

CITY OF MERCED
Planning Commission

Resolution #4062

WHEREAS, the Merced City Planning Commission at its regular meeting (held via teleconference) of April 7, 2021, held a public hearing and considered **Conditional Use Permit #1253, and Site Plan Review #471**, submitted by Guru Ardaas, Inc. for Yosemite Village, LLC, property owner. This application involves a request for interface approval to construct a new gas station/convenience market (with beer and wine for off-site consumption), and an automated carwash at 1295 Yosemite Avenue. The subject site is generally located at the northeast corner of Yosemite Avenue and El Redondo Drive, within Planned Development (PD) #46 with a General Plan designation of Neighborhood Commercial (CN); said property being more particularly described as Lot 120 as shown on that certain Parcel Map entitled “Sunrise at Compass Pointe,” recorded in Volume 60, Page 13 of Merced County Records; also known as Assessor’s Parcel Number (APN) 206-070-001; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through O (Exhibit B) of Staff Report #21-254; 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 Site Plan Review Permits in Merced Municipal Code Section 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 CEQA 15162 Findings regarding Environmental Review #21-02, and approve Conditional Use Permit #1253, and Site Plan Review #471, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

Upon motion by Commissioner Delgadillo, seconded by Commissioner White, and carried by the following vote:

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

PLANNING COMMISSION RESOLUTION #4062

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April 7, 2021

Adopted this 7th day of April, 2021

Michael Harris

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Kim Espinosa

Secretary

Attachments:

Exhibit A - Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4062
Conditional Use Permit #1253, and Site Plan Review Permit #471

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (floor plan), Exhibit 4 (elevations), and Exhibit F (landscape plan) -- Attachments C, D, E , and F of Staff Report #21-254 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 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, including the Post Construction Standards for Storm Water that became effective July 1, 2015.
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, 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, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City including, but not limited to, City’s attorney’s fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the

developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and to provide all required deposits to fully fund the City's defense immediately but in no event later than five (5) days from that date of a demand to do so from City. In addition, the developer/applicant shall be required to satisfy any monetary obligations imposed on City by any order or judgment.

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. Appropriate turning radii shall be provided within the parking areas to allow for Fire engine and refuse truck access.
8. The developer shall work with the City Engineer to determine the requirements for storm drainage on the site. The developer shall provide all necessary documentation for the City Engineer to evaluate the storm drain system. All storm drain systems shall be installed to meet City Standards and state regulations.
9. Merced Municipal Code Section 20.38.080 -Bicycle Parking identifies Gas and Service Stations as being exempt from installing short term and long-term bicycle parking. However, bicycle parking spaces may still be required per the California Green Code during the building permit stage.
10. Any missing or damaged improvements along the property frontage shall be installed/repaired to meet City Standards. Any improvements that don't meet current City Standards shall be replaced to meet all applicable standards.
11. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
12. The applicant shall work with the City's Refuse Department to determine the proper location for a trash enclosure and if a recycling container will be required to comply with AB 341. The container(s) shall be enclosed within a refuse enclosure built to City Standards.

13. All signs shall comply with the City's Sign Ordinance. All signs shall be located outside of the 10-foot visual corner at the driveway entrances on El Redondo Drive and Yosemite Avenue and shall maintain a minimum 3-foot setback from all property lines.
14. Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
15. Future signage (including gas price signs), parking lot lights, and building lights shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots or be a nuisance to adjacent residential properties. This shall be done 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.
16. All mechanical equipment shall be screened from public view.
17. 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.
18. All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
19. Detailed landscape plans, including irrigation plans, shall be submitted at the building permit stage.
20. A minimum six-foot-tall concrete block fence shall be constructed along the future northern property line between the convenience market/car wash parking lot and the adjacent future apartments to reduce impacts regarding noise and lighting.
21. Pedestrian gate access shall be provided between the subject site and the future apartment complex, along the subject site's northern property line.
22. The premises shall remain clean and free of debris and graffiti at all times.

