



CITY OF MERCED

City Council Chamber
Merced Civic Center
678 W. 18th Street
Merced, CA 95340

Minutes Planning Commission

Wednesday, June 7, 2023

7:00 PM

A. CALL TO ORDER

Chairperson HARRIS called the Regular Meeting to order at 7:01 PM.

A.1. Moment of Silence

A.2. Pledge of Allegiance to the Flag

Vice Chair CAMPER led the Pledge of Allegiance to the Flag.

B. ROLL CALL

Clerk's Note: Commissioners WHITE and GONZALEZ were absent, excused. The Planning Commission has 1 vacancy at this time.

C. ORAL COMMUNICATIONS

There were no public comments.

D. CONSENT CALENDAR

D.1 **SUBJECT:** Planning Commission Minutes of April 5, 2023

ACTION:

Approving and filing the Planning Commission Minutes of April 5, 2023

A motion was made by Member Greggains, seconded by Member Delgadillo and carried by the following vote, to approve the Consent Agenda.

Aye: 4 - Chairperson Harris
Member Delgadillo
Vice Chair Camper
Member Greggains

No: 0

Absent: 2 - Member White
Member Gonzalez

E. PUBLIC HEARINGS AND ACTION ITEMS

E.1 **SUBJECT:** Annual Review of the Capital Improvement Program (CIP),

Determination of Whether the Individual Projects are Consistent with the General Plan Maps, Policies, and Principles and Recommendation to the City Council Regarding the Consistency with the Merced Vision 2030 General Plan

ACTION Adopt a finding that the CIP is consistent with the General Plan

SUMMARY

The City of Merced’s 2023-24 Fiscal Year Capital Improvement Program (CIP) identifies the proposed major projects or purchases over the next fiscal year. A function of the Planning Commission is the annual review of the CIP to determine whether the individual projects are consistent with the General Plan maps, policies, and principles. The Draft Project List for the 2023-2024 Capital Improvement Program document is provided at Attachment A. These are part of the City Manager’s budget recommendation which will be considered by the Merced City Council. They are anticipated to take action on the entire 2023-24 Budget at their regularly scheduled meeting of June 20, 2023.

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council that the Draft 2023-24 Capital Improvement Program is consistent with the “*Merced Vision 2030 General Plan*” and related master plans.

Director of Development Services MCBRIDE reviewed the report on this item. For further information, refer to Staff Report #23-473.

A motion was made by Vice Chair Camper, seconded by Member Delgadillo and carried by the following vote, to adopt a Finding that the Fiscal Year 2023-2024 Capital Improvement Program is consistent with the General Plan.

Aye: 4 - Chairperson Harris
 Member Delgadillo
 Vice Chair Camper
 Member Greggains

No: 0

Absent: 2 - Member White
 Member Gonzalez

E.2

SUBJECT: Vacation #23-01 and #23-02 - initiated by Rhino Holdings, LLC, to abandon a portion of right-of-way on the south side of Main Street, between R Street and T Street.

ACTION FINDING:

- 1) The proposed Vacation is consistent with the

General Plan.

SUMMARY

This request is to vacate a portion of right-of-way on the south side of Main Street between R Street and T Street. In addition to typical right-of-way improvements, this section of right-of-way also includes parking spaces that serve the Westgate Shopping Center. The City would reserve an easement for all public improvements.

RECOMMENDATION

Planning staff recommends that the Planning Commission adopt a Finding that the proposed Vacation is consistent with the General Plan.

Senior Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #23-472.

A motion was made by Vice Chair Camper, seconded by Member Delgadillo and carried by the following vote, to adopt a Finding that Vacation #23-01 and Vacation #23-02 are consistent with the General Plan.

Aye: 4 - Chairperson Harris
Member Delgadillo
Vice Chair Camper
Member Greggains

No: 0

Absent: 2 - Member White
Member Gonzalez

E.3

SUBJECT: Density Bonus #23-01, initiated by Linc Housing Corporation, on behalf of the City of Merced, property owner. This application involves a request to consider an increase in density and concessions to certain Design Standards for Multi-family Dwellings. The density bonus and concessions would allow the construction of a 54-unit affordable apartment complex on approximately 0.52 acres of land, generally located on the northwest corner of 18th and I Streets and the southwest corner of 19th and I Streets.

ACTION: PLANNING COMMISSION:
Recommendation to City Council
1) Environmental Review #23-19 (Categorical Exemption)
2) Density Bonus Application #23-01

CITY COUNCIL:
Approve/Disapprove/Modify
1) Environmental Review #23-19 (Categorical

Exemption)
 2) Density Bonus Application #23-01

SUMMARY

This is a request to consider Density Bonus #23-01 which approves an increase in density from 23 units to 54 units and concessions to certain Design Standards for Multi-family Dwellings to allow the construction of a 100% affordable apartment complex within a 4-story building at the northwest corner of 18th and I Streets and a 3-story building at the southwest corner of 19th and I Streets on approximately 0.52 acres of land. Staff is recommending the Planning Commission recommend approval to the City Council. No public hearing is required per state statues or local ordinances.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of Environmental Review #23-19 (Categorical Exemption) and Density Bonus #23-01 (including the adoption of the Draft Resolution at Attachment A) subject to the findings/considerations in Exhibit A of the Draft Resolution.

Senior Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #23-471.

Speakers via Teleconference in Favor:

ROSE CUYNO, Applicant, Los Angeles, CA

CARMEN NOYOLA, Applicant, Los Angeles, CA

There were no speakers in opposition to the project.

A motion was made by Member Greggains, seconded by Member Delgadillo and carried by the following vote, to recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #23-19 and approval of Density Bonus #23-01, subject to the Findings set forth in Staff Report #23-471 (RESOLUTION #4114) .

Aye: 4 - Chairperson Harris
 Member Delgadillo
 Vice Chair Camper
 Member Greggains

No: 0

Absent: 2 - Member White
 Member Gonzalez

E.4

SUBJECT: Commercial Cannabis Business Permits #22-12, #22-13, and #22-14, initiated by John Bodo on behalf of Ooibodomerced, LLC., property owner. These applications are to permit indoor cultivation operations and distribution of cannabis and cannabis-based products within an existing building located on an approximately 11.29-acre lot at 1 West Avenue (also known as 16 Eagle Street). The property is zoned Light Industrial (I-L), with a General Plan designation of Manufacturing Industrial (IND). **PUBLIC HEARING**

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #22-49 (*Categorical Exemption*)
- 2) Commercial Cannabis Business Permit #22-12
- 3) Commercial Cannabis Business Permit #22-13
- 4) Commercial Cannabis Business Permit #22-14

SUMMARY

This application is for three permits to utilize the property at 1 West Avenue (also known as 16 Eagle Street), for cannabis-related business activities. Because all three permits are to be held by the same owner, within the same property, they are all summarized in this report. The permits seek to allow John Bodo to operate indoor-cultivation and distribution facilities for cannabis and cannabis-related products. The project proposes to use and modify an existing building, which has access to utilities. Staff is recommending approval.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #22-49 (*Categorical Exemption*), and Commercial Cannabis Business Permits (CCBPs) #22-12, #22-13, and #22-14, subject to the conditions in Exhibit A and the findings/considerations in Exhibit B of the Draft Resolution at Attachment A.

Development Services Technician II DAVIS reviewed the report on this item. For further information, refer to Staff Report #23-418.

Staff received 1 letter from AMY STEINFELD. The letter was provided to the Planning Commission via email prior to the meeting and posted to the City's website.

Public Testimony was opened at 7:48 PM.

Speakers from the Audience in Favor

CHRIS COX, Representing the Applicant, Be Green Legal, Sacramento, CA

Speaker from the Audience (Neutral)

BILL LYONS, Lyons Investments, Modesto, CA

There were no speakers in opposition to the project.

Public Testimony was closed at 8:10 PM.

A motion was made by Member Greggains, seconded by Member Delgadillo and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #22-49 and approve Commercial Cannabis Business Permit #22-12, #22-13, and #22-14, subject to the findings and twenty-four (24) Conditions set forth in Staff Report #23-418 (RESOLUTION #4112).

Aye: 4 - Chairperson Harris
 Member Delgadillo
 Vice Chair Camper
 Member Greggains

No: 0

Absent: 2 - Member White
 Member Gonzalez

E.5

SUBJECT: Zoning Ordinance Amendment #23-01, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.44.170 (Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required). This amendment would increase the maximum number of retail cannabis dispensaries allowed within the City from five to up to ten, add a new section allowing Council consideration of alternative sites for retail cannabis business applications under appeal, include local ownership requirements for cannabis retail permits issued after November 3, 2021, and various other amendments.

ACTION: PLANNING COMMISSION:
 Recommendation to City Council
 1) Environmental Review #23-12 (*Categorical Exemption*)
 2) Zoning Ordinance Amendment #23-01

CITY COUNCIL:
 Approve/Disapprove/Modify

- 1) Environmental Review #23-12 (*Categorical Exemption*)
- 2) Zoning Ordinance Amendment #23-01

SUMMARY

The City is proposing modifications to the City's current cannabis ordinance found under Merced Municipal Code Section 20.44.170 - Regulations of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required. During the City Council meeting of March 20, 2023, the Council discussed potential modifications to the ordinance and directed staff to modify various sections of the ordinance. This ordinance amendment would increase the number of retail cannabis permits from 5 to up to 10, allow Council to consider alternative sites for retail cannabis business permit applications under appeal, include local ownership requirements for cannabis retail permits issued after November 3, 2021, and other minor procedural clarifications and modifications.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of Environmental Review #23-12 (Categorical Exemption) and Zoning Ordinance Amendment #23-01 as outlined in Exhibit B of the Draft Resolution #4113, subject to the findings/considerations in Exhibit A of the Draft Resolution at Attachment A.

Associate Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #23-439.

Public Testimony was opened at 8:21 PM.

Staff received 1 letter from RAJ POTTABATHNI. The letter was provided to the Planning Commission via email prior to the meeting and posted to the City's website. Members of the public were given the opportunity to leave voice mail messages prior to the meeting. One voice mail was received from PATRICK OROSCO and another from RAJ POTTABATHANI. Both voice mails were played for the Commission at the meeting.

There was no one present within Public Testimony to speak regarding the project; therefore, Public Testimony was closed at 8:29 PM.

A motion was made by Vice Chair Camper, seconded by Member Delgadillo and carried by the following vote to recommend to City Council the adoption of a Categorical Exemption regarding Environmental Review #23-12, and approval of Zoning Ordinance Amendment #23-01, subject to the Findings set forth in Staff Report #23-439 (RESOLUTION #4113).

Aye: 4 - Chairperson Harris
 Member Delgadillo
 Vice Chair Camper
 Member Greggains

No: 0

Absent: 2 - Member White
 Member Gonzalez

E.6

SUBJECT: Adoption of a Resolution of Denial for Vesting Tentative Subdivision Map #1326 initiated by ISEA International, property owner, for an approximately 10.76 acre parcel generally located on the south side of Cardella Road, between El Redondo Drive and Horizons Avenue (1250 Cardella Road). The Vesting Tentative Subdivision Map would subdivide the parcel into 53 single-family lots, ranging in size from 5,000 square feet to 6,718 square feet.

ACTION

PLANNING COMMISSION:

Adopt a Resolution of Denial for:

- 1) Environmental Review #22-50 (*Negative Declaration*)
- 2) Tentative Subdivision Map #1326

SUMMARY

On April 5, 2023, the Planning Commission held a public hearing and directed staff to prepare a resolution of denial for Vesting Tentative Subdivision Map #1326 and associated environmental review based on the reasons provided by the Planning Commission. The draft resolution for denial is attached for consideration and action at Attachment A.

RECOMMENDATION

Planning staff recommends approving the Resolution of Denial for Tentative Subdivision Map #1326 found at Attachment A of Staff Report #23-451, subject to Findings N and O as described in the Planning Commission Resolution at Attachment A.

