



## Legislation Text

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File #: 19-541, Version: 1

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**SUBJECT:** Public Hearing for Approving a Mitigated Negative Declaration for Environmental Review #19-18 and Potential Introduction of an Ordinance, Approving Zone Change #426 and Adoption of a Resolution Approving General Plan Amendment #19-02 Changing the Zoning and General Plan Designations for Approximately 0.52 Acres of Land Generally Located on the East Side of McKee Road Approximately 360 Feet South of Yosemite Avenue and the Appeal of the Planning Commission's Denial of Conditional Use Permit #1231 to Allow a Mixed-Use Project to be Constructed at the Southeast Corner of Yosemite Avenue and McKee Road

### REPORT IN BRIEF

Considers approving a Mitigated Negative Declaration for Environmental Review #19-18, and introducing an Ordinance, General Plan Amendment #19-03, Zone Change #426, and an appeal of the Planning Commission's denial of Conditional Use Permit #1231 for a mixed-use project.

### RECOMMENDATION

#### **General Plan Amendment #19-02 and Zone Change #426**

**City Council** - Adopt a motion:

A. Adopting **Resolution 2019-63**, a Resolution of the City Council of the City of Merced, California, approving a Mitigated Negative Declaration for General Plan Amendment #19-02 and Zone Change #426, approving General Plan Amendment #19-02 to change the General Plan Designation from Low Density Residential (LD) to Neighborhood Commercial (CN) for approximately 0.52 acres of land generally located on the east side of McKee Road approximately 360 feet south of Yosemite Avenue, and approving a Legislative Action Agreement for the same; and,

B. Introducing **Ordinance 2504**, an Ordinance of the City Council of the City of Merced, California, amending the Official Zoning Map by rezoning approximately 0.52 acres of land generally located on the east side of McKee Road, approximately 360 feet south of Yosemite Avenue from R-1-6 to Neighborhood Commercial (C-N); and,

C. Authorizing the City Manager or the Assistant City Manager to execute the Legislative Action Agreement.

#### **Conditional Use Permit #1231**

A. Open the public hearing and hear all testimony regarding the appeal; and,

B. Close the public hearing; and,

C. Provide direction to staff regarding Findings to grant or deny the appeal.

## ALTERNATIVES

### General Plan Amendment #19-02 and Zone Change #426

1. Approve the request as recommended by the Planning Commission and staff; or
2. Approve subject to modifications as conditioned by the City Council; or,
3. Deny the request; or,
4. Refer back to staff for reconsideration of specific items (specific items to be addressed in the motion); or,
5. Continue to a future meeting (date and time to be specified in the motion).

### Conditional Use Permit #1231

1. Give direction regarding Findings for approval or denial;
2. Continue the public hearing to a future meeting (date and time to be specified in the motion).

## AUTHORITY

Title 19 of the Merced Municipal Code outlines environmental review procedures and California Government Code Section 65358 (a) grants the authority to amend all or part of an adopted General Plan. The legislative body may amend the zoning pursuant to California Government Code Section 65583.

City of Merced Zoning Ordinance Section 20.74 - Appeals addresses the procedure for appealing a decision made by the Planning Commission.

## DISCUSSION

The following discussion is divided into two parts. The first part of the discussion will focus on the requested General Plan Amendment and Zone Change, and the second part will focus on the appeal of the Conditional Use Permit #1231. The City Council's action on the General Plan Amendment and Zone Change will be separate from the action on the Conditional Use Permit.

### General Plan Amendment and Zone Change

The requested General Plan Amendment and Zone Change is for an approximately 0.52-acre portion of a parcel generally located at the southeast corner of Yosemite Avenue and McKee Road (Attachment 1). The General Plan Amendment would change the General Plan designation from Low Density Residential (LD) to Neighborhood Commercial (CN), and the Zone Change would change the Zoning from R-1-6 to Neighborhood Commercial (C-N) (Attachment 2). The owner of the property, Merced Holdings, LP (Joe Englanoff, Managing Member), recently acquired the additional 0.52 acres (approximately 22,670 s.f) of land from the adjacent property owner to the south and is requesting the General Plan and Zoning designations be changed to be consistent with the remainder of the property.