23. It is recommended that the exterior building walls and block walls be treated with an anti-graffiti coating to make graffiti removal easier. In any case, graffiti removal shall take place within 24 hours of appearing and shall be painted over with a paint color that matches the existing color of the building wall.
24. 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.
25. 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, installing traffic calming measures, 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.
26. 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).
27. Prior to the issuance of a building permit, a Parcel Map shall be approved modifying the existing property lines with future adjacent commercial developments to the east of the subject site. Said map shall provide cross-access and shared parking agreements between this site and the future commercial projects to the east.
28. The applicant shall work with the City's Fire Department to ensure that there is adequate space between the car wash and the block wall to allow access for fire personnel and their equipment during an emergency.
29. The car wash shall comply with the City's daytime and nighttime noise standards noted in the City's General Plan for commercial development adjacent to residential developments.
30. The car wash may not operate between the hours of 10:00 p.m. and 7:30 a.m. daily.
31. The sale of tobacco is currently prohibited as the subject site is located within 1,000 feet of a sensitive use (Merino Park and Merced Dog Park)

per Merced Municipal Code Section 20.44.160. Tobacco sales may be allowed if a lot line adjustment is conducted to take the subject site outside of the 1,000-foot distance requirements from sensitive uses (such as public parks).

32. No beer or wine shall be displayed or stored outside of the cooler areas.
33. The proprietor and/or successors in interest and management shall be prohibited from advertising or promoting beer & wine and/or distilled spirits on the motor fuel islands and no self-illuminated advertising for beer or wine shall be located on the building or in the windows.
34. No sale of alcoholic beverages shall be made from a drive-in window.
35. No display or sale of beer or wine shall be made from an ice tub.
36. Employees on duty between the hours of 10 p.m. and 2 a.m. shall be at least 21 years of age to sell beer and wine.
37. 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.
38. The area within the convenience market dedicated to the display and sale of alcoholic beverages (beer and wine) shall not be more 300 square feet as shown in the floor plan at Attachment D of Staff Report #21-254.
39. A grease interceptor may be required. This will be determined at the building permit stage based on the type of food prepared and served and waste generated.
40. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) arise as determined by the Police Chief, 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.
41. No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine containers shall be sold as part of a pack or carton, except for wine bottles at or over 750 ml.

42. Prior to obtaining a license from the Alcoholic Beverage Control to sell alcohol, the business (for the convenience market) shall obtain approval for a Finding of Public Convenience or Necessity from the Merced City Council.
43. 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.
44. The developer shall reimburse the City for the subject site's proportionate share of frontage improvements previously installed by the City along Yosemite Avenue prior to issuance of the first building permit
45. 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 issuance of the first certificate of occupancy or filing of a parcel map. 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.

Findings and Considerations
Planning Commission Resolution #4062
Conditional Use Permit #1253, and Site Plan Review Permit #471

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 designation of Planned Development (P-D) #46 with approval of a Conditional Use Permit (for the gas station, car wash, and alcohol sales for off-site consumption) and Site Plan Review Permit. Gas Stations and car washes require a Conditional Use Permit within a C-N Zone per MMC 20.10.020 and this also applies to Planned Developments with C-N General Plan designations. A Site Plan Review Permit is required for interface purposes per MMC 20.32.

The Project would achieve the following General Plan Land Use Goals and Policies:

- 1) Land Use Policy L-2.1: Encourage further development of appropriate commercial and industrial uses throughout the City.
- 2) Land Use Police L-2.6: Provide neighborhood commercial centers in proportion to residential development in the City.
- 3) Land Use Policy L-3.2.A: Encourage infill development and compact urban form.

Alcohol Sales

- B) The Merced Municipal Code requires a Conditional Use Permit, because the retail business is less than 20,000 square feet in size [(MMC 20.26.040 (N))]. In addition, alcohol sales shall require a Finding of Public Convenience or Necessity from City Council, because the applicant is seeking a new alcohol license as Merced is listed under Moratorium City for Type 20 alcohol licenses, by the Department of Alcoholic Beverage Control.