Associate Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #23-451.

A motion was made by Member Greggains, seconded by Vice Chair Camper and carried by the following vote to approve the resolution of denial for a Negative Declaration regarding Environmental Review #22-50 and Vesting Tentative Subdivision Map #1326 (RESOLUTION #4110).

Aye: 4 - Chairperson Harris
Member Delgadillo
Vice Chair Camper
Member Greggains

No: 0

Absent: 2 - Member White
Member Gonzalez

F. INFORMATION ITEMS

F.1 **SUBJECT:** Report by Director of Development Services of Upcoming Agenda Items

ACTION

Information only.

Director of Development Services MCBRIDE went over items for the next several Planning Commission meetings, including possibly changing the start time for Planning Commission meetings from 7 PM to 6 PM.

F.2 **SUBJECT:** Calendar of Meetings/Events

June	5	City Council, 6:00 p.m.
	7	Planning Commission, 7:00 p.m.
	20	City Council, 6:00 p.m. (Tuesday)
	21	Planning Commission, 7:00 p.m.
	27	Bicycle and Pedestrian Advisory Commission, 4:00 p.m.
July	3	City Council, 6:00 p.m.
	5	Planning Commission, 7:00 p.m.
	17	City Council, 6:00 p.m.
	19	Planning Commission, 7:00 p.m.

G. ADJOURNMENT

Clerk's note: The Regular Meeting adjourned at 8:39 PM.

A motion was made by Member Greggains, seconded by Vice Chair Camper and carried by the following vote, to adjourn the Regular Meeting.

Aye: 4 - Chairperson Harris
Member Delgadillo
Vice Chair Camper
Member Greggains

No: 0

Absent: 2 - Member White
Member Gonzalez

BY:



SCOTT MCBRIDE, SECRETARY
MERCED CITY PLANNING COMMISSION

APPROVED:



MICHAEL HARRIS, CHAIRPERSON
MERCED CITY PLANNING COMMISSION

**CITY OF MERCED
Planning Commission**

Resolution #4114

WHEREAS, the Merced City Planning Commission at its regular meeting of June 7, 2023, held a public hearing and considered **Density Bonus #23-01**, initiated by Linc Housing, Corp, on behalf of the City of Merced Public Financing and Economic Development Authority, property owner. This application involves a request to consider Density Bonus #23-01 which allows concessions and waivers to certain development standards to allow the construction of a 54-unit apartment complex with 53 affordable housing units on 5 parcels totaling 22,500 square feet, generally located at the northwest corner of 18th and I Streets and the southwest corner of 19th and I Streets; also known as Assessor Parcel: 031-074-008; -009; -010; -011; -012; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through E of Attachment A of Planning Commission Staff Report #23-471 (Exhibit A); and,

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #23-19, and recommend approval of Density Bonus #23-01, subject to the Findings set forth in Exhibit A, attached hereto and incorporated herein by the reference.

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

AYES: Commissioner Delgadillo, Greggains, Camper, and Chairperson Harris
NOES: None
ABSENT: Commissioner White, Gonzalez (1 vacancy)
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4114

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June 7, 2023

Adopted this 7th day of June 2023.



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Exhibits:

Exhibit A – Findings/Considerations

**Findings and Considerations
Planning Commission Resolution #4114
Density Bonus #23-01**

FINDINGS/CONSIDERATIONS:

State Density Bonus Law

- A) State Density Bonus Law (SDBL) states that a development which meets the requirements of the SDBL is entitled to receive a density bonus to increase the density of a project by right. This means that no discretionary review is required to allow an increase in the density of a project.

According to CA Government Code Section 65915 (f) (1) and (2), the number of units allowed by the density bonus is calculated on a sliding scale based on the number of affordable units provided. In 2019, AB 1763 was approved which allows a project that provides housing for low and very low-income residents a density bonus of up to 80% of the allowable units. Additionally, this Bill eliminated all restrictions on density if a project is located within one-half mile of a major transit stop such as a rail station or bus stop with a minimum of 15-minute headways. AB 1763 also allows a height increase of up to three additional stories or 33 feet. However, if the project receives a waiver from maximum controls on density, it is not eligible for the waiver or reduction of any development standards which would otherwise be available.

State Density Bonus Law also provides relief from parking requirements. If a project provides 100% affordable housing units to lower income residents (excluding a manager's unit) and is within one-half mile of a major transit stop, the City cannot require on-site parking. For projects that are not 100% affordable, the following parking requirements would apply:

Studio	1 space
1 Bedroom	1 space
2 Bedroom	1.5 spaces
3 Bedroom	1.5 spaces
4 Bedroom	2.5 spaces

In addition to an increase in density, the City is required to grant concessions or incentives proposed by the developer unless it finds one of the following:

- That the proposed concession or incentive does not result in identifiable and actual cost reductions: or,
- Would cause a public health or safety project: or,
- Would cause an environmental problem; or,
- Would harm historical property; or,
- Would be contrary to law.

The City has the burden of proof in the event it declines to grant a requested incentive or concession. Financial incentives, fee waivers, and reductions in dedication requirements may be, but are not required to be, granted by the City.

The number of required incentives or concessions is based on the percentage of affordable units in the project as shown in the table below:

No. of Incentives / Concessions	Very Low-Income Percentage	Low-Income Percentage	Moderate Income Percentage
1	5%	10%	10%
2	10%	17%	20%
3	15%	24%	30%
4	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)

A concession or incentive is defined as:

1. A reduction in site development standards or a modification of zoning requirements or architectural design requirements that exceed the minimum State building standards, such as reductions in setback, square footage, or vehicular and bicycle parking space requirements. The requested concession or incentive must result in an identifiable and actual cost reduction to provide for affordable housing costs or rents.
2. Approval of mixed-use zoning for housing projects if associated commercial, office, industrial, or other land uses will reduce the cost

of the housing project, and existing or planned development in the immediate area.

3. Other regulatory incentives or concessions that result in identifiable and actual cost reductions to provide for affordable housing costs, which may include the provision of direct financial incentives or land for the housing development by the City.

Concessions and incentives are differentiated from waivers and reductions in the SDBL. Projects that are eligible for a density bonus, and that are approved for concessions or incentives, cannot be subjected to any development standard that will have the effect of physically precluding the construction of the project. If a local development standard is found to have this effect, applicants have the option of requesting a waiver or reduction of any development standard that may preclude completion of the project; there is no limit on the number of waivers that may be requested. Waivers or reductions do not take the place of concessions or incentives that the project is qualified to receive.

Additional information about Density Bonus Law is provided in the Guide to the California Density Bonus Law (revised January 2023) by Jon Goetz and Tom Sakai of Meyers-Nave Law Firm (Attachment B of Planning Commission Staff Report #23-471).

Requested Density

- B) The applicant is proposing 54 units over the entire 0.52-acre site. Thirty-nine of the units would be located at the northwest corner of 18th and I Streets and fifteen units would be located on the corner of 19th and I Streets (refer to the Site Plan at Attachment E of Planning Commission Staff Report #23-47). Under the current zoning, one unit is allowed for every 1,000 square feet of lot area. The property at the northwest corner of 18th and I Streets currently consists of 4 individual parcels totaling 15,000 square feet (the parcels would be combined into one parcel through the development process). Based on the zoning, 15 units would be allowed on these parcels. The property at the southwest corner of 19th and I Streets consists of one 7,500-square-foot parcel, which would allow 8 units (rounding up from 7.5). Therefore, the total number of units allowed for these parcels would be 23 units.

The requested 54 units would exceed the allowable density by 31 units. However, as explained above, as a 100% affordable housing project within

one-half mile of a major transit stop, SDBL prohibits the City from placing limits on the density of the project.

Parking

- C) As previously described, the proposed project would provide 100% affordable housing units to lower income residents. Because of the affordability and the fact that the site is located within one-half mile of a major transit stop (the Amtrak Station and 24th and K Streets and the Transportation Center at 16th and O Streets), state law prohibits the City from applying any parking requirements.

The proposed project would provide 3 off-street parking spaces (one handicap accessible) in Building A (refer to the Site Plan at Attachment E of Planning Commission Staff Report #23-471. These spaces would be accessible from the alley. Bicycle storage areas are provided in both Building A and Building B (refer to the Floor Plans at Attachments G of Planning Commission Staff Report #23-471).

Building Height

- D) As described in Finding A, Density Bonus law allows a project providing 100% affordable housing units located within one-half mile of a major transit stop an increase in height of up to 3 additional stories or 33 feet. The site is located within an R-4 zone which has a height limit of 40 feet.

Building Type A located at the northwest corner of 18th and I Streets is a four-story building with a maximum height of 48 feet at the top of the stairway/elevator shaft (refer to the Building Elevations at Attachment F of Planning Commission Staff Report #23-471. However, the majority of the building would have a maximum height of 44 feet at the top of the parapet.

Building Type B located at the southeast corner of 19th and I Streets is a three-story building with a maximum height of 38 feet at the top of the stairwell/elevator shaft.

Because SDBL allows an increase in height as described above, Building Type A is allowed even though it exceeds the maximum height allowed for the zone. Building Type B is less than the maximum height allowed in the R-4 zone.

Zoning Ordinance Findings

E) Merced Municipal Code Section 20.56.080 (C) establishes specific findings that must be made to approve a Density Bonus. These findings are as following:

1. *The findings included in Section 20.56.030 (land Donation) if the density bonus is based all or in part on donation of land.*

This finding does not apply as the project does not include land donation.

2. *The findings included in Section 20.56.040 (Child Care Facilities) if the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility.*

This finding does not apply as the project does not include a Child Care Facility.

3. *The findings included in Section 20.56.070 (Modifying Development Standards) if the incentive or concession includes mixed use development.*

This finding does not apply as the project does not include a mixed use development.

4. *If a waiver or modification is requested, the developer has to prove by submitting substantial evidence that the waiver or modification is necessary to make the housing units economically feasible.*

A 2021 appellate court case, *Schreiber v. City of Los Angeles*, held that a local government may not require an applicant to submit a pro forma or other documentation to prove that a requested incentive or concession is required in order to make the housing development economically feasible. However, local agencies can require applicants to show that requested incentives and concessions will result in cost reductions for the project to provide for affordable housing costs or rents. The local jurisdiction has the burden of proof in the event it declines to grant a requested incentive or concession.

The requested concessions are outlined below along with the applicant's justification as to how the concession would result in cost reductions to provide affordable housing costs or rents.

Concessions and Waivers

F) Reduction in Exterior Yard Setbacks (Concession)

The proposed buildings would have a maximum 5-foot setback on all sides of the building (refer to the Site Plan at Attachment C of Planning Commission Staff Report #23-471). The R-4 zone requires a 15-foot setback for exterior, front yards, a 10-foot setback for exterior side yards on corner lots, other yards may have a 5-foot setback.

Additionally, Merced Municipal Code (MMC) Section 20.46.040 establishes design standards for any multi-family dwelling with 5 or more units (or 3 or more units on corner lots). Section 20.46.040 (A) (1) states: Building construction shall not exceed the plan established by 1:1 height and setback ratio from any exterior property line of a lot or parcel, for more than 50 percent of the allowable building area at any established distance from said exterior property line.

Based on the height of Building Type A, at least 50% of the building should have a setback from the exterior property lines of 44 feet and at least 50% of Building Type B should have a setback of 34 feet.

Justification:

The reduced setbacks allow the project to maximize the number of units on the site. The site is very small, and it would be impossible to accommodate the setbacks required by MMC Section 20.46.040(1:1 height and setback ratio) even if the buildings were only 2 stories.