In 2014, the owner applied for a General Plan Amendment and Zone Change to change the original 4.32 acre parcel and the 1.1 acre parcel at the southeast corner of Yosemite & McKee from Low Density Residential (LD) and R-1-6 to Neighborhood Commercial (CN). At that time, the owner

proposed the construction of a 62,000-square-foot retail commercial center that would have included a small grocery store, a fast-food restaurant (with a drive-through), and other retail uses appropriate to the Neighborhood Commercial (C-N) zone (Attachment 3). The City Council approved the General Plan Amendment and Zone Change to Neighborhood Commercial in 2015.

When the General Plan Amendment and Zone Change were approved in 2015, the City Council had two options for the Shopping Center design on the project site. One option included providing direct access to Whitewater Way from Yosemite Avenue, and the other option did not provide access other than an entrance-only service road to serve commercial uses proposed on the site. The City Council voted to prohibit direct access from Yosemite Avenue to Whitewater Way and instead, approved the option with an entrance-only service road.

The approval of the General Plan Amendment and Zone Change would make the land use designations consistent for the entire site. This would need to be done for any future development on the property. Currently, the owner is proposing a mixed use development that would include 428 efficiency dwelling units (EDU's), 18,000 square feet of community/amenity area for the residential tenants, and 18,000 square feet of commercial space (refer to the Site Plan at Attachment 4).

#### Planning Commission Action on General Plan Amendment and Zone Change

The Planning Commission considered General Plan Amendment #19-02 and Zone Change #426 and held a public hearing on the matter on August 21, 2019, (additional information regarding the meeting is provided later in this report). In order to make the land use designations consistent for the entire site, the Commission voted 5-0 (5 ayes, 0 noes, 1 absent, 1 vacancy) to recommend the City Council approve General Plan Amendment #19-02 and Zone Change #426 subject to the Conditions and Mitigation Measures at Exhibits A and B of Planning Commission Resolution #4025 (Attachment 16). An excerpt from the Planning Commission Minutes of August 21, 2019 are provided at Attachment 17 and Planning Commission Staff Report #19-22 is provided at Attachment 18.

#### Appeal of Conditional Use Permit #1231

In addition to the General Plan Amendment and Zone Change, the applicant is appealing the Planning Commission's denial of Conditional Use Permit (CUP) #1231. Staff is asking the City Council provide direction on whether they wish to grant the appeal or deny the appeal. Additionally, the Council should provide Findings to support the action they wish to take regarding the appeal. Staff would then return at a future City Council meeting with the Findings for the Council to take official action on the appeal. In order for the Council to fully consider the appeal, proposed conditions of approval have been included at Attachment 5. Should the Council wish to grant the appeal and approve CUP #1231, these conditions of approval are recommended to be included in the approval.

#### Project Description

Conditional Use Permit #1231 would allow the construction of a mixed-use development on the project site. The development would include 428 Efficiency Dwelling Units, 18,000 square feet of common/community space for the residential tenants, and 18,000 square feet of commercial space for a variety of commercial uses (refer to the Site Plan at Attachment 4). Buildings 1 and 3 as shown on the site plan would each contain 102 units, while Buildings 2 and 4 would each contain 112 units. Buildings 2 and 4 would have a mixture of retail commercial uses and community/common area for

the residential tenants on the ground floor. The building elevations are provided at Attachment 6 as well as renderings at Attachment 7.

Efficiency Dwelling Units (EDU's), or micro-apartments as they are sometimes referred to, are commonplace in many cities and are synonymous with what is more commonly referred to as a studio apartment. This type of unit typically consists of one room with a separate bathroom. The kitchen area, living, and sleeping areas are combined into one space and typically range in size from 200 to 350 square feet. This type of unit is generally more affordable than other types of housing and provides an alternative to sharing a larger apartment or single-family home with other tenants.

