



CITY OF MERCED

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

Minutes Planning Commission

Wednesday, February 3, 2021

7:00 PM

A. CALL TO ORDER

Chairperson HARRIS called the Regular Meeting to order at 7:00 PM

Clerk's Note: The meeting was held via teleconference per Governor Newsom's Executive Order N-29-20 and roll call votes were taken.

A.1. Moment of Silence

A.2. Pledge of Allegiance to the Flag

Commissioner WHITE led the Pledge of Allegiance to the Flag.

B. ROLL CALL

Clerk's Note: The Planning Commission has one vacancy at the time.

Present: 6 - Chairperson Michael Harris, Stephanie Butticci, Robert Dylina, Dorothea White, Jose Delgadillo, and Vice Chair Mary Camper

Absent: 0

C. ORAL COMMUNICATIONS

There were no public comments.

D. CONSENT CALENDAR

D.1 **SUBJECT:** Planning Commission Minutes of January 20, 2021

ACTION:

Approving and filing the Planning Commission Minutes of January 20, 2021

A motion was made by Member Camper, seconded by Member Delgadillo, to approve Consent Calendar. The motion carried by the following vote:

Aye: 6 - Harris
Butticci
Dylina
White
Delgadillo
Camper

No: 0

Absent: 0

E. PUBLIC HEARINGS AND ACTION ITEMS

E.1

SUBJECT: Conditional Use Permit #1246, initiated by God's Love Outreach Ministries, applicant for Usha and Kumar Arvind, property owners. This application involves a request to allow a State Licensed Adult Residential Care Facility with 10 beds at 1369 Derby Court, generally located on the north side of Derby Court, approximately 300 feet east of Alviso Drive, within Planned Development (P-D) #46 with a General Plan designation of Low Density (LD) Residential **PUBLIC HEARING** (Continued from the meetings of November 4, 2020, December 9, 2020, and January 6, 2021)

ACTION: No action required as the item has been withdrawn

SUMMARY

God's Love Outreach Ministry (G.L.O.M.) is withdrawing their conditional use permit application for a large State licensed adult residential care facility with 10 beds at 1369 Derby Court.

Associate Planner MENDOZA-GONZALEZ informed the Planning Commission that this application has been withdrawn by the applicant.

The Public Hearing item was withdrawn.

E.2

SUBJECT: Conditional Use Permit #1252, Design Review Permit #20-02, and Restaurant Encroachment Permit #20-09, submitted by Main Street Revival, LLC, on behalf of Main Street OB, LLC, property owner. This application involves a request to operate a wine shop and lounge (selling wine for on-site and off-site consumption) with retail sales and food service at 629 W. Main Street, generally located on the north side of Main Street, approximately 150 feet west of M Street, within a Central Commercial (C-C) Zone. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify
Environmental Review #20-43 (*Categorical Exemption*)
Conditional Use Permit #1252
Design Review Permit #20-02
Restaurant Encroachment Permit #20-09

SUMMARY

Main Street Revival, LLC, is requesting approval to operate a wine shop and lounge at 629 W. Main Street. The wine shop and lounge would be located within a 4,000-square-foot building that is currently being remodeled in Downtown Merced. A conditional use permit is required for "bars" within the Central Commercial (C-C) Zone, and for any business wanting to sell alcoholic beverages for off-site consumption within a building of 20,000 square feet or less. Design Review is required as the site is located within the City's Design Review Boundary. A Restaurant Encroachment Permit is required to serve alcohol outdoors within the proposed patio that encroaches onto the City sidewalk. Staff is recommending approval of this application subject to conditions.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #20-43 [*Categorical Exemption*] including the adoption of the Draft Resolution at Attachment A subject to the conditions in Exhibit A and the findings/considerations in Exhibit B.

Associate Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #21-024. (Members of the public were given the opportunity to leave email and voicemail messages as well prior to the meeting, none were received).

Public testimony was opened at 7:21 PM

Speakers Via Teleconference in Favor:

Tracy Proietti, Main Street Revival, LLC, Merced

Matthew Stuhl, Consultant, San Francisco

There were no speakers in opposition to the project.

