall be turned off from the hours of 10:00 p.m. p.m. to 7:00 a.m. daily so as not to disturb surrounding residential uses.
24. The digital copy sign shall be of variable luminosity to reduce illumination based on the light available.

**Findings and Considerations
Planning Commission Resolution #4041
Conditional Use Permit #1243**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Office Commercial (CO) and Thoroughfare Commercial (C-T), with the Zoning designation of Planned Development (P-D) #44 with approval of this Conditional Use Permit.

Public Improvements/City Services

- B) Per Condition #7, Merced Municipal Code Section 17.04.050 and 17.04.060, requires full public improvements to be installed/repaired if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, 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. The need for any new improvements or repairs to existing improvements would be determined by the Engineering Department at the building permit stage.

Signage

- C) All signs would be required to comply with the Merced Municipal Code. Building permits are required prior to the installation of any permanent signs. As stated in the proposed Master Sign Program, the professional center would require an internal review process with approval from the landlord or ownership group prior to tenants submitting signage proposals for City review. The landlord intends to be flexible with tenant signage, as some tenants may be trying to achieve a standard corporate design, but the ownership will try to ensure that signage throughout the professional center is cohesive, compatible, or complementary to achieve design balance for the entire plaza. The Master Sign Program includes several standards that are consistent with the North Merced Sign Ordinance (such as requiring individual channel letters), along with other specific internal regulations such as limiting the type of temporary or window signs that could be used by tenants. In the event that the Master Sign Program conflicts with the Sign Ordinance, the stricter of the two codes shall be implemented (Condition #16). This also applies to usage and duration of temporary signs.

Professional Center Pylon Sign

- D) The applicant has provided the Master Sign Program shown at Attachment C. Individual tenant signs would be reviewed by the landlord or ownership group before submitting sign permit applications to the Building Department to ensure a cohesive aesthetic between the various tenants - with consideration for design, materials, and colors. The proposed double-sided freestanding pylon sign would be approximately

20-feet-tall and 10-feet-wide, providing visibility from both the north-bound and south-bound lanes along G Street. The pylon sign would be placed away from the vision corner triangle area (Condition #20). Each pylon elevation would be crowned with a decorative cornice that utilizes the earth tone color scheme exhibited throughout the buildings within the professional center. Below the cornice would be a digital board (changeable copy sign) that is approximately 5 feet tall and 10 feet wide, with a white LED lighting system displaying full color. Underneath the screen are independent channel letters that callout “The Plaza at El Portal” followed by “Welcome to Merced,” with Merced being written in the familiar font type utilized by UC Merced. The overall body and base of the sign will be made of aluminum textcot, and finished with an anti-graffiti protective coat (Condition #21).

Per MMC 17.36.667.L.2.C a free-standing sign may include a changeable copy (digital board) if it meets specific standards as shown at Attachment E, with the inclusion of periodically displaying City/community events or safety campaigns (and other matters) as directed by the City of Merced. Other pylon signs have been approved this year such as the future shopping center at G Street and Yosemite Avenue, and the Campus Parkway Plaza located near the Campus Parkway Exit.

Neighborhood Impact/Public Comments

- E) Due to surrounding residential uses, staff has proposed several conditions (#19, 22, and 23) to minimize impacts of the sign on those uses. Staff mailed a public hearing notice to property owners within 300 feet of the subject site, and published the public hearing notice in the *Merced County Times*. As of the time this report was prepared, (6/12/2020), Planning staff has not received any comments from the public.

Conditional Use Permit

- F) A conditional use permit (CUP) is required to allow a shopping center pylon sign with changeable copy. 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 Merced Municipal Code (MMC) 20.68.020 (E) Findings for Approval for Conditional Use Permits.

MMC 20.68.020 (E) Findings for Approval.

- 1. The proposed use is consistent with the purpose and standards of the 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 Office Commercial (CO) and Thoroughfare Commercial (CT), the zoning designation of Planned Development (P-D) #44 with approval of this Conditional Use Permit. This professional office site qualifies for a shopping center sign as it contains a few retail suites, a pharmacy, and a few restaurants.