The units proposed with this development would be approximately 330 square feet. The floor plans are provided at Attachment 8. Although this would be the first development within the City exclusively devoted to efficiency units, many existing apartment complexes have studio apartments which are only slightly larger than the proposed EDU's. A recent internet search of apartments in Merced with studios revealed that several complexes have studio units that are between 400 and 450 square feet. There were at least five others complexes that have units that are 300 to 350 square feet. Additionally, the Hampshire Retirement Center at 3420 R Street offers studio units that are between 325 and 500 square feet. Once the renovation is complete on the Tioga Apartments, there will be a few studio apartments on each floor that are approximately 300 square feet in size.

The developer would limit the number of occupants in each unit to one individual. This was a concern for the Planning Commission as they felt it may violate Fair Housing Laws. Subsequent to the Planning Commission meeting, the applicant provided the analysis found at Attachment 9 which explains that this development could legally restrict the number of occupants to one person per unit. This analysis was reviewed by the City Attorney's office and found to consistent with federal and state laws. Additional details regarding the building and unit design is provided later in this report. Condition #31 of the proposed conditions of approval also restricts the occupancy to one tenant per unit.

### Density

As previously described, the majority of the site has a General Plan designation of Neighborhood Commercial (CN) and is also zoned Neighborhood Commercial (C-N). With the approval of the proposed General Plan Amendment and Zone Change, the entire 5.94 acres would be designated for Neighborhood Commercial uses. Although the Neighborhood Commercial designation implies land uses on the site with commercial uses, multi-family uses are also allowed within a C-N zone, subject to approval of a Conditional Use Permit. While the Zoning Ordinance lists multi-family uses as a conditional use within the C-N zone, the Zoning Ordinance does not specify what density is allowed. Typically, density would be determined by the General Plan designation. The General Plan identifies multi-family land use designations as Low-Medium Density (LMD), High-Medium Density (HMD), and High Density (HD). Table 3.2 of the General Plan also sets forth the Population expected within each land use classification. The table below provided the different density classifications, units per acre, and population per acre.

Density Classification	Units/Acre	Population/Acre
Low-Medium Density Residential (LMD)	6 to 12	18.4 - 36.2
High-Medium Density Residential (HMD)	12 to 24	36.5 - 72.5

High Density Residential (HD)	24 to 36	72.8 -108.7
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When calculating the density for the proposed project using the conventional method of units per acre, the density proposed for this project exceeds what is allowed by the General Plan. However, because the proposal is for Efficiency Dwelling Units with a single occupant, the actual number of people on the site could be less than the number of people allowed with a traditional multi-family apartment complex and within the population per acre set forth in Table 3.2 of the General Plan. As shown in the table below, a multi-family apartment complex developed at the maximum density allowed under the General Plan (High Density - 36 units/acre), could have 428 people in the complex if each unit were a 2 bedroom unit (assuming one person per bedroom). If the units were all 3 bedroom units, that number would increase to 642 people (assuming one person per bedroom). If more than one person shared the bedrooms, the number would increase accordingly. It should be noted that California Fair Housing Law typically allows two people per bedroom which could mean that the previous numbers could more than double if these were typical two or three bedroom units.

DENSITY & PEOPLE PER ACRE						
Acres	Density	Max Units/Acre	Allowed DU/Acre	Bdrm/Unit	Total People	People/Acre
5.94	HD	36	214	2	428	72
5.94	HD	36	214	3	642	108
Proposed Project						
5.94				1	428	72

Since the Planning Commission meeting, staff has reviewed a small sample of existing apartment complexes as well as two of the most recently approved apartment projects that haven't been built yet to compare the density and people per acre. This analysis made the following assumptions:

- Each complex had a 50/50 mixture of 1 and 2 bedroom units;
- Each bedroom had 2 people

The analysis of the existing apartment complexes revealed that three of the existing complexes had a density between 52 and 58 people/acre, one had 62 people per acre, and one had 75 people per acre.

Analyzing the recently approved projects [Merced Stations at Yosemite and Lake, and the Regency Apartments, east of G Street at Merrill Place (north of Cardella)] revealed a much higher density as these projects both included units with more bedrooms. The Merced Station project was approved to have 225 units with a mixture of 2, 3, and 4 bedroom units. Assuming two persons per bedroom, this would yield 84 people per acre. If the number of people per bedroom was reduced to one person, the density would be 52 people per acre.

The Regency Apartment project was approved for 216 units with a mixture of 1, 2, and 4 bedroom units for a total of 678 bedrooms. Again, assuming two people per bedroom, this would yield 138 people per acre. If the number of people per bedroom was reduced to 1 person, the density for this project would be 72 people per acre.

Based on the foregoing analysis, the density could be considered equal to that of the High Density Residential (HD) General Plan Designation.

### General Plan Compliance and Policies Related to the Conditional Use Permit

Although the standard method for calculating density would indicate the project exceeds the densities set forth in the General Plan, as described above, the number of people per acre would be equal to that of a typical High Density Residential (HD) development. The *Merced Vision 2030 General Plan* including the City's Housing Element. This element sets forth policies and guidelines to encourage more housing within the City. The following policies from the Housing Element support affordable housing, mixed-use development, and higher densities.

#### Policy H-1.1                      *Support Increased in Residential Zoning Districts*

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

#### Policy H 1.1.c                      *Encourage Mixed Use Development*

The proposed project would provide a mixture of retail commercial uses to serve the neighborhood and multi-family efficiency dwelling units.

#### Policy H1.1.e                      *Encourage Alternate Housing Types*

The proposed project would include efficiency dwelling units that would essentially house a single occupant within an approximately 350-square-foot unit. Each unit would provide kitchen facilities, a bathroom, and living and sleeping areas. This type of unit is unusual for the City of Merced. This policy encourages housing designs with a smaller footprint as a form of alternate housing.

#### Policy H1.8b                      *Prioritize City efforts to encourage residential development by focusing on in-fill development and densification within the existing City Limits.*

The proposed project is on an in-fill site and as explained above, when considering the number of people per acre, proposes a density that is equal to the City's highest density classification.

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

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

*Implementing Action 1.1.a: Promote mixed use development combining compatible employment, service and residential elements.*

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

### Traffic/Circulation

The project site is located at the southeast corner of Yosemite Avenue and McKee Road. Yosemite Avenue, east of Parsons is designated as a "Special Street Section" in the *Merced Vision 2030 General Plan*. As such, the ultimate right-of-way for this road is 94 feet. McKee Road is a Collector Road with an ultimate right of way of 74 feet. The project would have access from Yosemite Avenue

(right-in/right-out only) and McKee Road (full access). Both the intersections of Yosemite Avenue and McKee Road and Yosemite Avenue and Via Moraga (approximately 0.3 miles east of McKee Road) are signalized. No access is proposed to Whitewater Way from the project site, unless the Fire Department requires an emergency access per Condition #21 of the Conditional Use Permit Conditions at Attachment 5. It should also be noted that the intersection of Yosemite Avenue and Lake Road would be signalized with the development of the Merced Stations project located on the south side of Yosemite at Lake Road.