Public testimony was closed at 7:28 PM

A motion was made by Member Butticci, seconded by Member Camper, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #20-43 and approve Conditional Use Permit #1252, Design Review Permit #20-02, and Restaurant Encroachment Permit #20-09 subject to the Findings and Conditions set forth in Staff Report #21-024 (RESOLUTION #4056) .

The motion carried by the following vote:

Aye: 6 - Harris
Butticci
Dylina
White
Delgadillo
Camper

No: 0

Absent: 0

E.3

SUBJECT: General Plan Amendment #20-01 and Site Utilization Plan Revision #23 to Planned Development (P-D) for approximately 6.39 acres of land, generally located on the south side of Devonwood Drive, east of Wal-Mart. The General Plan Amendment would change the General Plan designation from Low-Medium Density Residential (LMD) to High Density Residential (HMD). The Site Utilization Plan Revision would change the Site Utilization Plan designation from Single Family Residential to Multi-Family Residential. These changes would allow the future development of a 156-unit apartment complex. **PUBLIC HEARING**

ACTION Item to be Tabled; No Action Required

SUMMARY

Due to an error in the public hearing notice, the Planning Commission should table this item.

RECOMMENDATION

The Item is being Tabled; no action required.

Planning Manager ESPINOSA informed the Planning Commission that no action is required, the item will be tabled and brought back at a future date.

General Plan Amendment #20-01 was tabled.

F. INFORMATION ITEMS**F.1.**

SUBJECT: Report by Planning Manager of Upcoming Agenda Items

ACTION

Information only.

Planning Manager ESPINOSA went over items for the next several Planning Commission meetings.

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

Feb. 1 City Council, 6:00 p.m. **(By Teleconference)**
3 Planning Commission, 7:00 p.m. **(By Teleconference)**
16 City Council, 6:00 p.m. **(May be by Teleconference)**
17 Planning Commission, 7:00 p.m. **(By Teleconference)**
23 Bicycle/Pedestrian Advisory Commission, 4:00 p.m. **(By Teleconference)**
Mar. 1 City Council, 6:00 p.m. **(Teleconference)**
3 Planning Commission, 7:00 p.m. **(By Teleconference)**
15 City Council, 6:00 p.m. **(May be by Teleconference)**
17 Planning Commission, 7:00 p.m. **(By Teleconference)**

G. ADJOURNMENT

Clerk's Note: The Regular Meeting adjourned at 7:36 PM

A motion was made by Member White, seconded by Member Butticci, to adjourn the Regular Meeting. The motion carried by the following vote:

Aye: 6 - Harris
Butticci
Dylina
White
Delgadillo
Camper

No: 0

Absent: 0

CITY OF MERCED
Planning Commission

Resolution #4056

WHEREAS, the Merced City Planning Commission at its regular meeting (held via teleconference) of February 3, 2021, held a public hearing and considered **Conditional Use Permit #1249, Design Review Permit #20-02, and a Restaurant Encroachment Permit #20-09**, submitted by Main Street Revival, LLC, on behalf of Main Street OB, LLC, property owner. This application involves a request to operate a wine shop and lounge (selling wine for on-site and off-site consumption) with retail sales and food service at 629 W. Main Street, generally located on the north side of Main Street, approximately 150 feet west of M Street, within a Central Commercial (C-C) Zone; said property being more particularly described as Lot 13 of Block 164 as shown on that certain Parcel Map entitled “Supplemental Map to Town of Merced,” recorded in Volume 99, Page 26 of Merced County Records; also known as Assessor’s Parcel Number (APN) 031-133-015; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through L (Exhibit B) of Staff Report #21-024; and,

WHEREAS, the Merced City Planning Commission concurs with the Findings for Conditional Use Permits in Merced Municipal Code Section 20.68.020 (E), and other Considerations as outlined in Exhibit B; and,

NOW THEREFORE, after reviewing the City’s Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #20-43, and approve Conditional Use Permit #1252, Design Review Permit #20-02, and Restaurant Encroachment Permit #20-09 subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