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.*

All signs shall be required to comply with the Merced Municipal Code and the proposed Master Sign Program ensuring consistent sign standards throughout the development. In addition, the color scheme, textures, and design of the pylon sign will match that of the buildings within The Plaza at El Portal.

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

To ensure the proposal is not detrimental to the public health, safety, and welfare of the City, the applicant shall subsequently apply for sign permits with the City's Building Department. Plans shall be submitted by a design professional and signage installation shall be done by a licensed contractor (license type as required by the California Building Code). Several conditions to limit the impacts of the changeable copy sign on surrounding residential uses have been proposed.

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

The proposed signs are located within the City and can be adequately served by existing services and infrastructure. The project will also comply with the following Code section regarding the Freestanding Pylon Sign:

"Merced Municipal Code Section 17.36.667.L.2.C – Free-Standing and Wall-Mounted Signs

Merced Municipal Code Section 17.36.667.L.2.C – Free-Standing and Wall-Mounted Signs note that a "Changeable Copy Sign" (synonymous with digital board sign described throughout this report) may be allowed if the property owner agrees to allow the City to advertise City/community sponsored events, or outreach campaigns (e.g. Safe and Sane Fireworks during 4th of July, etc.) at the discretion of the City as part of a continuous rotation of advertising. Besides this, changeable copy signs may not advertise activities or businesses not occurring on premise. The property owner is aware of this requirement, which is being included under Conditions #11 and #12."

Environmental Clearance

- G) Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption is being recommended (Attachment F of Planning Commission Staff Report #20-11).

CITY OF MERCED
Planning Commission

Resolution #4042

WHEREAS, the Merced City Planning Commission at its regular meeting (held via teleconference) of June 17, 2020, held a public hearing and considered **Conditional Use Permit #1239 and Site Plan Review #456**, concerning Conditional Use Permit #1239 and Site Plan Review Permit #456, initiated by Yosemite Village, LLC, property owner. This application involves a request to develop an apartment complex with 220 residential units on 11.98 acres, and reserving a 3.54-acre outparcel for future retail, generally located on the north side of Yosemite Avenue between Compass Pointe Avenue and El Redondo Road. The property has a General Plan designation of Neighborhood Commercial (CN) and is zoned Planned Development (P-D) #46. Said property being described as Parcels 10 and 11 as shown on the map entitled “Horizon Development Group” recorded in Volume 77, Page 44 of Merced County Records (APN) 206-070-001 and 206-070-002; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through H (Exhibit B) of Staff Report #20-12; 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 Findings for Site Plan Review Permits in Merced Municipal Code 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 adopt a Finding of 15162 regarding Environmental Review #20-04, and approve Conditional Use Permit #1239 and Site Plan Review #456, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner DYLINA, seconded by Commissioner WHITE, and carried by the following vote:

AYES: Commissioners Butticci, Camper, Dylina, Rashe, White, and Chairperson Harris.

NOES: None

PLANNING COMMISSION RESOLUTION # 4042

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ABSENT: None

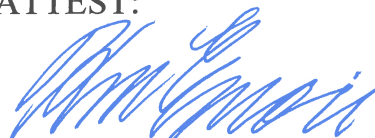
ABSTAIN: Commissioner Delgadillo

Adopted this 17th day of June 2020



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4042
Conditional Use Permit #1239 and Site Plan Review #456