To meet the setbacks required by the R-4 zone, the number of units would be drastically reduced, or the units would be very small. By providing more total units the buildings are more efficient and the cost per unit is decreased, making the project financially feasible. It is expected that the operating expenses per unit would decrease by providing more units because many maintenance costs are typically based on a flat fee rather than per unit. These cost reductions allow for lower rents making the units more affordable.

Private Outdoor Space (Concession)

The applicant is requesting a relief from Zoning Ordinance Section 20.46.030 (I) (1) and (2) which states that every unit should have a private outdoor usable space, if feasible, of a minimum size of 5 feet by 8 feet.

Justification:

The project includes an outdoor courtyard area to provide tenants with an outdoor usable space. Adding individual spaces to each unit would increase the cost, reduce the indoor living area, and reduce the number of units that could be constructed.

Roof-mounted Mechanical Equipment (Concession)

The applicant is requesting a relief from Zoning Ordinance Section 20.46.040 (A)(5a) which prohibits roof-mounted mechanical equipment.

Justification:

Allowing roof-mounted mechanical equipment screened from public view, allows more space on the ground for this small parcel. Placing mechanical equipment on the ground takes up space that could be otherwise used for open space or general outdoor area. Additionally, the cost of a roof-mounted HVAC unit is typically less because the entire unit is on the roof. Ground-mounted units require a portion of the unit to be inside the living area. This not only takes up space, but adds cost to the apartment unit.

Reduction in the number of trees

The applicant is requesting a reduction in the number of trees required for the site per MMC Section 20.46.040 (A) (2). This section requires one tree for every 3 units. The requested reduction would reduce the number of trees from 18 to 14.

Justification:

The reduction in the number of trees results in a cost savings in the number of trees required and in the on-going maintenance of the trees.

As described above, the applicant is requesting four concessions. Based on the affordability, the project is eligible for four concessions, but is not entitled to any waivers. However, there is nothing that would prohibit the City from granting a waiver if it was requested. Without the requested concessions, the project would not be feasible to build. The requested concessions would not result in any of the conditions listed in Finding A of this resolution that would result in the denial of the requested concession. Therefore, the concession complies with State Density Bonus Law.

Environmental Clearance

- G) The adoption of the resolution is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) (Common Sense Exemption) because it can be seen with certainty that the adoption of the resolution will not have a significant effect on the environment and none of the circumstances in CEQA Guidelines Section 15300.2 apply.

CITY OF MERCED
Planning Commission

Resolution #4112

WHEREAS, the Merced City Planning Commission at its regular meeting of June 7, 2023, held a public hearing and considered **Commercial Cannabis Business Permits #22-12, #22-13, and #22-14**, initiated by John Bodo, on behalf of Ooibodomerced, LLC, property owner. These applications involve a request to permit indoor Cultivation operations and Distribution of cannabis and cannabis-based products within an existing building located on an approximately 11.29-acre lot at 1 West Avenue (also known as 16 Eagle Street). The property is zoned Light Industrial (I-L), with a General Plan designation of Manufacturing Industrial (IND); also known as Assessor's Parcel Number (APN) 059-420-078; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K (Exhibit B) of Staff Report #23-418; 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 #22-49 and approve Commercial Cannabis Business Permits #22-12, #22-13, and #22-14, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioner Greggains, Delgadillo, Camper, and Chairperson Harris

NOES: None

ABSENT: Commissioner White, Gonzalez (1 vacancy)

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4112

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June 7, 2023

Adopted this 7th day of June 2023



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Findings and Considerations

Conditions of Approval
Planning Commission Resolution #4112
Commercial Cannabis Business Permits #22-12, #22-13, and #22-14

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plans) and Exhibit 2 (floor plans) - Attachment C of Staff Report #23-418, and all other application materials submitted by the applicant, including business plans, security plans, etc., except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code Section 20.44.170, “Regulation of Commercial Cannabis Activities—Commercial Cannabis Business Permit Required” shall apply.
3. 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. 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.

4. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
6. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), as it may be amended or updated from time to time.
7. The proposed project shall provide that all cultivation and distribution activities occur indoors within a fully enclosed and secure structure, and ensure that the property on which the structure sits is secure and appropriately screened. The details of the property's fencing, security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
8. The applicant shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment F of Staff Report #23-418) at the time of submittal for building permits for tenant improvements.
9. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections.

These plans shall be made available to the City’s representatives, employees, agents, inspectors, or contractors upon request.

10. The facility operated by the applicants shall be secured from intentional or accidental access by any person not employed, contracted, or otherwise authorized on the premises, including any tenants of other buildings on the same property.
11. Fire sprinklers shall be modified to accommodate the building configuration and process configuration prior to occupancy.
12. Regulatory Fees, as per Resolution #2021-43, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
13. Prior to issuance of a Certificate of Occupancy, applicant shall acquire a City of Merced Business License.
14. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with MMC 20.44.170(L)(5), “Commercial Cannabis Business Permit Renewal (All Types)”, at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.
15. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to the cultivation and/or distribution of cannabis and cannabis-based products may be authorized with the approval of the Director of Development Services by submitting a request for Minor Modification, in accordance with MMC 20.44.170(L)(7), “Modifications to Commercial Cannabis Business Permit (All Types)”.
16. In the event that a proposed Minor Modification is submitted by the applicant that includes an expansion of building space being used, Staff

shall reevaluate parking needs and the applicant shall provide additional parking if necessary.

17. The property shall be gated in accordance with MMC Section 20.44.170(I)(7).
18. Prior to installation of a gate, the Applicant shall coordinate with the City Fire Department to ensure there will be a minimum 22-foot-wide clearance for emergency vehicles to pass through when the gate is opened. If the gate requires manual operation, the applicant shall provide a Knox padlock, prior to issuance of a Certificate of Occupancy. If the gate requires electronic operation, prior to issuance of a Certificate of Occupancy, the applicant shall provide a Knox override switch with "Click-to-Enter." Access to this equipment shall be provided to the City of Merced Police, Fire, and Refuse Departments.
19. Prior to commencement of cannabis growing activities, applicant shall provide an estimated volume of City water to be used annually to the City Water Department, and shall have floor plans, equipment, material sheets, and such other materials/plans/permits as deemed necessary approved by the Chief Building Official and Fire Chief.
20. The applicant shall provide or cause to be provided the necessary Accessible Parking Spaces in accordance with Table 11B-208.2, "Parking Spaces" of the California Building Code, Title 24, Part 2.
21. In accordance with Table 20.38-4, "Required Bicycle Parking Spaces" of the City of Merced Zoning Ordinance, the applicant shall provide or cause to be provided a minimum of 3 short-term and 3 long-term bicycle parking spaces.
22. The applicant shall provide required loading spaces in accordance with Table 20.38-5, "Required Loading Spaces."
23. Signage shall be limited to no more than fifty square feet and must comply with MMC 20.44.170(I)(2) that no exterior evidence of cannabis cultivation shall be visible from the public right-of-way. The display of the name of the facility shall not be construed on its own to provide such evidence. Details to be worked out with Planning staff.
24. In the future, if there are excessive calls received by the Development Services division related to problems including, but not limited to, excessive odor, the approval may be subject to review and revocation by the City of Merced (Finding F).

**Findings and Considerations
Planning Commission Resolution #4112
Commercial Cannabis Business Permits #22-11, #22-12, and #22-13**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Manufacturing Industrial (IND) and the zoning classification of Light Industrial (I-L) with approval of a Commercial Cannabis Business Permit.

Land Use Issues

- B) The subject site is more than 1,000 feet from any schools and more than 600 feet from any day care centers, youth centers, libraries, or public parks that are currently in existence, as is required by Section 11362.768 of the Health and Safety Code and Section 20.44.170(E)(3)(f) of the Merced Municipal Code (MMC) (refer to Attachment E of Staff Report #23-418).

Proposed Operations

- C) The applicant intends to establish and operate an indoor cultivation and distribution facility for cannabis and cannabis-based products. CCBP #22-13 and #22-14 would allow cultivation operations which would span across two designated areas within the existing building (totaling 79,200 square-feet of space within the existing 126,099 square-foot building) and will be comprised of a total of twenty-one (21) cultivation rooms [7 under one permit (CCBP #22-13) and 14 under the second permit (CCBP #22-14)], a nursery, harvest storage and drying room will be included under each proposed cultivation permit. Under CCBP #22-13 (cultivation), the cannabis plants will be located on three tiered 100-foot x 4-foot rolling benches, on a drip system; and under CCBP #22-14 (cultivation), the cannabis plants will be located on three tiered 60-foot x 4-foot rolling benches, on a drip system. For the distribution operations (CCBP #22-12), the applicant is anticipating 6-8 employees; for the cultivation operations, the applicant is anticipating a total of 14-20 employees.

Traffic/Circulation

- D) As the project is proposed in an existing building with existing access to

the City's roadway infrastructure, and due to conformity with the zoning and land use for the site, no concerns related to traffic or circulation have been raised as a result of this project.

Parking

- E) With the proposed building at approximately 126,099 SF, the Applicant is proposing to use approximately 90,529 SF of this building. Using the parking regulation for Warehousing, Wholesaling, and Distribution at 1 space per 2,000 square feet of floor area and calculating for each use: the total number of required parking spaces is 46. The total existing parking spaces existing onsite is 57, therefore there should be ample parking spaces to fulfill all uses on the lot. Bicycle parking spaces, Accessible spaces, and Loading Spaces shall be provided as required in Conditions #20, #21, and #22.

Neighborhood Impact/Interface

- F) The subject site is surrounded by industrial uses to the north, south, and west of the property and low-medium density residential uses to the east across West Avenue. The proposed site and the adjacent residential properties are separated by West Avenue; however, the applicant shall make odor control a priority by maintaining all operations indoors and utilizing sufficient odor absorbing ventilation and exhaust systems in compliance with MMC 20.44.170E(3)(m) (Condition #24).

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 from the community about this project.

Signage

- G) Any future permanent signage must comply with Condition #23 and is limited to 50 square feet maximum. Any signs shall not provide evidence of cannabis cultivation activities. The display of the name of the facility shall not be construed on its own to provide such evidence.

Safety/Security

- H) The proposed security plan shall maintain compliance with State and Municipal regulations including fire and burglar alarm procedures and camera placement (Attachment C of Staff Report #23-418).

Ownership

- D) All three permits are under one owner, John Bodo; Mr. Bodo holds 100% ownership of all three proposed cannabis businesses. He has performed a Live Scan check and has successfully passed a background check to the satisfaction of the Chief of Police.

Modification to Operations

- J) City staff recognizes that the details of operating a business, particularly one in a developing sector such as cannabis and cannabis-based products, requires continual updating of business practices, methodologies, and tools, the modification of which may require alterations to the configuration of the equipment, setup, or layout of the facility. In order to allow for these changes while maintaining the safety of all parties involved, modifications to the permit in the course of cultivation and/or distribution of cannabis and cannabis-based products may be requested by the applicants by submitting a request for Minor Modification, in accordance with MMC 20.44.170(L)(7), “Modifications to Commercial Cannabis Business Permit (All Types)” (Conditions #15 and #16).

Environmental Clearance

- K) The project proposes to utilize an existing building, on a site comprised of approximately 11.29 acres. Planning staff has conducted an environmental review (Environmental Review #22-49) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (no further environmental review is required) is being recommended (Attachment G of Staff Report #23-418).