### Traffic Impact Analysis

Transportation and traffic impacts were previously analyzed for this site with General Plan Amendment #14-06 and Zone Change #421. A traffic analysis was prepared as part of Initial Study #14-32 at the time the previous General Plan Amendment and Zone Change were considered and approved (Appendix D of Initial Study #19-15 at Attachment 10). The traffic analysis at that time analyzed impacts associated with a 62,000-square-foot shopping center. When comparing the previous project to the current project, it was determined that the level of impacts were similar based on traffic generation rates for the dwelling units being based on the number of occupants rather than the number of units (similar to the analysis for Land Use and Density). Using a rate of 3.31 average daily trips (ADT's) per resident, there would be 1,417 ADT's for the residential portion of the project. The exact type of tenants that would occupy the commercial portion of the project is unknown. Therefore, the same calculation method was used for this project as used in the previous analysis (Specialty Retail). Based on this calculation, the retail portion of the project would add an additional 798 ADT's, bringing the total estimated ADT's for the mixed-use project to 2,214 ADT's. The previous traffic analysis estimated a total of 2,647 ADT's for the previously proposed 62,000-square-foot shopping center. The previous analysis allowed for a 35% reduction of trips based on "pass-by" traffic (traffic that would already be on the roadway, not making a specific trip to the subject location). This reduction resulted in a net of 1,721 ADT's.

The previous traffic analysis analyzed the following road segments and intersections.

#### *Roadways:*

- Yosemite Avenue between Parsons Avenue and McKee Road
- McKee Road between Yosemite Avenue and Silverado Avenue

#### *Intersections:*

- Yosemite Avenue and Parsons Avenue
- Yosemite Avenue and McKee Road
- Yosemite Avenue and Hatch Road
- McKee Road and Olive Avenue

The quality of traffic operating conditions is rated by Level of Service (LOS) Categories A through F, ("A" being the best). LOS A indicates free-flow traffic conditions with little or no delay. LOS F represents over-saturated conditions where traffic flows exceed capacity resulting in long queues and delays. The City of Merced has adopted LOS D as the standard for streets to operate at an acceptable level.

### Yosemite Avenue and Parsons/Gardner

The previous analysis found that all the intersections studied would operate at an acceptable level of service (LOS), except the intersection of Yosemite Avenue and Parsons Avenue/Gardner Road. According to the traffic study done for the previous shopping center project on this site, this intersection would operate at an LOS F under the existing, plus project scenario.

The following Mitigation Measure is recommended in Initial Study #19-18 for this project to ensure this intersection operates at an acceptable level of service (see the Mitigation Monitoring Program at Exhibit B of Planning Commission Resolution #4025 at Attachment 15).

#### Mitigation Measure

TRA-01        The westbound lane of Yosemite Avenue at Parsons Avenue shall be modified to accommodate an additional 200-foot shared thru/right turn lane. In addition, the existing shared left/thru/right lane shall be restriped to be a shared left/thru lane. (The Traffic Analysis recommended an additional 100 foot lane be installed. The City Engineer recommends the length of the lane be increased to 200 feet.)

-or-

The applicant shall be required to pay for their proportionate share of the above improvement as determined by the City Engineer.

#### Olive Avenue and McKee Road

The intersection of Olive Avenue and McKee Road would also decrease from LOS C to LOS F under the Cumulative 2035 scenario analyzed by the previous traffic study. Mitigation Measure TRA-02 (refer to the Mitigation Measures at Exhibit B of Planning Commission Resolution #4025 - Attachment 15) is recommended for this intersection which would bring the level of service back to an LOS C (the existing LOS).

#### Alternate Transportation

The project would incentivize the use of alternate transportation by offering a discount on rent for residents who don't have a vehicle. Additionally, they will provide specific areas for Uber and Lyft pick-ups, and they are exploring the possibility of offering rentals of bicycles, scooters, and zip cars. The site is also located near transit stops for The Bus and Cat Tracks.

Although the estimated average daily trips for the proposed mixed-use project is slightly higher than the net result for the previously proposed shopping center, no reductions have been applied to the ADT's for the mixed-use project for pass-by traffic or transit and bicycle facilities. When consideration is given to the alternate transportation available and encouraged on the project site, it is likely that the ADT's generated by the current project would be approximately equal to the previously proposed project.

Based on concerns express by the Planning Commission (see below), the applicant is preparing an updated traffic study for this project. However, it was not completed in time to be included in this report. Details of the updated traffic study will be provided at the City Council meeting.