In order for the Planning Commission to approve or deny a request for the sale of alcoholic beverages for off-site consumption, they must consider the following criteria and make findings to support or deny each criteria per MMC 20.54.320:

Criteria #1

The proposed use will not result in an "undue concentration" of establishments dispensing alcoholic beverages as defined by Section 23958 and 23958.4 of the California Business and Professional Code and giving consideration to the California Department of Alcoholic Beverage Control's guidelines related to number and proximity of such establishments within a 1,000-foot radius of the site.

Finding #1

The subject site is located within Alcoholic Beverage Control Census Tract 10.02. In checking with the State of California Alcoholic Beverage Control District, this census tract is allowed 11 off-sale licenses, and there is currently 1 issued. Based on these results, this census tract is not over-concentrated. However, Merced is listed

under Moratorium City for Type 20 alcohol licenses by the Department of Alcoholic Beverage Control. If the applicant were to use an existing alcohol license, they would not need a Finding of Public Convenience or Necessity, but because they are purchasing a new alcohol State license, they will need to obtain a Finding of Public Convenience or Necessity, which the City of Merced requires be approved by the City Council.

Criteria #2

The proposed use will not adversely affect the economic and societal welfare of the pertinent community or residentially zoned community in the area of the City involved, after giving consideration to the distance of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds, and other similar uses; and other establishments dispensing, for sale or other considerations, alcoholic beverages including beer and wine.

Finding #2:

Residential uses (both single-family and multi-family), and parks (Merino Park and Merced Dog Park) are located within 1,000 feet of the subject site.

Criteria #3

The crime rate in the area of the proposed site. Particular attention shall be given to those crimes involving public drunkenness, the illegal sale of narcotics, disturbing the peace, and disorderly conduct.

Finding #3:

Between March 1, 2020, and February 28, 2021, the Merced Police Department recorded 196 incidents within a 500-foot radius of the subject site. The table on the next page shows the number of incidents within that area involving public intoxication, assaults, MMC violations, and narcotics violations (totaling 18 incidents during the 12 month period). As shown on the attached Incident Map (Attachment H of Staff Report #21-254), the majority of those incidents were traffic-related incidents at the intersection of Yosemite Avenue and El Redondo Drive, and the rest were spread out within residential zones. The number of incidents reported City-wide for the same time period was 72,000. Based on the total number of calls within the City, the 607 calls to this area equals 0.96% of the overall calls for service within the City. As shown on the attached Crime Hot Spot Map for the City of Merced (Attachment G of Staff Report #21-254), crime rates in this area are considered Low compared to the rest of the City. However, most of those incidents were not related to alcohol. Alcohol sales for off-site consumption should not have a significant impact on Police Department resources.

Incidents and Cases Reported (March 2020 - February 2021)

Incident/Case Type	Number of Incidents
Public Intoxication	0
Disturbance (assaults)	18
MMC*	0
Narcotics violations	0

*Municipal Code Violations regarding open containers, drinking in public, etc.

Planning staff consulted with the Merced Police Department regarding alcohol sales at this location. The Police Department did not have significant concerns with this request and is not requiring any conditions of approval not normally associated with alcohol sales for off-site consumption. Based on the information provided by the Police Department, staff does not anticipate that the approval of this request would adversely affect the economic and social welfare of the surrounding area.