CITY OF MERCED
Planning Commission

Resolution #4113

WHEREAS, the Merced City Planning Commission at its regular meeting of June 7, 2023, held a public hearing and considered **Zoning Ordinance Amendment #23-01**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.44.170 (Regulation of Commercial Cannabis Activities – Commercial Cannabis Business Permit Required). This amendment would increase the maximum number of retail cannabis dispensaries allowed within the City from five to ten, add a new section allowing Council consideration of alternative sites for retail cannabis business applications under appeal, include local ownership requirements for cannabis retail permits issued after November 3, 2021, and various other amendments; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through D of Staff Report #23-439 (Exhibit A); 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 recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #23-12, and approval of Zoning Ordinance Amendment #23-01, as outlined in Exhibit B and subject to the Findings set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioner Delgadillo, Greggains, Camper, and Chairperson
Harris

NOES: None

ABSENT: Commissioner White, Gonzalez (1 vacancy)

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4113

Page 2

June 7, 2023

Adopted this 7th day of June 2023



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Exhibits:

Exhibit A –Findings/Considerations

Exhibit B—Draft Ordinance

Findings and Considerations
Planning Commission Resolution #4113
Zoning Ordinance Amendment #23-01

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed zoning ordinance amendment would make changes to the City's Merced Municipal Code (MMC) Section 20.44.170 (Commercial Cannabis Businesses), per the directive of the City Council. General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning Ordinance as needed.

Proposed Changes to Zoning Ordinance

- B) The ordinance changes are contained in the Draft Ordinance at Exhibit B of Planning Commission Resolution #4113 (Attachment A of Planning Commission Staff Report #23-349) and presented in redline form at Attachment B of Planning Commission Staff Report #23-349. In general, the changes directed by the City Council during their meeting of March 20, 2023, can be summarized as follows:
- 1) Land Use Table 20.44-1(Footnote 1) and Section 20.44.170 (F)(1) would increase the maximum number of retail cannabis dispensaries allowed within the City from 5 to 10.
 - 2) Section 20.44.170(L)(4)(g) would add a new section allowing Council consideration of alternative sites for retail cannabis business applications under appeal.
 - 3) Section 20.44.170(L)(7)(b)(iii) would include local ownership requirements for cannabis retail permits issued after November 3, 2021.

Time Frames

- C) If recommended for approval by the Planning Commission on June 7, 2023, the Ordinance revisions would be scheduled for a City Council public hearing on July 17, 2023. A second reading and adoption would follow on August 7, 2023, with the Ordinance being effective 30 days later on or about September 6, 2023.

Environmental Clearance

- D) 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 (see Attachment D of Staff Report #23-439).

Findings and Considerations
Planning Commission Resolution #4113
Zoning Ordinance Amendment #23-01

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed zoning ordinance amendment would make changes to the City's Merced Municipal Code (MMC) Section 20.44.170 (Commercial Cannabis Businesses), per the directive of the City Council. General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning Ordinance as needed.

Proposed Changes to Zoning Ordinance

- B) The ordinance changes are contained in the Draft Ordinance at Exhibit B of Planning Commission Resolution #4113 (Attachment A of Planning Commission Staff Report #23-349) and presented in redline form at Attachment B of Planning Commission Staff Report #23-349. In general, the changes directed by the City Council during their meeting of March 20, 2023, can be summarized as follows:
- 1) Land Use Table 20.44-1(Footnote 1) and Section 20.44.170 (F)(1) would increase the maximum number of retail cannabis dispensaries allowed within the City from 5 to 10.
 - 2) Section 20.44.170(L)(4)(g) would add a new section allowing Council consideration of alternative sites for retail cannabis business applications under appeal.
 - 3) Section 20.44.170(L)(7)(b)(iii) would include local ownership requirements for cannabis retail permits issued after November 3, 2021.

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Environmental Clearance

- D) 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 (see Attachment D of Staff Report #23-439).

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING SECTION 20.44.170,
"REGULATION OF COMMERCIAL
CANNABIS ACTIVITIES - COMMERCIAL
CANNABIS BUSINESS PERMIT REQUIRED,"
OF THE MERCED MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES
ORDAIN AS FOLLOWS:**

SECTION 1. AMENDMENT TO CODE. Section 20.44.170, "Regulation of Commercial Cannabis Activities - Commercial Cannabis Permit Required," of the Merced Municipal Code is hereby amended to read as follows:

**"20.44.170 -REGULATION OF
COMMERCIALCANNABIS ACTIVITIES -
COMMERCIAL CANNABIS BUSINESS
PERMIT REQUIRED**

**A. Zoning Compliance and Commercial
CannabisBusiness Permit Requirements**

Specific commercial cannabis businesses are allowed as a special use in the C-C, C-O, C-G, C-N, C-T, B-P, I-L, and I-H Zoning Districts and Planned Developments which have the equivalent General Plan land use designations of those zones. Commercial cannabis activities are expressly prohibited in all other zones in the City of Merced. Commercial cannabis businesses shall apply for and conduct business only in the appropriate zones as described in Table 20.44-1 and the City of Merced's zoning ordinance as a requisite for obtaining a Commercial Cannabis Business Permit (CCBP). No commercial cannabis business may operate in the City of Merced without a Commercial Cannabis Business Permit.

This Land Use Table 20.44-1 shall be used to determine whether a cannabis business is not permitted - 'X', or permitted - 'P'. Any Commercial Cannabis business in the City of Merced shall also operate in compliance with the City's zoning ordinance. If a Zoning District is not listed in the Land Use Table in this section, then the use is expressly not permitted.

Commercial Cannabis Business Activities Use Type	City of Merced Municipal Code Table 20.44-1									Additional Specific Use Standards
	Land Use Classification [4] [5]	C-C Zone	C-O Zone	C-G Zone	C-N Zone	C-T Zone	B-P Zone	I-L Zone	I-H Zone	
Cultivator	Greenhouse, Type A	X	X	X	X	X	P	P	P	Sec. 20.44.170(i)
Cultivator	Greenhouse, Type B	X	X	X	X	X	P	P	P	Sec. 20.44.170(i)
Cultivator	Greenhouse, Type C	X	X	X	X	X	P	P	P	Sec. 20.44.170(i)
Nursery	Greenhouse, Type D	X	X	X	X	X	P	P	P	Sec. 20.44.170(i)
Manufacturing	Manufacturing, non-volatile	X	X	X	X	X	P	P	P	Sec. 20.44.170(h)
Manufacturing	Manufacturing, volatile	X	X	X	X	X	P	P	P	Sec. 20.44.170(h)
Dispensary [1] [2]	Pharmaceutical, medical	P	P	P	P	P	P	P	X	Sec. 20.44.170(f)
Dispensary [1] [2]	Retail, non-medical/combined	P	P	P	P	P	P	P	X	Sec. 20.44.170(f)
Testing Laboratory	No Retail	P	P	P	X	X	P	P	P	Sec. 20.44.170(j)
Distribution [3]	Freight/Transport	X	X	P	X	X	P	P	P	Sec. 20.44.170(k)

Footnotes

1. Only ~~five (5)~~ ten (10) dispensaries shall operate within the Merced City Limits. At least one (1) of those dispensaries shall also dispense medicinal cannabis goods. If State law allows medical and adult use dispensaries on the same premises, the City of Merced would allow a combined use, but in no case shall more than ~~five (5)~~ ten (10) dispensaries of any kind be allowed within the City of Merced at any one time.
2. Dispensaries (medical or adult use) are prohibited in the City Center area between 19th and 16th Streets and O Street and Martin Luther King Jr. Way, including properties fronting on either side of each of the above streets.
3. Only allowed in General Commercial (C-G) zones if it meets the provisions of Section 20.44.170 (K)(10).
4. If listed as 'Permitted' in a specific zone above, then that use is also 'Permitted' in Planned Development (P-D) zones that have the equivalent General Plan land use designation as that zone.
5. No cannabis dispensary may be located within a 1,000-foot radius from a school or within a 600-foot radius from a day care center, youth center, library or public park that is in existence at the time the Application for a Commercial Cannabis Business Permit is submitted to the City, as required in Merced Municipal Code Section 20.44.170(E)(3)(f). No cultivation facility, manufacturing facility, testing facility or any other commercial cannabis business facility may be located within a 600-foot radius from a school, day

care center, youth center, library, or public park that is in existence at the time the Application for a Commercial Cannabis Business Permit is submitted to the City, as required in Merced Municipal Code Section 20.44.170(E)(3)(f).

Land Use Classifications:

Greenhouse, Commercial A - Permitted cultivation area:0 to 5,000 square feet

Greenhouse, Commercial B - Permitted cultivation area:5,000 to 10,000 square feet

Greenhouse, Commercial C - Permitted cultivation area:10,000 to 22,000 square feet

Greenhouse, Commercial D - Permitted cultivation area: 22,000 square feet

B. Cultivation of Cannabis for Personal Use in Residential Zones

1. When authorized by State regulations, an authorized resident shall be allowed to cultivate cannabis only in a private residence in a residential zone, only indoors, and only for personal use, subject to the following regulations:

a. The cannabis cultivation area shall be located indoors within a residential structure and shall not exceed fifty square feet and not exceed ten feet in height, nor shall it come within twelve (12) inches of the ceiling or any cultivation lighting, nor shall it exceed the limits set forth in Section 20.44.170(8)(I)(i) below. Cultivation in a greenhouse or other legal accessory structure on the property of the residence, but not physically part of the home, is permitted as long as it is fully enclosed, secure, not visible from a public right-of-way, and meeting all requirements in this Chapter. Additionally, all structures must meet setback, height limitations, and be constructed in accordance with all local requirements as well as all applicable Building Codes.

b. If the resident is not the property owner, they must have the property owner's express written authorization to conduct cannabis cultivation. Nothing contained herein shall limit the property owners right

to deny or revoke permission to allow cannabis cultivation as set forth by State law.

c. The use of gas products such as, but not limited to CO₂, butane, methane, or any other flammable or non-flammable gas for marijuana or cannabis cultivation or processing is prohibited.

d. There shall be no exterior visibility or evidence of cannabis cultivation outside the private residence from the public right-of-way, including but not limited to any marijuana or cannabis plants, equipment used in the growing and Cultivation operation, and any light emanating from cultivation lighting.

e. The authorized resident shall reside full-time on the property where the cannabis cultivation occurs.

f. The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for cannabis cultivation.

g. The cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code including § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.

h. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to, installation of fire suppression sprinklers.

i. The cannabis cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating

dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

j. No more than six (6) cannabis plants, mature or immature, for personal use, are permitted per residence for indoor personal cultivation under this Chapter, unless permitted under State regulations.

k. Cannabis in excess of twenty-eight and one-half (28.5) grams produced by plants kept for indoor personal cultivation under this Chapter must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way.

i. The authorized grower shall not provide anycannabis in any form to animals or any minors that are not authorized users under Medical Marijuana Regulation and Safety Act or the Adult Use of Marijuana Act. Anyone found in violation shall be prosecuted pursuant to State regulations.

ii. Outdoor cultivation of cannabis is expresslyprohibited in all zones and districts of the City of Merced.

C. Definitions

The definitions are incorporated herein as fully set forth and are applicable to this ordinance. All definitions are intended to comply with those set forth by the State of California for all commercial cannabis activities.

1. **'Applicant'** means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator,

manager, employee, or agent of a dispensary.

2. **'Cannabis'** means all parts of the *Cannabis sativa* Linnaeus, *Cannabis Indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. 'Cannabis' also means the separated resin, whether crude or purified, obtained from marijuana. 'Cannabis' also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. 'Cannabis' does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, 'cannabis' does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

3. **'Cannabis waste'** means waste that is not hazardous waste, as defined in Public Resources Code section 40191, that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed by the State.

4. **'Canopy'** means all of the following:

a. The designated area(s) at a licensed premises that will contain mature plants at any point in time;

b. Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point

in time, including all of the space(s) within the boundaries;

c. Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least 10 feet of open space; and

d. If mature plants are being cultivated using ashelving system, the surface area of each level shall be included in the total canopy calculation.

5. **'City'** means the City of Merced.

6. **'Commercial cannabis business permit (CCBP)'** means a permit issued by the City pursuant to this chapter to a commercial cannabis business.