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

AYES: Commissioners Camper, Butticci, Delgadillo, Dylina, White, and Chairperson Harris
NOES: None
ABSENT: None (one vacancy)
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4056

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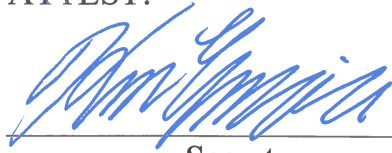
February 3, 2021

Adopted this 3rd day of February 2021

Michael Harris

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachments:

Exhibit A - Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4056
Conditional Use Permit #1252, Design Review Permit #20-02, and
Restaurant Encroachment Permit #20-09

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) - Attachment C, Exhibit 2 (Elevation) – Attachment D, and Exhibit 3 (Rendering) - Attachment E of Staff Report #21-024, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
3. The 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.

4. 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.
5. Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
6. All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
7. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
8. A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are prohibited.
9. Employees shall be at least 21 years old to sell alcohol for off-site consumption.
10. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws, and other nuisance-related issues.
11. The area within the business dedicated to the display and sale of wine shall not exceed 362.5 square feet, as shown at Attachment C of Staff Report #21-042.
12. The City reserves the right to periodically review the area for potential problems. If in the opinion of the Police Chief, problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and in conformance with the procedures outlined in the Merced Municipal Code.

13. No sale of alcoholic beverages shall be made from a drive-up window.
14. The business shall comply with all applicable requirements from the Merced County Health Department.
15. This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.
16. A Finding of Public Convenience or Necessity may be required by the Department of Alcoholic Beverage Control. If required, it must be obtained from the City Council prior to operation.
17. Building improvement work shall be done by qualified licensed contractors.
18. Alcohol service shall end before 11:00 p.m. Hours may be extended with approval from the Director of Development Services or Police Chief.
19. The applicant shall install exterior video surveillance cameras that continuously record outside activities 24 hours a day, 7 days a week (locations to be worked out with the Police Department). Any video related to criminal investigations must be accessible immediately for viewing by the Merced Police Department or any other law enforcement agency. A recorded copy of surveillance video, requested in connection with a criminal investigation, must be reasonably accessible and available within 24 hours when requested by law enforcement. The business owner is responsible for maintaining the video surveillance equipment in an operable manner at all times.
20. To prepare food onsite, the applicant shall obtain all proper permits and comply with all requirements of the Merced County Health Department and the City of Merced Building Department.
21. Any music played shall be kept to a minimum noise level so as not to travel outside the immediate area around the building.
22. The applicant shall obtain an agreement to use City right-of-way for the outdoor patio fronting Main Street, and cantilevers extending above the City sidewalk.
23. Outdoor cooling or heating units shall need to be listed and approved by the Fire Department.

24. If a gate is installed, it shall not be locked during business hours. Entrance into the outdoor seating area shall be kept open at all times during hours of operation.
25. No temporary signs shall be attached to the fence. All temporary signs shall be approved and a “Temporary Sign Permit” shall be obtained prior to installation.
26. An employee shall monitor the outdoor seating area at all times when alcohol is being served.
27. Any umbrellas placed in the outdoor seating area shall be of color that matches or compliments the building color and shall not have any type of advertisement.
28. The applicant shall comply with restaurant encroachment permit regulations from Merced Municipal Code 12.36 – Restaurant Encroachment Permits, shown at Attachment M.
29. Approval of this Conditional Use Permit constitutes restaurant encroachment permit approval for this site.
30. Approval of this Conditional Use Permit constitutes Design Review Permit approval for this site, as required for properties within the Design Review Boundary by Merced Municipal Code Chapter 20.68.030 – Design Review Permit.
31. Signage approval is being included with this request. Future signage shall match or compliment the design of the facade (in regard to color, design, and materials) and be in compliance with MMC 17.36. Article IV (Downtown Sign Code).

Findings and Considerations
Planning Commission Resolution #4056
Conditional Use Permit #1252, Design Review Permit #20-02, and
Restaurant Encroachment Permit #20-09

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Regional/Community Commercial (RC) and the zoning classification of Central Commercial (C-C) with approval of a Conditional Use Permit.

Alcohol Sales

- B) Per Merced Municipal Code Land Use Table 20.10-1 (Permitted Land Uses in the Commercial Zoning Districts), a Conditional Use Permit is required for businesses that meet the definition of a “bar” within a Central Commercial (C-C) Zone, and for the sale of alcohol for off-site consumption within a building that is under 20,000 square feet. In order for the Planning Commission to approve or deny a request for the sale of alcoholic beverages, it must consider the following criteria and make findings to support or deny each criteria per MMC 20.44.010:

Criteria #1

The proposed use will not result in an "undue concentration" of establishments dispensing alcoholic beverages as defined by Section 23958 and 23958.4 of the California Business and Professional Code and giving consideration to the California Department of Alcoholic Beverage Control's guidelines related to number and proximity of such establishments within a 500-foot radius of the site.

Finding #1:

The Department of Alcoholic Beverage Control may require a Finding of Public Convenience or Necessity. The subject site is located within Alcoholic Beverage Control Census (ABC) Tract #13.02. In checking with the State of California Alcoholic Beverage Control, this census tract is over concentrated with businesses selling alcohol as 2 licenses are allowed per ABC guidelines, but there are currently 25 active sites. The City Council may need to approve a Finding of Public Convenience or Necessity for this use if determined necessary by the Department of Alcoholic Beverage Control (Condition #17 of Staff Report #21-024).

Criteria #2

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

Finding #2:

The nearest low-density residential zone is located approximately 2,500 feet northwest of the subject site at the southwest corner of 20th Street and R Street. In addition, there are some multi-family apartments within the Central Commercial (C-C) Zone, such as the Tioga Apartments and the Merced Lofts, and a High Density Residential (R-4) Zone at the northeast corner of Martin Luther King Jr. Way and 18th Street. The nearest school (John C. Freemont) is located 2,500 feet northwest of the subject site, with the nearest classrooms being over 3,000 feet away from the subject site at the southwest corner of R Street and 22nd Street. The nearest park (Merced County Court House Square Park) is located approximately 2,000 feet away from the subject site at the northeast and northwest corners of N Street and 20th Street.

Criteria #3

The crime rate in the area of the proposed site with particular attention given to those crimes involving public intoxication, the illegal sale of narcotics, disturbing the peace, and disorderly conduct.

Finding #3:

Between January 1, 2020, and December 30, 2020, the Merced Police Department recorded 649 incidents within a 500-foot radius of the subject site. The table below shows the number of incidents within that area involving public intoxication, assaults, MMC violations, and narcotics violations (totaling 117 incidents during the 12-month period). As shown on the attached Incident Maps (Attachment J of Staff Report #21-024). The number of incidents reported City-wide for the same time period was 72,888 (Attachment J of Staff Report #21-024). Based on the total number of calls within the City, the 649 calls to this area equals 0.89% of the overall calls for service within the City.

Incidents and Cases Reported (January 1, 2020 – December 30, 2020)

Incident/Case Type	Number of Incidents
Public Intoxication	4
Disturbance (assaults)	56
MMC*	55
Narcotics violations	2

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

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

Neighborhood Impact

- C) The subject site is located in Downtown Merced and is surrounded by a variety of commercial and entertainment businesses (Attachment B of Staff Report #21-024). Entertainment businesses are common throughout the surrounding area with businesses such as the Merced Theater, The Mainzer, The Cue Spot Billiards, 17th Street Public House (pub), Regal Hollywood (movie theatre), The Partisan (pub), O'Ryleigh's (pub), Chandelier's Hookah Lounge, Casino Merced, Poker Flats, Merced Playhouse Merced (live theatre), and El Palacio Night Club, all located throughout Downtown. In addition, there are a variety of restaurants that serve alcohol with food, such as Destinos, J&R Tacos, Five Ten Bistro, and King's Asian Cuisine. Given the concentration of entertainment businesses and alcohol sales in the area, staff does not anticipate that the approval of this wine shop and lounge would create any unusual circumstances for the neighborhood. In fact, this business concept would be a unique addition to the Downtown as there are no other similar businesses that focus on the sale and consumption of fine wines. For those reasons, staff believes this business will be an asset to the Downtown area.