Neighborhood Impact

- C) The subject site is surrounded by residential properties, primarily single-family homes. However, the adjacent undeveloped land is entitled for apartments and commercial developments. Although this development provides many conveniences for these residents and satisfies many of the principles found in the “General Plan/Zoning Compliance and Policies Related to This Application” section of this report, some conditions are being included to reduce potential impacts regarding noise and lighting. Noise-related impacts may be reduced by requiring a six-foot-tall concrete block wall along the northern property line between the convenience market/car wash and the future apartments (Conditions #20 of Staff Report #21-254). In addition, the applicant conducted an acoustical analysis for the car wash showing that the car wash and vacuums/associated equipment would not disturb the nearby family homes and future apartments. This acoustical analysis shows compliance with the City’s daytime and nighttime noise level standards. Noise-related impacts would be reduced further by limiting the hours of operation of the car wash to prohibit use between 10:00 p.m. and 7:30 a.m. daily (Conditions #30 of Staff Report #21-254).

Lighting-related impacts may be reduced by requiring that parking lot lighting/signage be shielded or oriented in a way that does not spill-over to adjacent parcels (Condition #15 of Staff Report #21-254) and by prohibiting internal illumination on signs facing residential properties (indirect illumination may be allowed). A Public Hearing Notice was circulated in the Merced County Times and mailed to property owners within 300 feet of the subject site three weeks prior to this public hearing. As of the date that this report was prepared, staff has not received any comments or concerns from the public about this request.

Building Elevations

- D) The proposed 5,000-square-foot building (for the convenience market) has a contemporary design with a stucco finish and storefront windows on the southern elevation. There is one 28-foot-tall tower at the center of the building, being the focal point to the main entrance. Ribbed wall panels would be installed along the parapet, above the awnings and storefront windows to add architectural interest. The automated car wash will utilize a stucco finish with stone veneers that match the convenience market.

The proposed building heights are below the maximum height allowed within the C-N Zone when adjacent to residential zones (35 feet), and matches the maximum height allowed within the adjacent single-family residential zone (35 feet). The proposed building heights would not be of an unusual scale to the neighborhood and would be allowed in both the C-N and Low-Density Residential designations.

Floor Plan

- E) The floor plan shows the proposed layout for the site which includes main access from the south elevation and an additional exit on the east elevation. The floor plan features a coffee station, a hot food station, 4-aisles of snacks and goods, walk in coolers, restrooms, an office, and a cashier area. The square footage dedicated to alcohol sales would be 300 out of 5,000 square feet totaling 6% of the total floor space. The majority of the alcohol would be stocked within the freezers and shelves located in the north-central portion of the floor plan.

Signage

- F) The applicant has yet to determine the location of signs, and type of signs they would install. Staff will review signs during the building permit stage to ensure compliance with the City's Sign Ordinance, Building Codes, and to ensure that signage facing residential properties is non-illuminated (except with indirect illumination). The convenience market shall be prohibited from advertising or promoting alcohol on the motor fuel island and from using illuminated signs (promoting alcohol) on building elevations or windows (Condition #33 of Staff Report #21-254). A digital LED gas price sign may be allowed, but shall be designed, located, and illuminated in a way that does not significantly impact the adjacent residential properties.

Traffic/Circulation

- G) The subject site is located at the northeast corner Yosemite Avenue and EL Redondo Drive. Vehicle access would be available from two driveways along El Redondo Drive and one driveway along Yosemite Avenue. Yosemite Avenue is primarily a 4-lane arterial road, with 2 lanes traveling west and 2 lanes traveling east with a median in between. Arterial roads are intended to carry large volumes of traffic and are considered primary corridors that carry vehicles across the community. Arterial roads generally intersect with other arterial roads, or second tier streets known as collector roads, such as El Redondo Drive, that help alleviate traffic congestion and eventually

branch out to local roads that lead to residential subdivision and other low density uses with lower traffic counts.

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 CEQA Section 15162 Findings, 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 existing 15.5 acres site will transition from a full commercial shopping center, to a primarily residential development, with three commercial building pads - which is considered to have less impacts than the full commercial shopping center previously approved for this site. The average peak hour trips for the shopping center was expected to be 650. The average peak hour trips for the proposed apartment complex is expected to be 120, and the gas station with an automatic carwash is expected to generate 144 trips (12 trips per pump). The apartment complex and gas station are expected to generate about 40% of the daily trips that were projected for the previously approved shopping center for this site. As such, staff anticipates that the existing City streets and traffic system can adequately serve this Project.