1. The proposed project shall be constructed/designed in substantial compliance with the Site Plan, Floor Plan, Elevations, and Landscape Plans (Attachments B, C, D, and E of Planning Commission Staff Report #20-12), 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 Planning Commission Resolution #2898 for General Plan Amendment #06-17 previously approved for this site – except as modified by this resolution.
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.
7. 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 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.
8. All buildings shall be regularly maintained to keep the building finishes in good condition and aesthetically pleasing. The buildings visible from Yosemite Avenue shall have a diversity of colors and textures.
9. The developer shall reimburse the City \$355,392.00 for the public improvements installed along the Yosemite Avenue frontage due upon building permit issuance of each parcel to be developed. The reimbursement rate may be pro-rated between the two parcels that make up the site, based on lineal frontage along Yosemite Avenue.
10. The applicant shall install a bus stop or shelter along the project site (with a full pullout unless deemed infeasible by the City Engineer or undesirable by the transit authority) to qualify for a 10% parking reduction as allowed under MMC Section 20.38.050.
11. The applicant shall install short-term and long-term bike racks equivalent to 10% of required vehicle parking spaces as required under MMC Section 20.38.080 – Bicycle Parking.
12. The driving aisles shall be at least 26-feet wide to allow for Fire engine access and spacing for Fire action response. Details to be reviewed and approved by the Fire Department during the Building Permit stage.
13. Fire access shall be provided to the buildings along the northern property

line. This shall require either a 22-foot-wide access road or installation of a drivable, all-weather access road along the recreation yard. Details to be finalized with the Fire Department during the Building Permit stage.

14. Each building shall have its own independent Fire Department connection and fire control room.
15. The applicant shall work with the City's Refuse Department to determine the proper location for trash enclosure(s) and if a recycling container will be required to comply with AB 341. The container(s) shall be enclosed within refuse enclosure(s) built to City Standards. Use of compactor shall also be considered to reduce the number of pick-up request.
16. An 8-foot-tall block wall shall be installed along the northern property line to provide additional screening between the subject site and adjacent single-family homes. This area shall also be landscaped with fast growing trees that provide further screening. Details to be finalized with the Planning Department during the Building Permit stage.
17. The project shall comply with all applicable multi-family design standards established under Merced Municipal Code Section 20.46.030 and 20.46.040 shown at Attachment G of Planning Commission Staff Report #20-12.
18. The proposed buildings along the northern property line shall not exceed 2 stories, as shown on the proposed site plan at Attachment B of Planning Commission Staff Report #20-12.
19. All parking lot and building lighting shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots 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.
20. Minor modifications to the site plan or building heights may be reviewed and approved by the Director of Development Services or be referred to the Site Plan Review Committee or Planning Commission for consideration, at the discretion of the Director of Development Services.
21. The landscape plan shall comply Merced Municipal Code Section 20.36 – Landscaping, which also addresses the Water Efficient Landscape Ordinance under Merced Municipal Code Section 17.60. Landscaping shall also comply with all relevant State requirements regarding water efficiency.
22. 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.

23. 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).
24. The applicant shall work with the Police and Fire Departments to provide proper gate access equipment such as a Knox box and a click-to-enter system.
25. Vehicle stacking space for at least two vehicles shall be provided between gates and driveways in order to avoid traffic back-up on City streets.
26. The design and color of the perimeter fence shall be reviewed and approved by the Planning Department during the building permit stage.
27. The future retail parcel will be subject to Site Plan Review permit approval prior to construction.

Findings and Considerations
Planning Commission Resolution #4042
Conditional Use Permit #1239 and Site Plan Review #456

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Neighborhood Commercial (CN) and the Zoning classification of Planned Development (P-D) #46 with approval of this Conditional Use Permit. Although the General Plan and Zoning Ordinance allow residential developments in commercial zones, they do not specifically address the density allowed within a Neighborhood Commercial Zone. The *Merced Vision 2030 General Plan* includes two classifications for higher density residential uses – High-Medium Density (HMD) and High Density (HD). The High-Medium designation allows 12 to 24 units per acre, while the High Density designation allows 24 to 36 units per acre. The proposed project has a density of 19.20 units per acre, which is consistent with the HMD designation. There are General Plan policies that encourage higher density and alternate housing types (see below), the City has relied upon the High-Medium Density designation to determine compliance with the General Plan Housing Element. Based on this designation, the proposed multi-family portion of the project would comply with the General Plan.