7. **'Commercial cannabis activity'** includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or sale of cannabis or a cannabis product, except as set forth in Section 19319 of the Business and Professions Code, related to qualifying patients and primary caregivers.

8. **'Commercial vehicle'** means a vehicle as defined in Vehicle Code section 260.

9. **'Concentrated cannabis product'** means a consolidation of cannabinoids made by dissolving cannabis in its plant form into a solvent.

10. **'Cultivation'** means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

11. **'Customer'** means a natural person 21 years of age or over or a natural person 18 years of age or

olderwho possesses a physician's recommendation.

12. **'Day Care Center'** means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers as defined in Health and Safety Code Sections 1596.76, 1596.7915, 1576.750, and 1596.78.

13. **'Delivery'** means the commercial transfer of cannabis or cannabis products to a customer. 'Delivery' also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.

14. **'Delivery employee'** means an individual employed by a licensed dispensary who delivers cannabis goods from the permitted dispensary premises to a medical cannabis patient or primary caregiver or qualified purchaser at a physical address.

15. **'Dispensary'** means a premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

16. **'Display'** means cannabis goods that are stored in the licensed dispensary's retail area during the hours of operation.

17. **'Display case'** means container in the licensed dispensary retail area where cannabis goods are stored and visible to customers.

18. **'Distribution'** means the procurement, sale,

and transport of cannabis or cannabis products between entities licensed pursuant to the Medical and Adult Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation regarding the same.

19. **'Edible cannabis product'** means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

20. **'Fully Enclosed and Secure Structure'** means a fully-enclosed space within a building that complies with the California Building Code ('CBC'), as adopted in the City of Merced, or if exempt from the permit requirements of the CBC, that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two-inch by four-inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor lighting or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the City of Merced.

21. **'Free sample'** means any amount of cannabis goods provided to any person without cost or payment or exchange of any other thing of value.

22. **'Greenhouse'** means a facility in which plants are grown and is inclusive of facilities using solely

artificial light and facilities using mixed-light. In order to be lawful and permitted in the City of Merced, a greenhouse must be a 'Fully Enclosed and Secure Structure' as defined above in 20.44.170(C), Subsection 20.

23. **'Indoors'** means within a fully enclosed and secure structure as that structure is defined above in 20.44.170(C), Subsection 20.

24. **'Labor Peace Agreement'** means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the City's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

25. **'License'** means a state license issued under this division, and includes both an A-license and an M- license, as well as a testing laboratory license.

26. **'Limited-access area'** means an area in which cannabis goods are stored or held and which is only accessible to a licensee and the licensee's employees and contractors.

27. **'Medical' or 'Medicinal'** have the same meaning under the terms of this ordinance.
28. **'Medical cannabis goods'** means cannabis, including dried flower, and manufactured cannabis products.
29. **'Medical cannabis patient'** is a person whose physician has recommended the use of cannabis to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.
30. **'Manufacturer'** means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.
31. **'Manufacturing' or 'manufacturing operation'** means all aspects of the extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.
32. **'Nonvolatile solvent'** means any solvent used in the extraction process that is not a volatile solvent. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide used for extraction, or as it may be defined and amended by the State.
33. **'Operating hours'** means the hours within a day during which a permitted retail sales outlet may allow qualified cannabis purchasers and primary caregivers

to enter the dispensary premises and purchase cannabis goods.

34. **'Owner' or 'Ownership interest'** means an interest held by a person or entity who is an owner as defined by State of California commercial cannabis regulations or who has a financial interest in the commercial cannabis business of 5% or more. In the event an entity holds a financial interest in the commercial cannabis business of 5% or more, any person who holds a financial interest in said entity of 5% or more is also considered an 'owner' of the commercial cannabis business.

35. **'Package' and 'Packaging'** means any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. 'Package' and 'packaging' does not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a licensee.

36. **'Patient or qualified patient'** shall have the meaning given that term by California Health and Safety Code and possesses a valid physician's recommendation.

37. **'Person'** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

38. **'Pest'** means undesired insect, rodent, nematode, fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism that is injurious to human health.

39. **'Physician's recommendation'** means a recommendation by a physician and surgeon that a

patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

40. **'Premises'** means the designated structure(s) and land specified in the application that are in possession of and used by the applicant or licensee to conduct the commercial cannabis activity.

41. **'Pre-roll'** means dried cannabis flower rolled in paper prior to retail sale.

42. **'Primary Caregiver'** has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

43. **'Private security officer'** has the same meaning as that term as defined in the State of California Business and Professions Code section 7574.01.

44. **'Publicly owned land'** means any building or real property that is owned by a city, county, state, federal, or other government entity.

45. **'Purchase'** means obtaining cannabis goods in exchange for consideration.

46. **'Purchaser'** means a person who is engaged in a transaction with a licensee for purposes of obtaining cannabis goods.

47. **'Quarantine'** means the storage or identification of cannabis goods, to prevent distribution or transfer of the cannabis goods, in a physically separate area clearly identified for such use.

48. **'Retail area'** means a building, room, or

other area upon the licensed dispensary premises in which cannabis or other goods are sold or displayed.

49. **'School'** means those sites upon which full-time instruction in any of grades K through 12 is provided where the primary purpose is education, as determined in the sole discretion of the City Council, and which are identified as a school on the City's official List of Schools' as provided in Section 20.44.170(E)(3)(f)(i). 'School' does not include any private site upon which education is primarily conducted in private homes.

50. **'Security monitoring'** means the continuous and uninterrupted attention to potential alarm signals that can be transmitted from a security alarm system for the purpose of summoning law enforcement.

51. **'Selection Panel'** means the group consisting of the City Manager, Chief of Police, and Director of Development Services, or their designees, convened for the purpose of evaluating applicants based on the merit-based scoring system, and making recommendations to the Planning Commission with respect to issuance of Commercial Cannabis Business Permits.

52. **'Sell,' 'sale,' and 'to sell'** include any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis goods pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis goods by a licensee to the licensee from whom such cannabis goods were purchased.

53. **'Sublet'** means to lease or rent all or part of a leased or rented property.

54. **'State'** means the State of California.
55. **'Testing Laboratory'** means a facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body, and registered with the State Department of Public Health.
56. **'Vehicle alarm system'** is a device or series of devices installed to discourage theft of the commercial vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the commercial vehicle.
57. **'Volatile solvent'** means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include but are not limited to, butane, hexane, propane, and ethanol, or as it may be defined and amended by the State.
58. **'Wholesale'** means the sale of cannabis goods to a distributor for resale to one or more dispensaries.
59. **'Youth Center'** means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club activities, video arcades with over 10 or more video games on the premises, or similar amusement park facilities, or as otherwise described in Health and Safety Code Section 11353.1(e)(2).

D. Compliance with State and Local Licensing Requirements

Any dispensary, cultivation facility, manufacturing facility, testing facility or any other commercial cannabis activity as defined by the State of California or the City of Merced shall operate in conformance with all regulations and standards set forth in this Section of the Municipal Code to assure that the operations of the dispensary, cultivation facility, manufacturing facility, distribution facility, testing facility or any other commercial cannabis activity as defined by the State of California or allowed by the City of Merced are in compliance with local and State law and are established to mitigate any adverse secondary effects from its operations.

Cannabis operators shall be required to obtain a State license once they become available, and shall comply with any applicable State licensing requirements, such as operational standards and locational criteria.

Multiple cannabis uses and licenses proposed on any one site shall occur only if authorized by the State and the City of Merced and only if all uses proposed are allowed pursuant to the City's Zoning Code.

E. General Provisions for Commercial Cannabis Activities in the City of Merced

1. Commercial Cannabis Business Permit Required

a. Each business shall have a Commercial Cannabis Business Permit specific to the business activity defined by the State pertaining to that activity and whether the activity is medical or non-medical or any other commercial cannabis activity the State may define and as they may be amended. Following is a list of current license types:

- i. Cultivation
- ii. Distribution
- iii. Manufacturing
- iv. Retail sales (Dispensary)
- v. Testing

b. It shall be unlawful for any person, association, partnership, corporation, or other entity to engage in, conduct or carry on, in or upon any premises within the City of Merced, any commercial cannabis business without a Commercial Cannabis Business Permit. A cannabis business shall register and obtain a Commercial Cannabis Business Permit from the City of Merced prior to operation. The Commercial Cannabis Business Permit applicant shall pay an annual non-refundable regulatory fee in an amount and at a frequency established by the City Council by resolution.

c. A copy of the Commercial Cannabis Business Permit shall be displayed at all times in a place visible to the public.

d. A Commercial Cannabis Business Permit shall be valid for one (1) year or until December 31 of each year, unless sooner revoked. In the event a Commercial Cannabis Business Permit is issued on or after October 1, said permit shall be valid until December 31 of the following calendar year. No permit granted herein shall confer any vested right to any person or business for more than the above-referenced period.

e. A Commercial Cannabis Business Permit shall not be issued to an individual or a business entity owned or managed in whole or in part by an individual

or a business entity employing an individual who has a previous conviction for or has entered a plea of nolo contendere/no contest to any of the following:

- i. A felony offense listed in California Health and Safety Code Section 11590.
- ii. A felony offense listed in California Penal Code Section 667.5(c).
- iii. A felony offense listed in California Penal Code Sections 1197.2(c) or Section 1192.8.
- iv. A felony or misdemeanor offense that substantially relate to the qualifications, functions, or duties of the business or profession.
- v. A felony conviction involving fraud, deceit, or embezzlement.
- vi. A felony or misdemeanor offense involving the sale or giving to a minor of controlled substances, cannabis, alcohol, or tobacco.

A Commercial Cannabis Business Permit may be issued, at the discretion of the City, to an individual with a conviction listed above provided a period of ten (10) years has elapsed in which the individual has remained free of criminal convictions or violations of parole or probation, and the individual has either obtained a certificate of rehabilitation pursuant to Penal Code Section 4852.01 or received expungement pursuant to California Penal Code Section 1203.4.

- f. The Commercial Cannabis Business

Permit shall be issued to the specific person/persons/entity listed on the Cannabis Permit Application.

g. A Commercial Cannabis Business Permit is not transferable except under the terms of Merced Municipal Code Section 20.44.170(L)(7), and does not run with the land or with the business.

1. Maintenance of Records and Reporting

All records for the commercial cannabis business of the following activities shall be maintained and available to the City of Merced for at least 7 years. Records shall be produced within 24 hours of a request by an authorized City of Merced representative:

a. The business shall obtain and maintain a valid Seller's Permit from the State Board of Equalization.

b. Financial records include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization under Title 18 California Code of Regulations Section 1968.

c. Personnel records, including each employee's full name, address, phone number, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable.

d. Training records, including but not limited to the content of the training provided and the names of the employees that received the training.

e. Contracts with other licensees regarding commercial cannabis activity.

f. Permits, licenses, and other local authorizations to conduct the licensee's commercialcannabis activity, including BOE sellers permit.

g. Security records.

h. Records shall be kept in a manner that allows the records to be produced for the City in eitherhard copy or electronic form, whichever the City requests.

i. Proof of building ownership or landlordletter acknowledging business type.

J. Proof of insurance.

2. Operational Standards for All CommercialCannabis Business Activities

a. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises. Cameras shall record 24 hours a day at a minimum of 20 frames per second.

b. The applicant shall conduct and pay for any required CEQA reviews and analyses, and pay for all costs, including those of the City, associated with project review under CEQA.

c. The surveillance system storage device orcameras shall be transmission control protocol/TCP capable of being accessed through the internet by the Merced Police Department or their designee on request.

d. All controlled access areas, security

rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet. Camera video recordings shall be maintained unaltered in a secure location for a period of not less than thirty (30) calendar days, and be available for inspection at any time. The City of Merced or law enforcement may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings

e. All commercial cannabis businesses shall create and maintain an active account within the State's track and trace system prior to commencing any commercial cannabis activity. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.

f. No cannabis dispensary may be located within a 1,000-foot radius from a school or within a 600-foot radius from a day care center, youth center, library or public park that is in existence at the time the Application for a Commercial Cannabis Business Permit is submitted to the City. No cultivation facility, manufacturing facility, testing facility or any other commercial cannabis business facility may be located within a 600-foot radius from a school, day care center, youth center, library, or public park that is in existence at the time the Application for Commercial Cannabis Business Permit is submitted to the City. For purposes of this subsection only, a public park shall not include any park designated in Merced Municipal Code Section 9.70.030 as a bike path. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the sensitive use noted above to the closest property line of the lot on

which the commercial cannabis business shall be located without regard to intervening structures.