Parking

- H) The parking requirement for a convenience market is one parking space for every 250 square feet of floor area. Based on the proposed 5,000-square-foot building, 20 parking spaces are required for those uses (fuel island parking does not count towards required parking). There is no parking requirement for automated car washes, because this use does not require employees to operate and because there is no need for customers to park their vehicles. The applicant is providing seven vacuum stalls on the northern portion of the parking lot (vacuum parking stalls do not count towards required parking). The subject site has a total of 23 parking spaces, mostly adjacent to the convenience market. This request complies with City parking requirements.

Public Improvements/City Services

- I) In accordance with Section 17.04.050 and 17.04.060 of the Merced Municipal Code, any damaged or missing public improvements shall be repaired if the permit value of the project exceeds \$100,000.00. The need for repairs or replacement of any missing improvements would be evaluated at the building permit stage by the City's Engineering Department (Condition #25 of Staff Report #21-254).

In addition, the developer will be responsible for reimbursing the City for installing the existing frontage improvements along the subject site (Condition #44 of Staff Report #21-254). The estimated cost for the entire Yosemite Avenue frontage was \$355,392.00, of which this site will need to pay is proportionate share based on its linear frontage.

Site Design

- J) The subject site is in the process of being subdivided (via parcel map) into a new parcel being approximately 51,000 square feet (1.14-acres). Vehicle access would be available from one driveway along Yosemite Avenue, and two driveways along El Redondo Drive. The driveways would be 35 feet wide. The proposal would consist of three primary structures: a gas station canopy for 12 fuel pumps (3,340 square feet), and convenience market (5,000 square feet), and a touchless car wash (2,000 square feet). As noted under Finding A, a gas station and carwash require conditional use permit within a Planned Development with a C-N General Plan designation. The gas pump canopy would be located along the southern portion of the future parcel configuration, the convenience market would be located within the central portion of the parcel, and the touchless car wash would be located along the northern portion of parcel with adjacent vacuum stalls (7 stalls). Customer parking would primarily be located along the main entrance along the southern elevation (14 stalls) and along the east elevation (4 stalls), with supplemental parking spaces (5 stalls) provided behind the carwash at the northwest corner of the subject site. The refuse enclosure for the site would be located adjacent to the supplemental parking area. A block wall would be installed along the northern portion of the parking lot reduce impacts regarding noise from this site to the future apartment complex to the north (Condition #20 of Staff Report #21-254). Pedestrian gate access would also be installed to allow the tenants within this complex to have direct walking access to this site and the future commercial projects to the east of the project site (Condition #21 of Staff Report #21-254).

Landscaping

- K) The proposal includes landscaping along Yosemite Avenue, El Redondo Drive, and throughout the parking lot (Attachment F of Staff Report #21-254). Landscaping includes a mixture of mulch, turf, shrubs, and trees. Plant species should be drought tolerant and all irrigation systems must comply with the latest requirements for water conservation (Condition #17 of Staff Report #21-254). In addition, parking lot trees shall be installed as required by the City's Parking Lot Landscape Standards at a ratio of one tree for every six parking spaces. Parking lot trees shall be selected from the City's approved tree list, providing a 30-foot minimum canopy at maturity (Condition #26 of Staff Report #21-254). Street trees shall also be installed along Yosemite Avenue and El Redondo Drive as required by City standards. All trees shall be planted away from the City's 10-foot visual corner triangle area.

Noise

- L) The applicant provided the noise study at Attachment I of Staff Report #21-254 conducted by Bollard Acoustical Consultants, which concluded that the projected noise generated by the car wash (particularly the dryers and water tunnels) would be in compliance with the City of Merced General Plan Daytime and Nighttime standards. The General Plan indicates that the maximum daytime decibel reading is 55 dB, and the maximum nighttime decibel reading is 45 dB. The study concluded

the maximum decibel readings from the tunnel to sensitive uses are 42 dB (240 feet West)/39 dB (360 feet north)/ 33 dB (380 feet south) which fall within the City's Daytime and Nighttime noise standards.

To further reduce impacts of noise, Condition #20 of Staff Report #21-254 is being included to require the installation of a block wall along the northern property line, adjacent to the entitled apartment complex. There is an existing block wall to the east along El Redondo Drive that acts as a sound wall for the single-family homes within this subdivision. To further reduce noise impact, car wash operations would be prohibited between the hours of 10:00 p.m. and 7:30 a.m. daily (see Condition #30 of Staff Report #21-254).

Conditional Use Permit Findings

M) 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 MMC 20.68.020 (E) – Findings for Approval.

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

As shown under Finding 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.

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.*

As shown under Finding C -Neighborhood Impact, Finding D – Building Elevation, and Finding J – Site Design, staff believes that the location, size, design, and operating characteristics of the proposal would be compatible 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.*

As shown under Finding B – Alcohol Sales, staff does not anticipate that this proposal would be detrimental to the public health, safety, and welfare of the City. Planning staff consulted with the Merced Police Department regarding alcohol sales at this location; the Police Department did not have any significant concerns with this request and is not requiring any conditions of approval not normally associated with alcohol sales for on-site and off-site consumption. Based on the information provided by the Police Department, staff does not anticipate that the approval of this request would adversely affect the public 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.*

EXHIBIT B OF PLANNING COMMISSION RESOLUTION #4062

The proposed development is considered infill development which is properly located within the City and adequately served by existing or planned services and infrastructure such as street access, sewer connections, water connections, and other utilities.

Zoning Ordinance Compliance – Mandatory Site Plan Review Findings

N) 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.*

Approval of the proposed Site Plan Review Permit and implementation of the conditions of approval for CUP #1253 and Site Plan Review #471 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.*

As shown under Finding C -Neighborhood Impact, Finding D – Building Elevations, Finding J – Site Design, and Finding L – Noise, staff believes that the location, size, design, and operating characteristics of the proposal would be compatible existing and future land uses in the vicinity. 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.*

As shown under Finding D – Building Elevations, 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 metal

panels. All structures onsite would generally consist of a uniform design and aesthetic. Staff believes that the proposed architectural design makes use of appropriate materials, texture, and color, and will remain aesthetically appealing and appropriately maintained.

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.*

As shown on the Landscape Plans at Attachment F of Planning Commission Staff Report #21-254, the development would include a variety of plant and tree species that would be planted throughout the site. Trees would be planted throughout 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 #26 of Staff Report #21-254). 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. 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. 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.

Environmental Clearance

- O) The applicant was required to complete an environmental review checklist as required by the California Environmental Quality Act (CEQA). An Initial Study includes a wide 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 CEQA Section 15162 Finding, 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 gas station, which is part of a larger development that will include two other commercial building (of similar size) and an apartment complex with 220 units. This new development is considered to have

less impacts than the 140,000-square-foot commercial shopping center previously approved for this site. The applicant will be utilizing the existing Initial Study for this site, and supplementing it with their own noise study shown at Attachment I of Planning Commission Staff Report #21-254. The results show that the noise impacts generated by the touchless car wash would result in reasonable levels allowed by the General Plan Daytime and Night time Noise Standards.

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, and the extension of two westbound lanes on Yosemite Avenue (from San Augustine Drive to State Highway 59). The City Engineer noted that there is no need to redesign Yosemite Avenue from San Augustine Drive to Highway 59, 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 Drive 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 #44 of Staff Report #21-254).

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 #21-02 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 (Environmental Review #21-02 for CUP #1253 and SP #471). A Copy of the Section 15162 Findings can be found at Attachment K of Planning Commission Staff Report #21-254.