The Housing Element of the *Merced Vision 2030 General Plan* includes policies supporting affordable housing, mixed-use development, and higher densities.

Policy H-1.1 Support Increased in Residential Zoning Districts

Although the proposed project would not be located within a residential zone, it does provide an opportunity for a higher density project to provide needed housing within the City.

Policy H 1.1.c Encourage Mixed Use Development

The proposed project includes a futures designation for retail on 3.5 acres that would be adjacent to the apartment complex.

Policy 1.1.e Encourage Alternate Housing Types

The proposed project would include one, two, and three-bedroom apartments. This mixture provides a variety of different housing types to meet the growing need of housing within the community and supports this policy of providing alternate housing types.

Policy 1.8b Prioritize City efforts to encourage residential development by focusing on in-fill development and densification within the existing City Limits.

The proposed project is on an in-fill site and meets the density requirements of the City's highest density classification.

The following are Land Use Policies and Implementing Actions of the General Plan that could be met with the proposed project.

Policy L-1.1 *Promote Balanced Development Which Provides Jobs, Services, and Housing.*

Implementing Action 1.1.c: Determine the types of housing opportunities needed for the type of employment opportunities being created in the City.

The Zoning Ordinance does not specify a density for multi-family housing allowed within a C-N Zone, it merely states that multi-family uses are allowed within the C-N Zone as a Conditional Use. Therefore, the approval of CUP #1239 satisfies this requirement. The Zoning Ordinance requires a Site Plan Review permit to address interface requirements. The approval of Site Plan Review #456 would bring the project into compliance with the Zoning Ordinance.

Zoning Ordinance Compliance – Mandatory Site Plan Review Findings

- B) The proposed project is subject to MMC Section 20.32 – Interface Regulations. As such, a Site Plan Review Permit is required for this project. MMC Section 20.32 does not specify particular findings be made regarding interface, but MMC Section 20.68.050 (F) requires specific findings for a Site Plan Review Permit to be approved. Therefore, 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. The Findings required by MMC Section 20.68.050 (F) “Findings for Approval for Site Plan Review Permits” are provided below along with recommended reasons to support each finding. If the Planning Commission wishes to deny the Site Plan Review Permit, they will need to provide findings for denial and direct staff to prepare a resolution for denial to be adopted at a future meeting.

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

As described in Finding A above, the project meets the requirements of the General Plan. There are no other area, specific, or neighborhood plans for this area.

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

Merced Municipal Code Section 20.46.030 provides general design standards for multi-family dwellings. Section 20.46.040 provides specific standards for multi-family dwellings (see Attachment G of Planning Commission Staff Resolution #20-12). Planning staff has reviewed the proposed project with both sets of standards and found it to be generally in compliance with the majority of these standards. Many design details, such as the design of the mailboxes, addressing, trash enclosures, etc., are not yet available. However,

to ensure compliance, Condition # 17 of Planning Commission Staff Report #20-12 requires the project to comply with all applicable design standards listed in these sections at the building permit stage.

Approval of the proposed Site Plan Review Permit and implementation of the conditions of approval for CUP #1239 and Site Plan Review #456 would bring the project into compliance with the applicable provisions of the Zoning Ordinance and Municipal Code.

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.*

There are existing single-family homes along the northern portion of the parcel. An 8-foot-tall block wall with tall, fast growing trees (evergreen trees) would be installed along this property line to reduce impacts regarding privacy, noise, and lighting (Condition #16 of Planning Commission Staff Report #20-12). To provide more buffer space and privacy from the adjacent single-family homes, the apartment buildings in this area would be 2 stories tall (instead of 3 stories) and be setback between 25 feet and 58 feet from the northern property line (Condition #18 of Planning Commission Staff Report #20-12) with 85% of the buildings setback at least 58 feet. These 2 story apartment buildings would be consistent with the 2 story single-family homes that already exist within this neighborhood.

With the implementation of the proposed conditions of approval for Site Plan Review #456, and the conditions approved with CUP #1239, the proposed project is required to comply with the design standards for multi-family dwellings (MMC Sections 20.46.030 and 20.46.040). The proposed project meets the minimum design and zoning standards. Therefore, with the implementation of the conditions of approval, the proposed project would not interfere with the enjoyment of the existing and future land uses in the vicinity.

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

The applicant is proposing a contemporary design with a mixture of materials, colors, and textures. The building exterior would consist of a stucco finish with various buildings containing stone veneers. The apartments would vary between 2 and 3 story structures. The apartment complex would consist of 15 individual buildings. The buildings would generally consist of a uniform design and aesthetic. To add architectural interest the exterior of the buildings would have earth tone color variations including off-white, light grey, light brown, and dark brown. In addition, the buildings would include wall variations to add depth, and balconies to provide outdoor space. Most units will either have a balcony or patio.

5. *Any proposed landscaping design, including color, location, size, texture, type, and coverage of plan materials, as well as provisions for irrigation,*

maintenance, and protection of landscaping elements, will complement structures and provide an attractive environment.

The project includes several acres of outdoor greenspace. As shown on the Landscape Plans at Attachment E of Planning Commission Staff Report #20-12, the apartment complex would include a variety of outdoor common spaces that include several dog parks, a community garden, recreation areas, and several gazebos with open space. The Landscape Plan shows the variety of plant and tree species that would be planted throughout the site. This includes the use of various trees and plants such as evergreens, bushes, and undetermined dense trees. Trees would be planted throughout the outdoor common space, within the parking lot, and along street frontages. Parking lot trees would have to conform with minimum City Standards regarding quantity (1 tree per 6 required parking stalls), gallon size (15 gallons), and branch width (30-foot canopy). Parking lot trees shall be from the City's list of approved tree species found within City Engineering Standards (Condition #23 of Planning Commission Staff Report #20-12). Street trees shall be reviewed by the Engineering and Public Works Departments to ensure conformance with City Standards in regard to species type, irrigation plan, and tree spacing (Condition #22 of Planning Commission Staff Report #20-12). All landscaping must comply with local regulations and State regulations regarding water conservation, as found under Merced Municipal Code Section 20.36 – Landscaping, and affiliated sections found under the WELLO Act (MMC 17.60).

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.*

The proposed project does not include any uses that would be detrimental to the public health, safety, and welfare of the City. The project would be required to annex to the City's Community Facilities District to pay for costs related to police and fire safety. Implementation of the conditions of approval and adherence to all Building and Fire Codes, and City Standards would prevent the project from having any detrimental effect on the health safety, and welfare of the City.

Zoning Ordinance Compliance – Conditional Use Permit Required Findings

- C) Section 20.68.020 sets forth specific Findings that must be made in order for the Planning Commission to approve a Conditional Use Permit. These Findings are provided below.

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

As described in Finding A above, the project meets the requirements of the General Plan. There are no other area, specific, or neighborhood plans for this area.

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.*

There are existing single-family homes along the northern portion of the parcel. An 8-foot-tall block wall with tall fast growing trees (evergreen trees) would be installed along this property line to reduce impacts regarding privacy, noise, and lighting (Condition #16 of Planning Commission Staff Report #20-12). To provide more buffer space and privacy from the adjacent single-family homes, the apartment buildings in this area would be 2 stories tall (instead of 3 stories) and be setback between 25 feet and 58 feet from the northern property line (Condition #18 of Planning Commission Staff Report #20-12) with 85% of the buildings setback at least 58 feet. These 2 story apartment buildings would be consistent with the 2 story single-family homes that were developed within this neighborhood.

With the implementation of the proposed conditions of approval and the conditions approved with Site Plan #456, the proposed project would be required to be in compliance with the design standards for multi-family dwellings (MMC Sections 20.46.030 and 20.46.040). The proposed project meets the minimum design and zoning standards. Therefore, with the implementation of the conditions of approval, the proposed project would not interfere with the enjoyment of the existing and future land uses in the vicinity.

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

The proposed project does not include any uses that would be detrimental to the public health, safety, and welfare of the City. The project would be required to annex to the City's Community Facilities District to pay for costs related to police and fire safety (Condition #7 of Planning Commission Staff Report #20-12). Implementation of the conditions of approval and adherence to all Building and Fire Codes, and City Standards would prevent the project from having any detrimental effect on the 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 project site is an in-fill site surrounded by residential uses. The project would be adequately served by the City's water system. Through the implementation of the conditions of approval, the project would be adequately served by the City's sewer and storm water systems. Additionally, the project would be required to pay Public Facilities Impact Fees to help pay for future improvements needed to the City's infrastructure.

Site Plan

- D) The proposed development consists of an apartment complex with 220 units within 15 buildings located on 11.5 acres. The existing two parcels (each being around 7.75-acres) would be reconfigured so that the apartment complex is on an 11.5-acre L-shaped lot. The 15 apartment buildings would be located throughout the parcel with community facilities near the center of the site. The perimeter of the site would be fenced-in with either a 6-foot-tall wrought iron fence or an eight-foot-tall block wall (along the northern property line). Vehicle access would be available from three driveways along different streets at Yosemite Avenue, El Redondo Drive, and Compass Pointe Avenue. The access points along El Redondo Drive and Compass Pointe Avenue would be around 350 feet and 500 feet, respectively, away from Yosemite Avenue. The vehicle access points would be gated, but setback to leave enough stacking space for at least 2 vehicles (Condition #25 of Planning Commission Staff Report #20-12). This would help prevent vehicles from backing into the road as they wait to enter the apartment complex. The applicant is working with the Merced County Bus and UC Merced Cat Track to find the best location for a bus turnout and possible bus shelter.

Driving aisles would be at least 26 feet wide. Parking stalls would be located throughout portions of the perimeter and interior of the parcel. A large portion of parking stalls would be covered by car ports. The parking areas would include access points that connect with pedestrian paths that meander throughout the entire complex providing pedestrian access from the parking lots.

The central portion of the apartment complex would contain amenities such as a mail room, conference room, managers office, swimming pool, dog park, and a community garden. The northwest portion of the parcel would include a trellis and dog park. Along the northern portion of the parcel are existing single-family homes. An 8-foot-tall block wall with tall fast growing trees (evergreens) would be installed along this property line (Condition #16 of Planning Commission Staff Report #20-12). To provide more buffer space and privacy from the adjacent single-family homes, the apartment buildings in this area would be 2 stories tall (instead of 3 stories tall) and be setback 25 to 58 feet from the northern property line (Condition #18 of Planning Commission Staff Report #20-12). Lighting would be shielded downward to prevent lighting from spilling-over to adjacent parcels (Condition #19 of Planning Commission Staff Report #20-12). To improve walkability with the future retail development, the developer intends to provide pedestrian gates that create connectivity between the apartment complex and the future retail site. The plans for the future retail have yet to be created and would be reviewed by the Site Plan Review Committee at a later date and assessed for compatibility with this apartment complex.

Elevations

- E) The applicant is proposing a contemporary design with a mixture of materials, colors, and textures. The building exterior would consist of a stucco finish with some buildings containing stone veneers. The apartments would vary between 2

and 3 story structures. The apartment complex would consist of 15 individual buildings. The buildings would generally consist of a uniform design and aesthetic. To add architectural interest the exterior of the buildings would have several earth tone colors including shades of off-white, light grey, medium brown, and dark brown. In addition, the buildings would include wall variations to add depth, and some balconies to provide outdoor space. A majority of units will have balconies or patios.

Parking

- F) The Zoning Ordinance requires 1.75 spaces of parking for each multi-family unit up to 30 units, plus an additional 1.5 spaces for each unit over 30. There is also an increase in the number of spaces required based on the number of bedrooms and bathrooms in a unit. The applicant is proposing 1 bedroom & 1-bathroom units (66 total), 2 bedroom & 2 bathroom units (140 total), and 3 bedrooms & 2 bathroom units (24 total). Based on this calculation, this project would require 373 parking spaces. The applicant is providing 350 parking spaces and is seeking approval for a parking reduction from the Director of Development Services. Per MMC 20.38-050 (D) – Parking Reductions, parking reductions may be approved up to 20 percent through a Transportation Demand Management Plan approved by the Director of the Development Services. The applicant intends to work with The Merced County Bus and UC Merced Cat Tracks to place a bus stop or shelter along their frontage. In addition, the applicant intends to install both short term bike parking spaces (27) and long-term bike parking spaces (27), totaling 54 bike parking spaces. The applicant believes that the direct access to bus transportation and bike parking spaces would reduce the need for parking spaces for this site by 10% requiring a total of 313 parking spaces. Planning staff believes this request is reasonable and likely be approved with compliance of Condition #10 of Planning Commission Staff Report #20-12..

Traffic/Circulation

- G) The traffic and circulation components for this site were originally analyzed as part of the environmental study conducted for this site under the approval of General Plan Amendment #06-17. CEQA states that a future developer may utilize an existing adopted Initial Study through a Finding of 15162, if the new project is consistent with Zoning/General Plan, and if the scope of the new project is equal to or lesser than the previous project studied.

In this case, the applicant is proposing a residential project which is considered to have less impacts than a commercial shopping center. The average peak hour trips for the shopping center was expected to be 650, and the average peak hour trips for the proposed apartment complex is expected to be 120. The apartment complex is expected to generate about 20% of the daily trips that were projected for the previously approved shopping center for this site.

Environmental Clearance

- H) The applicant was required to complete an Initial Study as required by the California Environmental Quality Act (CEQA). An Initial Study includes a wide

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range of analysis required by the State covering an array of subjects including, but not limited to, a traffic analysis, biological resource study, public services, cultural resources, utilities, cultural resources, etc. Per CEQA, a future developer may utilize an existing adopted Initial Study, through what is known as a Finding of 15162, if the new project is consistent with Zoning/General Plan, and if the scope of the new project is equal to or lesser than the previous project studied.

In this case, the applicant is proposing a residential project which is considered to have less impacts than a commercial shopping center. However, since the original Initial Study was provided in 2006, CEQA has added different subjects that currently need to be studied such as Air Quality and Green House Gas Emissions. The applicant will be utilizing the existing Initial Study for this site, and supplementing it with new requirements by providing their own Air Quality Study and Green House Gas Emission Study shown at Attachment H of Planning Commission Staff Report #20-12. The results show that the impacts these subjects would result in reasonable levels allowed by the San Joaquin Valley Air Pollution Control District.

In using the existing environmental study, the developer would be tied to previous requirements/improvements approved by the City Council. The previous Initial Study resulted in a Mitigated Negative Declaration (MND). The previous MND required reimbursement for frontage improvements along Yosemite Avenue, potentially installing traffic signals at the intersection of Compass Pointe Avenue and Yosemite Avenue, and the extension of two westbound lanes on Yosemite Avenue (from San Augustine to State Highway 59). The City Engineer noted that there is no need to redesign the intersection of Compass Pointe Avenue and Yosemite Avenue, or redesign Yosemite Avenue from San Augustine to Highway, as doing so would not significantly improve the traffic level of service in this area. This is partially due to the fact that the City's Public Works Department has since developed a facility along Yosemite Avenue between San Augustine and Highway 59, reducing the traffic demand along this portion of the road. However, the developer would be responsible for reimbursing the City for improvements previously done along the Yosemite Avenue frontage of this site (Condition #9 of Planning Commission Staff Report #20-12).

Planning staff conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and concluded that Environmental Review #20-04 is a second tier environmental document, based upon the City's determination that the proposed development remains consistent with the current General Plan and provision of CEQA Guidelines, Section 15162 (Initial Study #20-04 for CUP #1239 and SP #456). A Copy of the Section 15162 Findings can be found at Attachment J of Planning Commission Staff Report #20-12.