## Parking

The Zoning Ordinance requires 1.75 spaces of parking for each multi-family unit up to 30 units, plus an additional 1.5 spaces for each unit over 30. There is also an increase in the number of spaces required based on the number of bedrooms and bathrooms in a unit. Based on this calculation, the residential portion of this project would require 650 parking spaces.

Parking for the commercial portion of the project would be based on the actual uses. Since the uses are unknown at this point, but expected to be a mixture of retail, service, and restaurant uses, a factor of one space for every 250 square feet of floor area was used to calculate the required parking for the commercial portion of the project. The Zoning Ordinance allows a 15% reduction in floor area for non-usable commercial space such as restrooms, storage areas, etc. Using this formula, the parking requirements for the commercial portion of the project would be 61 spaces.

The applicant is proposing a total of 412 parking spaces as shown in the table below:

Parking Type	Spaces	Parking Type	Spaces
Motorcycle/Scooter	36	Accessible Parking	12
Standard Parking	290	Compact Parking	74

The applicant provided an analysis of the City's parking requirements based on the actual number of people occupying a unit (Attachment 12). This analysis considered the number of spaces required based on a 3 bedroom unit with 2 people per bedroom and a 3 bedroom unit with 1 person per bedroom. Based on this analysis, an apartment project that has 214 3-bedroom units with two people per bedroom would be required to provide 435 parking spaces under the City's Zoning Ordinance, which equates to 0.33 spaces per bed/resident. Under the scenario with 1 person per bedroom, 435 spaces would be required or 0.68 spaces per person.

The applicant's analysis shows that they are providing 0.81 spaces per unit which exceeds the 0.68 which would be required for a typical development with 3 bedroom units. Using the factor of 0.81 spaces/unit, the parking required for the residential use would be 348 spaces. The site provides 412 spaces which would be slightly more than what is estimated for the retail uses plus the residential uses. In addition to the parking spaces provided, the development would have a dedicated area for Uber and Lyft pickups to help encourage the use of alternative transportation. The proximity to bus stops would also help encourage the use of public transportation rather than having a personal vehicle.

In addition to the vehicle parking provided, indoor bicycle storage facilities would be provided to encourage the use of bicycles. The site has easy access to the bicycle trail system which could encourage the use of bicycles rather than cars.

The Zoning Ordinance (MMC Section 20.38.050) also allows for reductions in parking requirements for mixed used projects, projects near transit, and other reductions which could be applied to this project.

If insufficient parking is required on-site, however, tenant parking could spill out into the adjacent neighborhood. The Moraga neighborhood has very narrow streets and limited on-street parking so

this could be an issue.

### Public Improvements/City Services

There are existing water and sewer lines that could serve the project site. However, there is limited capacity within the existing sewer lines in Yosemite Avenue to serve this site. Due to constrictions in the Yosemite Avenue line, the proposed project would need to provide an alternative to discharging the wastewater generated from the site into the Yosemite Avenue line during peak flow times. The developer has been working with the City's Public Works Director on a solution for this issue. One solution may be to provide underground storage for the project's wastewater discharge and release the wastewater during off-peak hours. Condition #32 of the recommended conditions for the Conditional Use Permit requires the developer to work with the City Engineer and Public Works Director to find a satisfactory solution for this issue.

### Building Design

The proposed building designs would be similar to the style of the buildings at UC Merced. The three story buildings would have clean lines and use a variety of building materials to provide interest. The balconies on the upper floors are staggered to add additional interest. The elevations are provided at Attachments 7 and 8. The table below provides a breakdown of each building by unit number and building height.