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 did not receive any comments from the public about this project.

Building Elevation

- D) The image at Attachment F of Staff Report #21-024 shows the previous façade for this site. The new façade would maintain the same building footprint and height that has historically been at this site, with an updated façade that incorporates large eyelevel storefront windows and overhead windows, a wall-length parapet with crown molding, and cantilevers for the outdoor patio. As shown at Attachment E of Staff Report #21-024, the outdoor patio includes a hip-level fence that is bounded on the sides by concrete planters. Below the windows, are tiles laid out in a herringbone pattern. The tile would have a matte finish with a quasi-cooper color that would be used to highlight certain aspects of the building such as the main entry doors, and the exterior wall sconce lighting fixtures. The majority of the building would be painted black and white. Staff is of the opinion that the proposal is of high architectural quality, and is compatible with the surrounding buildings.

Design Review

- E) Design Review Permit approval is required as the site is located within the City's Design Review Boundary (Attachment K of Staff Report #21-024), which generally consist of the portion of Central Merced that is approximately located south of W. 20th Street, north of Highway 99, west of D Street, and east of Cooper Avenue. The City does not have any specific design criteria when reviewing proposals within the Design Boundary. There are no specific standards requiring particular color schemes, materials, or architectural styles. The Planning Commission has the authority to review projects subjectively while considering the quality of the design and

compatibility with surrounding buildings. Consideration could be given for different architectural elements and site features shown at Attachment L of Staff Report #21-024 under Merced Municipal Code Section 20.68.030 (F) – Features to Consider, and Merced Municipal Code Section 20.68.030 (G) – Design Review Principles.

In order for the Planning Commission to approve or deny a design review permit they must consider the following criteria and make findings to support or deny each criteria per Merced Municipal Code Section 20.68.030 (H) – Findings.

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

As shown under Finding A, the proposed project complies with the General Plan designation of Regional/Community Commercial (RC) and the zoning classification of Central Commercial (C-C) with approval of this conditional use permit. There are no community, specific, or neighborhood plans adopted for this site.

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

With approval of this resolution, the proposal would comply with applicable provisions in the Zoning Code and Municipal Code which includes obtaining a Conditional Use Permit, Design Review Permit, and Restaurant Encroachment Permit. After obtaining said entitlements, the applicant would follow-up and obtain a Finding of Convenience and Necessity issued by the City Council, an Agreement to Use City Right-of-Way facilitated by the Engineering Department, and Building Permits issued by the Building Department.

3. *The design and layout of the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.*

As shown under Finding D, staff is of the opinion that the design and layout of the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.

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

As shown under Finding D, staff is of the opinion that the proposed building design makes use of appropriate materials, texture and color, and will remain aesthetically appealing and appropriately maintained.

5. *The proposed design will not be materially detrimental to the public health, safety, and welfare, or be injurious to the property or improvements in the vicinity of the proposed project.*

EXHIBIT B OF PLANNING COMMISSION RESOLUTION #4056

The Police, Fire, and Engineering Departments reviewed this proposal and determined that the proposed design would not be materially detrimental to the public health, safety, and welfare, or be injurious to the property or improvements in the vicinity of the proposed project.

Floor Plan

- F) The site plan/floor plan at Attachment C of Staff Report #21-024 shows the proposed layout for the site which includes an outdoor patio that is fenced-in and partially covered by overhang cantilevers. The patio area will include an ingress/egress gate, and contain tables with umbrellas, benches, and small round tables for smaller parties. The interior includes product display shelves along the western, eastern, and northern walls. Bathrooms would be located at the northeast corner of the suite. A lounge with small and large sofas would be located within the southeast portion of the building. Small and large tables would be disbursed throughout the rest of the floor plan. In total, there would be approximately 30 interior seats, and 10 exterior seats.