(i) The City shall establish an official "List of Schools" which are located within the City of Merced by resolution of the City Council after a public hearing. Said list shall be reviewed on an annual basis on or before January 31st of each year, and/or whenever a commercial cannabis business permit for a dispensary becomes available. If amendments are needed, the amendments shall be considered by the City Council at a public hearing.

g. No physical modification of the permitted premises is allowed without written prior permission by the City of Merced and payment of any additional fees required by the City.

h. All commercial cannabis activities shall provide adequate off-street parking and comply with the City of Merced Municipal Code requirements in Chapter 20.38 Parking and Loading, to service customers without causing negative impact.

i. The commercial cannabis business shall provide adequate handicapped parking per the requirements in the California Building Code.

J. The commercial cannabis business shall provide adequate interior and exterior lighting for safety and security as determined by the Police Chief or designee.

k. The commercial cannabis business shall minimize nuisances such as trash, litter, and graffiti.

l. Any and all signage, packaging, and

facilities shall not be 'attractive', as it is defined by the State, to minors.

m. All commercial cannabis facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility if the use occupies only a portion of a building. The air treatment system must also prevent the build-up of mold within the facility.

n. A permitted commercial cannabis business entity shall have 180 days after permit issuance by the City of Merced to begin initial operations, unless otherwise approved by the Development Services Director or designee. A permitted commercial cannabis business entity that remains inoperative for more than 60 calendar days after initial operations begin shall be deemed 'abandoned' and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Development Services Director or designee.

o. The cannabis business shall comply with all State and City of Merced regulations regarding testing, labeling and storage of all cannabis products.

p. The cannabis business shall meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing and cultivating of

cannabis as well as any unsold cannabis or cannabis products.

q. The cannabis business shall conform to all State regulations regarding the use of appropriate weighing devices.

r. The cannabis business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 3).

s. The cannabis businesses' electrical and plumbing shall comply with State and local regulations.

t. The cannabis business shall maintain a comprehensive general liability combined single occurrence insurance policy issued by an 'A' rated insurance carrier in an amount no less than two million dollars and naming the City of Merced as additional insured.

u. No free samples of any cannabis or cannabisproduct may be distributed at any time.

v. All agents, private security officers or other persons acting for or employed by a licensee shall display a laminated identification badge at least 2" X 2" in size, issued by the licensee. The badge, at a minimum, shall include the licensee's 'doing business as' name and license number, the employees first and last name, and a color photo of the employee that shows the full front of the employee's face.

w. The commercial cannabis business shall

have a centrally-monitored fire and burglar alarm system which shall include all perimeter entry points and perimeter windows.

x. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors and responds to the alarm system. The alarm company shall obtain a City of Merced business license.

y. Meet all State deadlines for applying for a State license and receive a State license within six (6) months after the date the State begins issuing licenses. This may be waived if the State has longer delays in issuing licenses of the type the commercial cannabis business seeks. The permittee must inform the City in writing within 10 days of receipt of a State license. Said notification shall be addressed to the Director of Development Services or designee at 678 W. 18th St., Merced, CA 95340.

z. All persons hiring employees to engage in commercial cannabis activities shall document compliance with the following employee safety practices:

- i. Emergency action response planning as necessary
- ii. Employee accident reporting and investigation policies
- iii. Fire prevention
- iv. Hazard communication policies, including maintenance of material safety data sheets
- v. Materials storage and handling policies

vi. Personal protective equipment

policies

vii. Operation manager contacts

viii. Emergency responder

contacts

ix. Poison control contacts

aa. All persons with ownership interest; and all employees agents, officers or other persons acting for or employed by a permittee must be at least 21 (twenty-one) years of age.

F. Additional Regulations for Dispensary and Retail Sales of Cannabis

1. Only five ~~(5)~~ten (10) dispensaries shall operate within the Merced City Limits, regardless of the location's compliance with any other Section specified in this ordinance. At least one (1) of those dispensaries shall also dispense medicinal cannabis goods. If State law allows medical and adult use dispensaries on the same premises, the City of Merced would allow a combined use, but in no case shall more than ~~five (5)~~ten (10) -dispensaries of any kind be allowed within the City of Merced.

2. No retail cannabis facility may engage in checkcashing activities at any time.

3. Only one dispensary permit per person with ownership interest is allowed in the City of Merced. Any person with community property rights of an ownership interest is considered a person with ownership interest in this section.

4. Restrooms shall remain locked during business hours and not open to the public.
5. The total number of dispensaries in operation shall be determined based on the number of locations which have been issued a Commercial Cannabis Business Permit for a dispensary by the City.
6. Display of cannabis products shall be limited to only an amount necessary to provide a visual sample for customers.
7. At all times, when the cannabis dispensary is open to the public, the dispensary shall provide at least one security guard who is registered with Bureau of Security and Investigative Services, and possesses a valid and current security guard registration card on their person while on-duty.
8. Security guards are permitted, but not mandated, to carry firearms.
9. All cannabis products available for sale shall be securely locked and stored
10. The security guard and cannabis dispensary personnel shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the dispensary or on the property or in the parking lot.
11. Medical Cannabis Dispensaries shall maintain the full name, address, and telephone number(s) of all patient members to whom the business provides medical cannabis, and a copy of a physician-issued recommendation card or State-issued card for all patient members.

12. Dispensaries shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.

13. Any commercial cannabis retail or medical retail sales facility shall be open to the public a minimum of 40 hours per week, unless otherwise specified in the Commercial Cannabis Business Permit.

14. Hours of operation in Commercial Office (C-O) zones shall be limited to no earlier than 8 a.m. Pacific Time and no later than 7 p.m. Pacific Time. Hours of operation in all other zones shall be limited to no earlier than 8 a.m. Pacific Time and no later than 10 p.m. Pacific Time, unless zoning regulations specify more restrictive hours.

15. Exterior signage shall be limited to one wall sign not to exceed twenty (20) square feet in area. Interior signage or advertising may not be visible from the exterior. No temporary signs (banners, A-frames, etc.) or window signs are allowed.

16. On-site consumption of cannabis or cannabis products is specifically prohibited on the premises at all times. The following information shall be provided on a sign posted in a conspicuous location inside the cannabis dispensary: 'Smoking, ingesting or consuming cannabis on this property or within 100 feet of the business is prohibited.'

17. An adult use license shall not sell cannabis products to persons under 21 years of age or allow any person under 21 years of age on its premises, unless such licensee also holds a medicinal license and the licensee holds a CCBP for both adult use and medicinal cannabis. A medicinal licensee may sell

cannabis products to and allow on the premises, any person 18 years of age or older who possesses a valid government issued identification card, and either a valid county-issued identification card under Section 11362.712 of the Health and Safety Code or a valid physician's recommendation for himself or herself or for a person for whom he or she is a primary caregiver.

18. Adequate signage shall clearly state that the City of Merced has not tested or inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location.

19. No recommendations from a doctor for medicalcannabis shall be issued on-site.

20. Shipments of cannabis goods may only beaccepted during regular business hours.

21. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol, or tobacco by patrons.

22. Inventory shall be secured and locked in a room,safe, or vault, and in a manner reasonably designed toprevent diversion, theft, and loss during non-business hours.

23. No cannabis product shall be visible from the exterior of the business.

24. All required labelling shall be maintained on allproduct, as required by State regulations, at all times.

25. The business shall post signs that spell out the 'Prohibited Conduct Involving Marijuana and Marijuana Products' contained in Health and Safety Code Section 11362.3 in a conspicuous manner on the business premises for the education of patrons. The City shall

develop a standard format and content for such signs.

26. The use of vending machines (i.e. a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis is strictly prohibited.

27. No drive-through facilities shall be allowed and nocannabis shall be sold through a drive-through facility.

G. Additional Regulations for Commercial Cannabis Delivery Services

1. Commercial cannabis deliveries may be made only from a commercial cannabis dispensary permitted by the City in compliance with this ordinance, and in compliance with all State regulations.

2. All employees who deliver cannabis shall have valid identification and a copy of the dispensary's Commercial Cannabis Business Permit at all times while making deliveries.

3. All commercial cannabis businesses shall provide proof of insurance in a minimum amount of \$1,000,000 for any and all vehicles being used to transport cannabis goods.

4. Deliveries may only take place during the hours of 8:00 a.m. and 7:00 p.m. daily.

5. A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers, only as required by State regulations.

6. The following applies to all deliveries of cannabis products:

a. May only be made to a physical address in California; and

b. A licensed delivery employee shall not leave the State of California while possessing cannabis products.

7. A dispensary shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information and for the duration of time required by State regulations.

8. A cannabis business shall only deliver cannabis in aggregate amounts as ordered by the customer. A cannabis business shall ensure compliance with State delivery limits as they regard the amount of cannabis and cannabis products.

9. A manifest with all information required in this section shall accompany any delivery person at all times during the delivery process and delivery hours.

10. Any delivery method shall be made in compliance with State regulations and as it may be amended, including use of a vehicle that has a dedicated GPS device for identifying the location of the vehicle (cell phones and tablets are not sufficient).

11. The maximum limit of any cannabis goods carried by the delivery vehicle may not exceed \$3,000 at any time.

12. Each delivery request shall have a receipt prepared by the dispensary with the following information:

- a. Name and address of the licensed dispensary;
- b. The name of the employee who delivered the order;
- c. The date and time the delivery request was made;
- d. The complete delivery address;
- e. A detailed description of the cannabis goods requested for delivery including the weight or volume, or any accurate measure of the amount of cannabis goods requested;
- f. The total amount paid for the delivery including any fees or taxes; and
- g. At the time of the delivery, the date and time delivery was made, and the signature of the person who received the delivery.

13. The delivery business shall provide a flyer that spells out the 'Prohibited Conduct Involving Marijuana and Marijuana Products' contained in Health and Safety Code Section 11362.3 to all delivery customers. The City shall develop a standard format and content for such flyers.

H. Additional Requirements for Manufactured Cannabis Businesses

1. A licensed cannabis manufacturing facility may conduct all activities permitted by the State. This includes, but is not limited to, volatile and

non-volatile extractions, repackaging and relabeling, and infusions.

2. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City of Merced for that additional activity.

3. At all times, the cannabis manufacturing facility will be compliant with all State regulations for cannabis manufacturing including Health and Safety Code 11362.775 and as it may be amended.

4. Inspections by the City Fire Chief or designee may be conducted anytime during the business' regular business hours.

5. Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

6. All cannabis manufacturing activities shall occur indoors within a fully enclosed and secured structure and also within a secure fence at least eight (8) feet in height that fully encloses the premises. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to

grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises. Outdoor manufacturing of cannabis is expressly prohibited.

I. Additional Requirements for Cannabis Cultivation Businesses

1. The cannabis business shall register with the Department of Pesticide Regulation if using any pesticides.
2. From a public right-of-way, there shall be no exterior evidence of marijuana cultivation.
3. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.
4. Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board.
5. All outdoor lighting used for security purposes shall be shielded and downward facing.
6. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.
7. Cannabis plants shall not be visible from offsite or the public right-of-way. All cannabis cultivation activities shall occur within a fully enclosed and secured structure and within a secure fence at least eight (8) feet in height that fully encloses the premises. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other

ordinance, code Section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises. Outdoor cultivation of cannabis is expressly prohibited.