<b>BUILDING DETAILS</b>					
<b>Building No.</b>	<b>Stories</b>	<b>Units</b>	<b>Use</b>	<b>Total Square Feet</b>	<b>Height (to top parapet)</b>
1	3	102	Residential	34,560	33' 4 1/4"
2	3	112	Residential/Res Common Area	59,520	31' 10 1/4"
3	3	102	Residential	34,560	33' 4 1/4"
4	3	112	Residential/Res Common Area	59,520	31' 10 1/4"
TOTAL		428		188,160	

Each residential unit would be approximately 330 square feet and contain a kitchen, bathroom, and living/sleeping area. The units are designed for a single occupant. Some of the units include a balcony and some don't have balconies, which would slightly increase the indoor living area. The balconies have been staggered to help provide depth and interest to the building elevations. All the units would have access through the interior of the building, which would increase security for the tenants.

Buildings 2 and 4 have a mixture of commercial space and common space for the residential tenants on the first floor of each building. The common areas would include amenities such as a gym, a kitchen/community area for gatherings and events, a meditation room, a study area, a media room, indoor bike storage area, laundry facilities, and a management office, mailroom, and office center for tenants. Building 2 also provides a roof-top deck area to provide additional outdoor open space for the tenants (Attachment 11). This area would provide an additional outdoor area for tenants to

lounge and socialize.

### Site Design

The site is designed to keep the buildings near the center of the site away from the residential uses. The front building (Building 2) is set back approximately 75 feet from Yosemite Avenue. Building 1 is approximately 50 feet from McKee Road, Building 3 is approximately 125 feet from the southern property line, and Building 4 is approximately 55 feet from the eastern property line near Whitewater Way.

Parking is provided around the perimeter of the site and between the buildings. Bicycle parking is provided inside Building 4.

A promenade area is provided between Buildings 2 and 4 (refer to Page 2 of Attachment 5 as well as the renderings at Attachment 7) which will include landscaping, tables, and chairs/benches to provide an open space area for the tenants and customers of the commercial uses. The developers envision this area would be used by customers of the food establishments and other retail uses as well as the residential tenants.

A minimum six-foot tall block wall would separate the project from the residential uses to the south of the site (Condition #34). This height may increased to 8 feet if the City Council desires.

### Distance to Adjacent Residential Uses

All the buildings on the site would be 3-stories and between 31 and 33 feet tall. The diagram at Attachment 13 shows the distance from each building to the closest adjacent structure. For reference, Attachment 14 shows comparable distances from City Hall. The site would be provided with dense landscaping to help buffer the surrounding uses from noise and lights and to help provide privacy between the uses. Additional information regarding landscaping is provided in Planning Commission Staff Report #19-22 at Attachment 18.

### Neighborhood Impact/Interface

As previously described, the project site is surrounded by residential uses as well as Yosemite Church and Providence School to the north across Yosemite Avenue. The developer held two neighborhood meetings on August 13, 2019, at Yosemite Church. The first meeting was held at 3:00 p.m., but no one from the neighborhood attended. At this meeting, there were people who work at the church in attendance, but no neighborhood residents. The second meeting was held at 6:00 p.m. There were 6 people in attendance at this meeting. The applicant sent notices to property owners within 300 feet of the site.

Some of the concerns raised were about the number of people on the site and the traffic impacts. There were also concerns voiced from one of the neighbors across Yosemite Avenue about the building heights and the ability of the residential tenants being able to see into their back yards. There were also questions about where the customers for the retail uses would park. The neighbors also noted that they don't want uses like nightclubs or bars to be allowed in the commercial areas. The applicant was agreeable to not allowing nightclubs and bars, but wanted to be able to have restaurants that serve alcohol with meals.

Neighborhood Commercial zones allow multi-family uses with approval of a Conditional Use Permit. The City's interface regulations apply when a commercial use is adjacent to or across the street from a residential use. The purpose of the Interface Regulations is to protect existing residential neighborhoods and to ensure that new development is designed in a manner to minimize negative impacts on nearby uses to the greatest extent possible.

The height of the buildings would be taller than most of the other buildings in the area. However, Yosemite Church's main building is close to the same height as the proposed buildings. There are several two-story homes in the area, and most are less than 30 feet in height, but a few have steeper roofs and higher peaks making them approximately 28 feet tall.