Signage

- G) The applicant is not proposing any specific signage with this request. However, the applicant provided a conceptual plan showing the location of the exterior building sign, at Attachment E of Staff Report #21-024. To consolidate the review process, the applicant is requesting design review approval for the future sign, with the understanding that the future sign would be designed to match or complement the colors, materials, and aesthetics used throughout the façade. Typically, a signage plan is produced towards the end of the entitlement process. A formal request for permanent signage shall be reviewed with a building permit application and shall require compliance with the signage regulations for Downtown (MMC 17.36. Article IV) as shown at Condition #31 of Planning Commission Resolution #4056.

Parking

- H) The subject site is located within the City's Downtown Parking District, which does not require off-street parking for uses on the first floor. Attachment N of Staff Report #21-024 contains the City's Downtown Parking District and highlights City-owned parking lots. There are several parking lots within a block radius (400 feet) of the subject site, including the Shannon Arcade (3 level parking garage) and the parking lot at the northwest corner of W. 16th Street and M Street.

Operation Details

- I) The applicant has provided an overview of their business concept at Attachment O of Staff Report #21-024. Their business plan indicates that they would like to showcase local wineries within a 120 mile radius of Merced. They would like to provide a relaxed ambiance with light music, natural lighting, and hors d'oeuvres such as cheeses, cured meats, fresh bread, and pickled veggies (see Conditions #14, #20, and #21 of Planning Commission Resolution #4056 regarding music, and Health Department approval). The business hours would vary by season, with Spring and

Summer operation hours being between 11 a.m. and 9 p.m., and Fall and Winter operation hours being between 12 p.m. and 8 p.m.

Conditional Use Permit Findings

- J) In order for the Planning Commission to approve or deny a conditional use permit they must consider the following criteria and make findings to support or deny each criteria per MMC 20.68.020 (E) – Findings for Approval.

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

As shown under Finding A, the proposed project complies with the General Plan designation of Regional/Community Commercial (RC) and the zoning classification of Central Commercial (C-C) approval of this conditional use permit. There are no adopted area or neighborhood, specific, or community plans in this area.

2. *The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the subject property.*

The image at Attachment F of Staff Report #21-024 shows the condition of the building prior to site being redesigned. The new façade would maintain the same building footprint and height that has historically been at this site, with an updated façade that incorporates large eyelevel and overhead storefront windows, a wall-length parapet with crown molding, and canopies for the outdoor patio. As shown at Attachment E of Staff Report #21-024 the outdoor patio includes a hip-level fence that is bounded on the sides by concrete planters. Below the windows, are tiles laid out in a herringbone pattern. The tile would be a matte finished copper like color that would be used to highlight other aspects of the building such and the main entry doors, and the exterior wall sconce lighting fixtures. The majority of the building would be painted black and white.

Several buildings within a block radius of this site have recently been constructed, or remodeled and are compatible with this proposal, such as The UC Merced Downtown Campus Center, The Tioga, The Mainzer, El Capitan Hotel, and upcoming Bitwise building. Staff believes that the location, size, design, and operating characteristics of the proposal would be compatible existing and future land uses in the vicinity.

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

As shown under Finding B, staff does not anticipate that this proposal would be detrimental to the public health, safety, and welfare of the City. Planning staff consulted with the Merced Police Department regarding alcohol sales at this location; the Police Department did not have any significant concerns with this

request and is not requiring any conditions of approval not normally associated with alcohol sales for on-site and off-site consumption. Based on the information provided by the Police Department, staff does not anticipate that the approval of this request would adversely affect the public health, safety, and welfare of the City.

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

The subject site is being remodeled and is currently being served by existing infrastructure.

Restaurant Encroachment Permit

- K) Attachment M of Staff Report #21-024 contains Merced Municipal Code Section 12.36 – Restaurant Encroachment Permits, which outlines various definitions, permit expiration date (annually by December 31st), submittal requirements, insurance requirements (City certificate of insurance with coverage of at least \$500,000 for property damage and personal injury), public property use fees (\$150.00), fencing standards (may not extend beyond 10 feet of building frontage and shall maintain five-foot pedestrian clearance), products serve (food and beverages only), and the permit revocation process (see Condition #28). Approval of a restaurant encroachment permit does not require the adoption of specific findings.

Environmental Clearance

- L) Planning staff has conducted an environmental review (Environmental Review #20-43) 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 P of Staff Report #21-024).