J. Additional Requirements for Cannabis Testing Laboratory Businesses

1. A licensed cannabis testing facility shall comply with all State regulations.
2. Any cannabis testing facility shall maintain all certifications required by the State.
3. A licensed cannabis testing facility business, its owners and employees may not hold an interest in any other cannabis business except another testing business.
4. Inspections by the City Fire Chief or designee maybe conducted anytime during the business's regular business hours.

K. Additional Requirements for Cannabis Distribution Businesses

1. A licensed cannabis distribution facility shall comply with all State regulations.
2. Any cannabis distribution facility shall provide proof of a bond of at least five thousand dollars to cover the costs of destruction of cannabis or cannabis

products if necessitated by a violation of licensing requirements.

3. Inspections by the City Police Chief or designee may be conducted anytime during the business's regular business hours.

4. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.

5. A distributor shall ensure a label with the following information is physically attached to each container of each batch:

a. The manufacturer or cultivator's name and license number;

b. The date of entry into the distributor's storage area;

c. The unique identifiers and batch number associated with the batch;

d. A description of the cannabis goods with enough detail to easily identify the batch; and

e. The weight of or quantity of units in the batch.

6. A distributor shall store harvest batches and edible cannabis products that require refrigeration at 35 to 42 degrees Fahrenheit. In addition, a distributor shall store harvest batches in a darkened area with no more than 60% humidity.

7. A distributor shall store medical cannabis goods in a building designed to permit control of temperature and humidity and shall prevent the entry of

environmental contaminants such as smoke and dust. The area in which medical cannabis goods are stored shall not be exposed to direct sunlight. A distributor may not store medical cannabis goods outdoors.

8. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from the storage areas.

9. All cannabis distribution activities shall occur within a fully enclosed and secured structure and within a secure fence at least eight (8) feet in height that fully encloses the distribution area. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress. Said fence shall not violate any other ordinance, code Section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans. Notwithstanding the foregoing fencing requirements, the Director of Development Services shall have the discretion to grant an exception in the event fencing which fully encloses the premises is impossible or impractical, and there are other appropriate security measures in place on the premises.

10. If located in a General Commercial (C-G) zone,

a. The cannabis distribution business shall be located on a parcel no less than 20,000 square feet in size; and

b. All loading and unloading activities shall take place within the secured fenced area required above.

**L. Commercial Cannabis Business
Permit Selection Process**

1. Selection Process for Dispensaries/Retail Sales
(Limited Number of Permits Available)

a. The Commercial Cannabis Business Permit selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed for completeness by the Director of Development Services or designee.

b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.

c. The City of Merced has established a merit based scoring system to objectively award permits as described in the application documents in Phase 2 to be used in the event that there are more applications than there are Commercial Cannabis Business Permits for a specific license type, such as for retail dispensaries.

d. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase I. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the

'Qualified Commercial Cannabis Business Application List- Dispensaries/Retail Sales' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant- Dispensaries/Retail Sales'. The qualified applicants will be entered into the Phase 2 review process.

e. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have 10 calendar days from receipt of notice to correct the deficiency. Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the Director of Development Services decision.

f. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 1 - Initial Review.

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the 'Qualified Applicant List for Dispensaries/Retail Sales' and entered into the Phase 2 review process. These requirements include but are not limited to:

- i. All Application documents required in the City's Phase 1 application package;
- ii. Application was submitted during the application period.

iii. Application forms are filled out

completely;

iv. Business Owner(s)/ Applicant(s)

referenced

on the application provide a Live Scan that was conducted within 14 days prior to submitting the application;

v. Phase 1 application fee is paid; and

vi. A signed statement that the

proposed

location of the commercial cannabis business on the application meets the zoning criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.

g. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 2 - Final Review and Scoring.

Phase 2 requirements include, but are not limited to:

i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:

- a. Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;
- b. Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or
- c. Any material misrepresentation made by the applicant in the application for a Commercial Cannabis Business Permit.

In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within (10) ten days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the Chief of Police shall be final and there shall be no further right to appeal said decision.

- ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.
- iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the

following:

- a. The use is permitted in the Zoning District;
 - b. The location of the cannabis business meets the distance requirements from sensitive uses;
 - c. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;
 - d. No zoning violations exist on the property;
 - e. A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and
 - f. The Provisional Zoning Clearances shall be subject to final approval by the Planning Commission.
- iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and the aforementioned information, will convene a Selection Panel composed of the City Manager, Chief of Police, and the Director of Development Services, or their designees. The Selection Panel will review all application documents required in the City's Phase 1 application package plus an additional background check of all owners conducted to the satisfaction of the Chief

of Police, and individually score each application in accordance with the merit based scoring system established by Resolution of the City Council. A complete description of the merit-based system and all merit-based considerations shall be included with the application forms. An average score for each applicant based upon the merit-based scoring of the Selection Panel shall be calculated and the applications shall be ranked from highest to lowest in accordance with the average score. The applications, in order of ranking, shall then be placed on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales in the order of ranking. The Selection Panel will recommend the highest ranked applicant(s) on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail to the Planning Commission for the issuance of a Commercial Cannabis Business Permit - Dispensaries/Retail Sales. The number of applicants recommended to the Planning Commission by the Selection Panel shall be the same number of Commercial Cannabis Business Permits - Dispensaries/Retail Sales then available. Any element of an application that provided a successful applicant with points on the merit-based scoring system is subject to review and inspection by the City, which may include self-certification by the licensed business, on-site inspection, or other methods of enforcement.

- a. The Qualified Commercial

Cannabis Business Application List-Dispensaries/Retail established on September 20, 2018, shall have no further force and effect after September 20, 2019 and the City shall have no further obligations to applicants on said list.

b. Should a Commercial Cannabis Business Permit-Dispensaries/Retail become available after September 20, 2019, whether by creation of a new permit or by vacancy of an existing permit, then a new application period shall be opened as provided in Section 20.44.170(L)(1).

c. The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail shall be valid for a period not to exceed one year from the date the last available Commercial Cannabis Business Permit-Dispensaries/Retail is issued by the Planning Commission. The City shall have no further obligations to applicants on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail after one year has elapsed since the last available Commercial Cannabis Business Permit was issued.

h. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 2 – Planning Commission

The Planning Commission will review the Commercial Cannabis Business Permit-Dispensaries/Retail Sales application(s) recommended by the Selection Panel as

provided herein, and all other relevant information, and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit-Dispensaries/Retail Sales, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit-Dispensaries/Retails Sales shall be issued otherwise.

2. Selection Process for All Other Commercial Cannabis Business Permits (No Limits On the Number of Permits Available)

a. The Commercial Cannabis Business Permit-All Other Cannabis Businesses selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed for completeness by the Director of Development Services or designee.

b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.

c. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop

accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the 'Qualified Commercial Cannabis Business Application List-All Other Cannabis Businesses' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant-All Other Cannabis Businesses'. The qualified applicants will be entered into the Phase 2 review process. The Director of Development Services shall maintain the 'Qualified Application List for All Other Cannabis Businesses'.

d. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have 10 calendar days from receipt of notice to correct the deficiency. Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the Director of Development Services' decision. A new application, with new fees, would then be required for any subsequent consideration of that same or similar proposal at the same location.

e. Commercial Cannabis Business Permit-
All Other Cannabis Businesses Selection - Phase I -
Initial Review

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the 'Qualified Applicant List for All Other Cannabis Businesses' and entered into the Phase 2 review process. These requirements include, but are not limited to:

- i. All Application documents required in the City's Phase 1 application package;
- ii. Application was submitted during the application period;
- iii. Application forms are filled out completely;
- iv. Business Owner(s)/ Applicant(s) referenced on the application provide a Live Scan that was conducted within 14 days prior to submitting the application;
- v. Phase 1 application fee is paid; and
- vi. A signed statement that the

proposed

location of the commercial cannabis business on the application meets the zoning criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.

f. Commercial Cannabis Business Permit-
All Other Cannabis Businesses Selection - Phase 2 -
Final Review

Phase 2 requirements include, but are not limited to:

- i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:
 - a. Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;
 - b. Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or
 - c. Any material misrepresentation by the applicant in the application for a Commercial Cannabis Business Permit.

In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within ten (10) days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the Chief of Police shall be final and there shall be no further right to appeal said decision.

- ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable

standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.

- iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the following:
 - a. The use is permitted in the Zoning District;
 - b. The use meets the distance requirements from sensitive uses;
 - c. All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;
 - d. No zoning violations exist on the property;
 - e. A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and
 - f. The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.

iv. The Director of Development Services or designee, after reviewing the applications approved in Phase I and reviewing the foregoing information will make a recommendation to the Planning Commission to approve or reject the application for the Commercial Cannabis Business Permit for All Other Cannabis Businesses.

g. Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 2 - Planning Commission

The Planning Commission will review the Commercial Cannabis Business applications for All Other Cannabis Businesses recommended by the Director of Development Services and all other relevant information and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit for All Other Cannabis Businesses, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit shall be issued otherwise.

3. Minor Modifications to Pending Application for Commercial Cannabis Business Permit (All Types).

a. Applicants may make a written request to the Director of Development Services for a minor modification to a Commercial Cannabis Business Permit application at any point in the application process.

b. The Director of Development Services shall

have the discretion to approve minor modifications to the application. Minor modifications to an application include, but are not limited to, the following:

- i. A change to the name of the proposed business and/or entity;
- ii. A change in the organizational structure of a proposed business;
- iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the costs for investigation, and must meet the requirements of Section 20.44.170(E)(1)(e);
- iv. A change in building elevations, floorplans, or site plans;
- v. A change in operational procedures or security plans or procedures;
- vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.

c. The Director of Development Services will review any proposed modifications to the application and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development

Services shall be final and there shall be no further right to appeal.

4. Appeal or Approval of Denial of Commercial Cannabis Business Permit (All Types)

The Planning Commission will review the Commercial Cannabis Business applications and all other relevant information, and determine if a CCBP should be granted, as provided in Sections 20.44.170(L)(1)(h) and 20.44.170(L)(2)(g) herein. If the Planning Commission determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. Any decision of the Planning Commission may be appealed to the City Council.

a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.

b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(4)(d).

c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

d. Any interested person may appear and be heard regarding the appeal.

e. A matter being heard on appeal may be continued for good cause.

f. The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant, ~~or~~ deny, modify, or hold in abeyance per MMC 20.44.170(L)(4)(g) the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

f.g. If the City Council wishes to consider a change in location for a retail cannabis dispensary permit under appeal based on its location only, the City Council may agree to hold the appeal in abeyance while the permit applicant is given an opportunity to submit an application within 120 days to the Director of Development Services at no additional cost for a retail cannabis permit at a new location which meets all the requirements of the City's ordinance, including the distance from sensitive uses, and would be eligible for at least the same amount of Merit-Based non-discretionary points based on location per MMC 20.44.170(L)(1)(g)(4) per the determination of the Director of Development Services. If no application for the change in location is submitted within 120 days, the appeal shall be returned to the City Council for further action within 30 days. If an application for change in location is submitted, the Director of Development Services shall schedule a public hearing before the Planning Commission to be held within 60 days of the application submittal regarding the change in location only for the Planning Commission to make a recommendation to the City Council on whether the change in location should be approved. Within 60 days of the Planning Commission hearing on this matter, the change in location and the appeal that has been held in abeyance shall be scheduled and heard at a public hearing before the City Council. At the conclusion

of the hearing, the City Council shall make its own determination to grant or deny the appeal, and to approve or deny the permit and/or the change in location. The City shall provide all public notices and conduct all public hearings as described in the City of Merced Municipal Code Section 20.70.010 through 20.70.040.