As discussed in the traffic section of this report, the traffic generated by the proposed mixed-use project would be comparable to that of the previously proposed shopping center. Mitigation measures are included to help minimize the effects of the additional traffic in the area.

Public hearing notices were sent to all property owners within 300 feet of the site prior to the Planning Commission meeting and again 10 days prior to the City Council meeting.

#### Planning Commission Action on Conditional Use Permit #1231

On August 21, 2019, the Planning Commission held a duly noticed public hearing to consider General Plan Amendment #19-02, Zone Change #426, and Conditional Use Permit #1231. There were six people who spoke in opposition to the project raising concerns primarily related to traffic and the number of people on the site. Some speakers noted that they believed the site was to be developed as a shopping center and were not supportive of the proposed change to allow multi-family dwellings. The letter at Attachment 15 was submitted by Bright Development in opposition to the project.

The applicant, Joe Englanoff, and his representative, Raj Joshi spoke in favor of the project. They explained that they would provide incentives such as reductions in rent to tenants who don't have vehicles. They further explained that while the project would be ideal for students, they are not limiting the tenants to students only. Mr. Englanoff also noted that they chose this particular site within the City rather than a location closer to the UC Merced Campus in order to have access to City sewer and water services.

After hearing all the testimony, the Planning Commission voted to deny Conditional Use Permit #1231 by the following vote: 4-1 (4 ayes, 1 no, 1 absent, 1 vacancy) due to concerns regarding traffic, the capacity in the sewer line, and concerns with being able to legally limit the number of tenants in each unit (refer the Planning Commission Resolution #4026 at Attachment 17). An excerpt of the Planning Commission Minutes is provided at Attachment 18.

#### City Council Action

The City Council will need to take action on the General Plan Amendment and Zone Change separately from the appeal of Conditional Use Permit #1231. The Planning Commission and staff recommend approval of General Plan Amendment #19-02 and Zone Change #426 subject to the Findings, Conditions, and Mitigation Measures provided in the Draft City Council Resolution at

Attachment 20 and Draft Ordinance at Attachment 21. Therefore, it would be appropriate for the City Council to Introduce the Ordinance at Attachment 21 approving Zone Change #426 and approve General Plan Amendment #19-02 by the adoption of the Resolution at Attachment 20. Additionally, the City Council should authorize the City Manager or Assistant City Manager to execute the Legislative Action Agreement at Attachment 22.

Action on the Appeal of Conditional Use Permit #1231 should include direction to staff, along with Findings to either approve or deny the appeal. Staff will prepare a Resolution based on that direction and Findings and return at a future Council meeting for Council to take final action on the appeal. Should the City Council vote to grant the appeal, thus approving Conditional Use Permit #1231, staff recommends City Council direction include the Conditions at Attachment 5 and the Mitigation Measures described in Appendix A of Initial Study #19-15 (Attachment 10).

## **IMPACT ON CITY RESOURCES**

The project would be required to annex into the City's Community Facilities District for Services and pay all required Public Facility Financing Program Impact Fees. Payment of these fees and ongoing payment of the CFD taxes would mitigate any expected impacts on City resources.

## **ATTACHMENTS**

1. Location Map
2. Proposed Land Use Changes
3. Original Site Plan
4. Proposed Site Plan
5. Proposed Conditions of Approval for Conditional Use Permit #1231
6. Elevations
7. Renderings
8. Floor Plans
9. Single Tenant Analysis
10. Initial Study #19-15
11. Rooftop Deck
12. Applicant's Parking Analysis
13. Distance from Surrounding Uses
14. Distance References
15. Letter from Bright Development
16. Planning Commission Resolution #4025
17. Planning Commission Resolution #4026
18. Planning Commission Minutes Excerpt of 8/21/2019
19. Planning Commission Staff Report #19-22
20. Draft City Council Resolution for General Plan Amendment
21. Draft Ordinance for Zone Change
22. Legislative Action Agreement
23. Presentation