5. Commercial Cannabis Business Permit
Annual Renewal (All Types)

a. Applications for the renewal of a permit shall be filed with the Director of Development Services at least sixty (60) calendar days before the expiration of the current permit. Any permittee allowing their permit to lapse, or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.

b. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the Director of Development Services who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this Section. An applicant shall be required to update the information contained in their original permit application and provide any new and/or additional information as may be reasonably required by the Director of Development Services in order to determine whether said permit should be renewed. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review, will review all Commercial Cannabis Business renewal applications and all other relevant information, and

determine if a renewal CCBP should be granted.

c. The Director of Development Services or designee may deny the annual renewal of a Commercial Cannabis Business Permit if the permittee or the permittee's agent or employee has committed any one of the following acts:

- i. Any act which would be considered a ground for denial of the permit in the first instance;
- ii. Violates any other provision of this section or any City of Merced or State law, statute, rule, or regulation relating to the business's permitted activity;
- iii. Engages in or permits misconduct substantially related to the qualifications, functions, or duties of the permittee;
- iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public;
- v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business;
- vi. Violates or fails to comply with the

terms and conditions of the permit;
or

- vii. Fails to pay all applicable City, State, or Federal taxes and fees.

6. Appeal of Denial of Commercial Cannabis Business Permit Renewal (All Types)

a. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review, will review all Commercial Cannabis Business renewal applications and all other relevant information, and determine if a renewal CCBP should be granted. If the Development Services Director determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have fourteen (14) calendar days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended permit application, the Development Services Director will approve or deny the permit by providing written notice to the applicant.

b. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.

- i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning

Commission. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(6)(b)(v).

- ii. Notice of the hearing shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
- iii. Any interested person may appear and be heard regarding the appeal.
- iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de novo review.
- v. A matter being heard on appeal may be continued for good cause.
- vi. The decision of the Planning Commission may be appealed to the City Council.
 - a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.
 - b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City

Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(6)(b)(vi)(e).

c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

d. Any interested person may appear and be heard regarding the appeal.

e. A matter being heard on appeal may be continued for good cause.

f. The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.

7. Modifications to Commercial Cannabis Business Permit (All Types)

a. A Commercial Cannabis Permit holder may make a written request to the Director of Development Services for modification of an existing permit at any time.

b. The Director of Development Services shall have the discretion to approve minor modifications to the permit. Minor modifications to an application include, but are not limited to, the following:

- i. A change to the name of the proposed business and/or entity;
- ii. A change in the organizational structure of a proposed business;
- iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the costs for investigation in accordance with 20.44.170(O)(7), and must meet the requirements of Section 20.44.170(E)(1)(e). Any business approved after November 3, 2021, that is awarded points on the merit-based selection criteria for local ownership shall not be approved for any request for minor modification that proposes to reduce local ownership below the minimum threshold for which points were awarded in the first place, those businesses awarded prior to November 3, 2021 are exempt from these requirements;
- iv. A change in building elevations, floor plans, or site plans;
- v. A change in operational procedures

or security plans or procedures;

- vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.

c. Any change to the location of a Commercial Cannabis Business after issuance of a Commercial Cannabis Business Permit may require a new application with payment of associated fees, at the discretion of the Director of Development Services. Any change to the location of a Commercial Cannabis Business shall be subject to approval by the Planning Commission. Prior to approval of a change in location of a Commercial Cannabis Business, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through 20.70.040.

d. The Director of Development Services will review any requests for modifications to the permit and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

8. Revocation of Commercial Cannabis Business Permit (All Types)

a. The Director of Development Services or designee may suspend or revoke a Commercial Cannabis Business Permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:

- i. Any act which would be considered a ground for denial of the permit in the first instance.
- ii. Violates any other provision of this section or any City of Merced or State law, statute, rule, or regulation relating to the business's permitted activity.
- iii. Engages in or permits misconduct substantially related to the qualifications, functions, or duties of the permittee.
- iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.
- v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business.
- vi. Violates or fails to comply with the terms and conditions of the permit.
- vii. Fails to pay all applicable City, State, or Federal taxes and fees.

b. Prior to suspension or revocation of the applicable permit, the Director of Development Services shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least ten (10) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for

revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.

c. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.

- i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission. The public hearing should be heard within ninety (90) days of receiving the appeal unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(8)(c)(v).
- ii. Notice of the hearing shall be provided to the applicant at least (ten) 10 calendar days prior to the public hearing.
- iii. Any interested person may appear and be heard regarding the appeal.
- iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director's decision and shall not be a de novo review.
- v. A matter being heard on appeal may be continued for good cause.
- vi. The decision of the Planning Commission may be appealed to the City Council.

- a. A written appeal shall be

filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.

b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(8)(c)(vi)(e).

c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.

d. Any interested person may appear and be heard regarding the appeal.

e. A matter being heard on appeal may be continued for good cause.

f. The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions

of California Code of Civil
Procedure Sections 1094.5 and
1094.6.

M. Limitations on the City's Liability

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any Commercial Cannabis Business Permit pursuant to this ordinance or the operation of any cannabis facility approved pursuant to this chapter. As a condition of approval of a Commercial Cannabis Business Permit as provided in this chapter, the applicant or its legal representative shall:

1. Execute an agreement indemnifying the City from any claims, damages, injuries, or liabilities of any kind associated with the registration or operation of the commercial cannabis facility or the prosecution of the applicant or permittee or its members for violation of federal or State laws;
2. Maintain insurance in the amounts and types that are acceptable to the City Attorney or designee;
3. Name the city as an additionally insured on all City required insurance policies;
4. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a Commercial Cannabis Business permit; and
5. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a Commercial Cannabis Business Permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such

participation shall not relieve the operator of its obligation hereunder.

N. Enforcement

1. A violation of the regulations in this ordinance by an act, omission, or failure of an agent, owner, officer or other person acting in concert with or employed by a permittee within the scope of their employment or office, shall be deemed the act, omission, or failure of the permittee.

2. A permitted Commercial Cannabis Business shall notify the Police Chief or designee of the City of Merced upon discovery of any of the following situations:

a. A discrepancy of more than \$1,000 in inventory over a period of 24 hours or \$3,000 over a period of 7 days.

b. A reason to suspect diversion, loss, theft or any other criminal activity pertaining to the operation of the commercial cannabis business.

c. The loss or alteration of records related to cannabis goods, registered medical cannabis patients, caregivers or dispensary employees or agents.

d. Any other reason to suspect any other breach of security.

3. Each and every violation of this Section shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Municipal Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the business's Commercial Cannabis Business Permit, disgorgement and payment to the

City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the cannabis business and/or any owner, agent, officer, or any other person acting in concert with or employed by the cannabis business.

4. City Officials or their designees may enter and inspect the location of any commercial cannabis business during normal business hours to ensure compliance with this Section. In addition, law enforcement may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this Section, except that the inspection and copying of private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person engaging in commercial cannabis business without a permit and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the permit fee for each violation, and the department, state or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section.

O. Fees and Taxes

All Cannabis Operations shall pay applicable fees and taxes, which may include one or more of the following:

1. Initial Application Fees. The Business Applicant shall submit a non-refundable fee to cover

the cost of processing an initial application for the commercial cannabis business. These fees may be divided into two fees according to Initial Review (Phase 1) and Final Review (Phase 2).

2. Application Renewal Fees. The Business Owner shall submit a non-refundable fee to cover the cost of processing an application renewal annually.

3. Business License Fee. The Business Owner shall at all times maintain a current and valid business license and pay all business taxes required by the Merced Municipal Code.

4. Commercial Cannabis Regulatory Fee. The Business Owner shall pay an annual regulatory fee ('Regulatory Fee') to cover the costs of anticipated enforcement relating to the Cannabis Operation. The amount of the fee shall be set by Resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the Cannabis Operation. The Regulatory Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs.

5. All required taxes including sales and use taxes, business, payroll etc.

6. Additional cannabis-specific gross receipts, excise, cultivation, or any other tax approved by the voters of the City of Merced.

7. Fees for background checks for businesses with more than one owner of 5% or more interest in a Commercial Cannabis Business. The application fees approved by City Council in Resolution 2021-43 account for a single owner's background check. Fees for additional owners shall be determined by the Chief of

Police, approved by the Finance Officer, and updated each fiscal year. Requests for minor modifications to permits in accordance with 20.44.170(L)(7)(b)(iii) that propose changes to ownership and require background checks for new owners with 5% or more interest in a Commercial Cannabis Business will be subject to the same fees.

P. Labor Peace Agreements

1. All Commercial Cannabis Businesses with five (5) or more employees applying for a Commercial Cannabis Business Permit on or after November 3, 2021, shall provide the City with a notarized statement that the business will enter into, or demonstrate to the City that it has already entered into, and abide by the terms of a labor peace agreement. Such statement or demonstration shall be provided to the City as part of the application for a Commercial Cannabis Business Permit.
2. All Commercial Cannabis Business with five (5) or more employees that received a Commercial Cannabis Business Permit prior to November 3, 2021, are encouraged to provide to the City a statement or demonstration consistent with 20.44.170(P)(1) above.
3. All Commercial Cannabis Businesses with four (4) or fewer employees that apply for a Commercial Cannabis Business Permit on or after November 3, 2021, shall provide a notarized statement indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 5th employee. Such statement shall be provided to the City as part of the application for a Commercial Cannabis Business Permit.
4. All Commercial Cannabis Businesses with four (4) or fewer employees that received a Commercial

Cannabis Business Permit prior to November 3, 2021,
are encouraged to provide to the City with a
statement consistent with 20.44.170(P)(3) above.

SECTION 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ___ day of _____, 202~~4~~3, and was passed and adopted at a regular meeting of said City Council held on the ___ day of _____, 202~~4~~3, by the following called vote:

AYES: **Council Members:**

NOES: **Council Members:**

ABSTAIN: **Council Members:**

ABSENT: **Council Members:**

APPROVED:

|

Mayor

**ATTEST:
STEPHANIE DIETZ, CITY CLERK**

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney Date

CITY OF MERCED
Planning Commission

Resolution #4110

WHEREAS, the Merced City Planning Commission at its regular meeting of June 7, 2023, confirmed the denial of **Vesting Tentative Subdivision Map #1326**, initiated by ISEA International, property owner. The proposed subdivisions would subdivide one parcel (approximately 10.76 acres) into 53 single-family lots, ranging in size between 5,000 square feet to 6,750 square feet. The approximate 10.76-acre subject site is generally located south of Cardella Road, between El Redondo Drive and Horizon Avenue. The subject site is more particularly described as Parcel 1 as shown on the map entitled “Parcel Map for YCH” recorded in Volume 102, Page 16, in Merced County Records; also known as a portion of Assessor’s Parcel Number (APN) 206-030-017; and,

WHEREAS, the Merced City Planning Commission held a public hearing regarding this matter on April 5, 2023. At that time, the Planning Commission voted to deny Vesting Tentative Subdivision Map #1326 based on the following Findings:

N. The project is not consistent with the overall Vision of the Urban Village Neighborhood concept of the *2030 Merced Vision General Plan*;

O. The proposed density is not consistent with the density required for residential development in the existing General Plan designations for the site - Commercial Office (CO)/Neighborhood Commercial (CN).

NOW THEREFORE, after reviewing the City’s Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby deny a Negative Declaration regarding Environmental Review #22-50, and deny Vesting Tentative Subdivision Map #1326.

Upon motion by Commissioner Greggains, seconded by Commissioner Camper, and carried by the following vote:

AYES: Commissioner Camper, Greggains, Delgadillo, and Chairperson Harris

NOES: None

ABSENT: Commissioner White, Gonzalez (1 vacancy)

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4110

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June 7, 2023

Adopted this 7th day of June 2023



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary