

**CITY OF MERCED  
Planning Commission**

**MINUTES**

Merced City Council Chambers  
Wednesday, December 4, 2019

Chairperson HARRIS called the meeting to order at 7:00 p.m., followed by a moment of silence and the Pledge of Allegiance.

**ROLL CALL**

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

Commissioners Absent: None

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Principal Planner Hren, Deputy City Attorney Campbell, and Recording Secretary Gates

1. **APPROVAL OF AGENDA**

M/S DYLINEA-RASHE, and carried by unanimous voice vote, to approve the Agenda as submitted.

2. **MINUTES**

M/S DELGADILLO-CAMPER, and carried by unanimous voice vote, to approve the Minutes of November 6, 2019, as submitted.

3. **COMMUNICATIONS**

None

4. **ITEMS**

- 4.1 Conditional Use Permit #1236, initiated by Daniel Cortez on behalf of Seven Eleven, Inc., property owner. This application involves a request to operate a food truck within the Valero parking lot, generally located on the northeast corner of G Street and E. Alexander Avenue (3006 G Street), within an Office Commercial (C-O) Zone.

Planning Manager ESPINOSA reviewed the report on this item. For further information, refer to Staff Report #19-30.

Public testimony was opened at 7:07 p.m.

Speaker from the Audience in Favor:

PAULETTE GOMEZ, Applicant, Merced

No one spoke in opposition to the project.

Public testimony was closed at 7:09 p.m.

M/S BUTTICCI-CAMPER, and carried by the following vote, to approve Conditional Use Permit #1236, subject to the Findings and twenty-seven (27) Conditions set forth in Staff Report #19-30, as follows (RESOLUTION #4033):

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

NOES: None

ABSENT: None

ABSTAIN: None

- 4.2 General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development #72, initiated by Yosemite and G, LLC, property owner. The General Plan Amendment and Site Utilization Plan (SUP) application is a request to change the General Plan designation from Commercial Office (CO) and High to Medium Density Residential (HMD) to Neighborhood

Commercial (CN) for approximately 21.5 acres of land generally located at the northeast corner of Yosemite Avenue and G Street within Planned Development #72. The SUP Revision includes a four-story hotel of approximately 80,104 square feet, two medical office buildings totaling approximately 66,465 square feet, 44 Units of Multi-Family Residential Housing totaling approximately 29,887 square feet, fast food uses with drive-thru windows totaling approximately 5,494 square feet, and a mixed-use development with approximately 59,616 square feet of other retail and office uses.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #19-29.

Public testimony was opened at 7:34 p.m.

Speaker from the Audience in Favor:

DIRK POESCHEL, Representative of the applicant, Merced

Speakers from the Audience in Opposition:

MARNEY KRAMER, Resident, Merced

PAUL WILSON, Resident, Merced

Public testimony was closed at 7:54 p.m.

M/S RASHE-BUTTICCI, and carried by the following vote, to adopt a Mitigated Negative Declaration regarding Environmental Review #19-28, and to recommend approval of General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development #72 (RESOLUTION #4034):

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

NOES: None

ABSENT: None

ABSTAIN: Non

4.3 Update on North Merced Annexation Feasibility Study

Planning Manager ESPINOSA presented an update on the North Merced Annexation Feasibility Study to the Commission.

4.4 Training by City Attorney's Office on Conditional Use Permits, Findings, and California Housing Laws

Deputy City Attorney CAMPBELL held a brief presentation for the Commission. Mr. CAMPBELL explained California Housing Laws and other common items that come before the Commission.

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

6. **ADJOURNMENT**

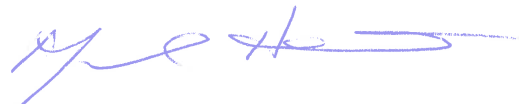
There being no further business, Chairperson HARRIS adjourned the meeting at 9:10 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary  
Merced City Planning Commission

APPROVED:



MICHAEL HARRIS, Chairperson  
Merced City Planning Commission

**CITY OF MERCED  
Planning Commission**

**Resolution #4033**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of December 4, 2019, held a public hearing and considered **Conditional Use Permit #1236**, initiated by Daniel Cortez on behalf of Seven Eleven, Inc., property owners. This application involves a request to operate a food truck within the Valero parking lot, generally located on the northeast corner of G Street and E. Alexander Avenue (3006 G Street), within a Office Commercial (C-O) Zone; said property being more particularly described as the westerly 112.8 feet of Lot 8 as shown on the Map entitled "City of Acres Tract," recorded in Book 8, Page 41, of Merced County Records; also known as Assessor's Parcel Number 007-091-021; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings/Considerations A through J of Staff Report #19-30 (Exhibit B); 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 #19-31, and approve Conditional Use Permit #1236, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner BUTTICCI, seconded by Commissioner CAMPER, and carried by the following vote:

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

PLANNING COMMISSION RESOLUTION #4033

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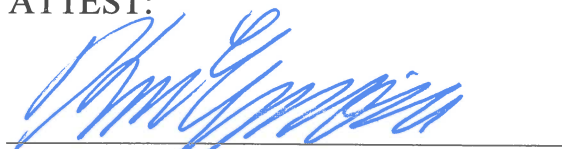
December 4, 2019

Adopted this 4<sup>th</sup> day of December 2019



\_\_\_\_\_  
Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:



\_\_\_\_\_  
Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B - Findings

**Conditions of Approval**  
**Planning Commission Resolution #4033**  
**Conditional Use Permit #1236**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (photos) - Attachments B and C of Staff Report #19-30, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

6. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
7. The applicant shall comply with all City of Merced business licensing requirements and with all requirements of the Merced County Environmental Health Department.
8. No outdoor tables or chairs shall be permitted on the premises, unless otherwise approved by the Planning Department in consideration of all relevant parking and vehicle circulation areas on this site.
9. At least two tamperproof trash receptacles shall be provided while food is being served. The site and the immediate surrounding area shall be maintained free of all debris and trash generated from this use.
10. All signing shall be contained on the food truck. No A-frame signs, banners, inflatable signs, feather signs, pennant signs, flags, or other moving or portable signs shall be permitted for this use anywhere on or off the site.
11. The hours of operation shall be any span of time between 7:00 a.m. and 9:00 p.m. and the business may be open 7 days a week. However, if the business is open after dark, lights shall be provided on the vehicle or on the property that are sufficient to light the vehicle and at least a 50-foot radius around the vehicle. If lights are not provided, the food truck shall close at sundown.
12. If the business owners wish to extend the business hours in the future, they must obtain approval from the Development Services Director and the Police Chief, or if deemed necessary by the Development Services Director, be referred back to the Planning Commission for action.
13. Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility.
14. The applicant shall comply with the Water Quality Control Division's (WQCD) Best Management Practices regarding the disposal of cooking grease and proper cleaning of kitchen equipment, as shown on Attachment D, or as otherwise required by the WQCD.



15. If problems arise as a result of this business that may require excessive Police Department service calls to the site or within the immediate area including, but not limited to, excessive harassment, malicious property damage, lewd and/or disorderly conduct, this approval may be subject to review and revocation by the City of Merced.
16. During hours of operation, food truck employees shall have access to a cell phone (either their own or one provided by the business owner) in case of emergencies.
17. In the future, if there are excessive calls for police assistance, the Police Chief may require the applicant to install exterior video surveillance cameras. 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.
18. The food truck shall be oriented perpendicular to the parking stalls to allow room for customers to gather without being in danger of collisions from vehicles entering/exiting the site. The food truck shall not block the driving aisle or access to the alley.
19. It shall be the operator's responsibility to ensure all customers park in an orderly fashion and don't block the driveway entrances or interfere with other customers visiting the site.
20. The applicant shall comply with all regulations found in Merced Municipal Code Section 20.44.020 - Food Trucks in Fixed Locations, except as modified by these conditions.
21. A minimum of 2 parking spaces on the site shall be dedicated to food truck customers. These spaces shall be located as close as possible to the food truck.
22. Food truck activities shall in no way interfere with the operation of existing businesses on the lot, or nearby businesses, including noise, litter, loitering, and traffic circulation, refuse service, and public safety.
23. The owner shall ensure that restroom facilities are available for the employees. These restrooms shall be provided in a permanent building

that meets the Health Department's requirements for distance from the business operation. Portable toilets shall not be allowed.

24. The mobile food vendor is prohibited from selling alcohol.
25. "No Loitering" signs shall be posted on the food truck and convenience market at specific locations approved by the City Police Department.
26. The food truck shall maintain a minimum distance of 20 feet from all fuel pumps, or as otherwise required by Fire Department.
27. Any illegal signs and advertisements posted on the convenience market onsite shall be removed prior to the food truck obtaining a business license.

**Findings and Considerations  
Planning Commission Resolution #4033  
Conditional Use Permit #1236**

**General Plan Compliance and Policies Related to This Application**

- A) The proposed Project complies with the General Plan designation of Office Commercial (CO) and the zoning designation of Office Commercial (C-O) with approval of this Conditional Use Permit.

**Traffic/Circulation**

- B) The applicant is proposing to locate the food truck within the northeast portion of the parking lot (Attachment B of Planning Commission Staff Report #19-30). The food truck would be located about 40 feet from the nearest driveway on the northern portion of the parcel. The food truck would be oriented parallel to the adjacent parking stalls (Condition #18), in a manner that does not block any driving aisles, and provides space for customers to gather around the food truck without backing into the adjacent driving aisle. Orienting the food truck in this manner allows vehicles to enter and exit the subject site without impediments. In addition, the applicant shall be required to preserve access for the Refuse Department so that their trucks can access this site and serve this property (Condition #22).

**Parking**

- C) The subject site must meet the minimum parking requirements for the existing gas station and the proposed food truck. The parking requirement for a gas station is three spaces, plus one space per 250 square feet of retail sales area. Based on this parking formula, the existing convenience market, which has 750 square feet of sales floor area, would be required to have a minimum of 6 parking spaces. A mobile food vendor is required to have a minimum of 2 parking stalls. Together, both uses would require a minimum of 8 parking stalls. The subject site would exceed this requirement with a total of 9 parking stalls throughout the site. Designated food truck parking stalls would be located adjacent to the west of the food truck.

**Public Improvements/City Services**

- D) The subject site is fully developed and most public improvements are existing. The food truck is self-contained and would not require a separate connection to the City's sewer and/or water systems.

**Site Design**

- E) The subject site is located at the northeast corner of G Street and E. Alexander Avenue. The subject site is a developed 0.37-acre parcel with a 750-square-foot gas station/convenience market on the northeast portion of the parcel, and a 1,250-square-foot fuel pump canopy on the western portion of the parcel. Vehicle access is available from two driveways along G Street, and one driveway along E. Alexander Avenue. Customer parking is available along the eastern portion of the parcel and

**EXHIBIT B**

**OF PLANNING COMMISSION RESOLUTION #4033**

would be added along both the northern and southern portions of the parcel. As shown at Attachment B of Planning Commission Staff Report #19-30, the food truck (and customer parking stalls) would be located near the northern portion of the parcel, away from the fuel pump canopy and convenience market's main entrance, in a manner that does not create congestion between customers going to the site for the convenience market or driving to pump gasoline. The food truck would be located approximately 40 feet from the nearest fuel pump, and 75 feet from the nearest underground fuel storage tank (meeting the Fire Department's minimum distance requirements from fuel pumps, see Condition #26). The property owner is not proposing to make any interior or exterior modifications to the convenience market or to the gas pump canopy. Outdoor seating is prohibited (e.g. tables, umbrellas, chairs, etc.) as shown under Condition #8, unless subsequently approved by the Planning Department. "No Loitering" signs shall be posted on the food truck and convenience market at specific locations approved by the City Police Department (Condition #25).

#### **Neighborhood Impact/Interface**

- F) The subject site is surrounded by a variety of commercial and residential uses. Surrounding uses to the north, south, east, and west, include Farmers Insurance, G Street Auto Care, a single-family home, and the London Commercial Plaza respectively. There is a block wall between the subject site and the single-family home to the east that helps reduce concerns regarding noise and lighting. G Street is a major arterial road that exhibits high volumes of traffic and connects with several commercial strip malls and shopping centers. Given the existing traffic volumes and dense variety of commercial uses throughout the neighborhood, staff does not anticipate that this proposal would significantly change the character of the neighborhood.

#### **Signage**

- G) The food truck is not allowed any signs other than what is provided on the vehicle itself. Condition #10 prohibits the use of any A-frame signs, inflatable signs, feather signs, pennants, or other freestanding signs. Any illegal signs and advertisements posted on the adjacent convenience market shall be removed prior to the food truck obtaining a business license (Condition #27).

#### **Truck Details/Operation**

- H) The food truck is standard in appearance and size. It is approximately 8 feet wide by 23 feet long, and approximately 7 ½ feet tall (Attachment C of Planning Commission Staff Report #19-30). The food truck will operate daily between 7:00 a.m. to 9:00 p.m. The food truck will sell traditional Mexican food including, but not limited to, tacos, tortas, and burritos. Trash receptacles will be provided to collect the plates, forks, aluminum foil, and paper bags that are typically used to serve these meals (Condition #9). The sale of alcohol is prohibited (Condition #24). Employee restrooms will be available inside the market as allowed by the Health Department and agreed upon by the property owner (Condition #23). Disposal of waste products

shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility (Condition #13). The applicant shall comply with the Water Quality Control Division's (WQCD) Best Management Practices regarding the disposal of cooking grease and proper cleaning of kitchen equipment, as shown at Attachment D of Planning Commission Staff Report #19-30, or as otherwise required by the WQCD (Condition #14).

### **Mandatory Conditional Use Permit Findings**

- I) A Conditional Use Permit is required to allow mobile food vendors within an Office Commercial Zone per Merced Municipal Code (MMC) Table 20.10-1 Permitted Land Uses in the Commercial Zoning Districts. 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 for Conditional Use Permits" (Attachment F of Planning Commission Staff Report #19-30).

#### **MMC 20.68.020 (E) Findings for Approval.**

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

The proposed project complies with the General Plan designation of Office Commercial (CO) and the zoning designation of Office Commercial (C-O) with approval of this Conditional Use Permit.

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

The mobile food vendor shall be required to comply with all relevant standards and requirements from MMC Section 20.44.020 – Food Trucks in Fixed Location, to provide compatibility with surrounding sites. Said standards and requirements are in regard to hours of operation, parking, access, maintenance, advertising, and licenses required.

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

To ensure the proposal is not detrimental to the public health, safety, and welfare of the City, the applicant shall subsequently apply for permit approval from the Merced County Environmental Health Department, as required for establishments selling hot meals. The Environmental Health Department would inspect food truck cooking facilities before the business could sell food to the general public.

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

The proposed mobile food vendor is located within the City and can be adequately accessed through existing roads. The food truck would be self-contained with its own water and power, and would not need to hook-up to City utilities. The food truck would be serviced at an appropriate commissary facility.

**Environmental Clearance**

- J) Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption is being recommended (Attachment E of Planning Commission Staff Report #19-30).

**CITY OF MERCED**  
**Planning Commission**

**Resolution #4034**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of December 4, 2019, held a public hearing and considered **General Plan Amendment #19-03, and Site Utilization Plan Revision #3 to Planned Development (P-D) #72**, initiated by Yosemite and G, LLC, property owner. this application is a request to change the General Plan designation from Commercial Office (CO) and High to Medium Density Residential (HMD) to Neighborhood Commercial (CN) for approximately 21.5 acres of land generally located at the northeast corner of Yosemite Avenue and G Street within Planned Development #72. The SUP Revision includes a four-story hotel of approximately 80,104 square feet, two medical office buildings totaling approximately 66,465 square feet, 44 Units of Multi-Family Residential Housing totaling approximately 29,887 square feet, fast food uses with drive-thru windows totaling approximately 5,494 square feet, and a mixed-use development with approximately 59,616 square feet of other retail and office uses; also known as Assessor's Parcel Numbers (APN) 231-040-004 and 231-040-005; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through J (Exhibit B) of Staff Report #19-29; 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 Mitigated Negative Declaration Mitigation Monitoring Program (Exhibit C) regarding Environmental Review #19-28, and approval of General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development (P-D) #72, subject to the Conditions set forth in Exhibit A, the Findings set forth in Exhibit B, and the Mitigation Monitoring Program set forth in Exhibit C attached hereto and incorporated herein by this reference.

Upon motion by Commissioner BUTTICCI, seconded by Commissioner CAMPER, and carried by the following vote:

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

NOES: None

PLANNING COMMISSION RESOLUTION #4034

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December 4, 2019

ABSENT: Commissioner(s) None

ABSTAIN: Commissioner(s) None

Adopted this 4<sup>th</sup> day of December 2019



Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

  
Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Findings

Exhibit C – Mitigation Monitoring Program



**Conditions of Approval**  
**Planning Commission Resolution # 4034**  
**General Plan Amendment #19-03, Site Utilization Plan #3 to Planned**  
**Development (PD) #72**

1. The proposed General Plan Amendment and SUP Revision shall be constructed/designed in substantial compliance with the Site Plan, Rendering, and Typical Elevations and Floor Plans (Attachments D, F, and E of Planning Commission Staff Report #19-29), except as modified by the conditions.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. The Project shall comply with the applicable conditions set forth in Resolution #2974 for General Plan Amendment #10-02 and Zone Change #410 previously approved for this site.
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
5. Approval of the General Plan Amendment and Site Utilization Plan Revision is subject to the applicant's entering into a written (developer) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.
6. 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,

EXHIBIT A  
OF PLANNING COMMISSION RESOLUTION #4034

employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

7. 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.
8. De-annexation from the existing Maintenance District and Annexation to Community Facilities District (CFD) #2003-2 is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, streetlights, parks and open space. CFD procedures shall be completed prior to any final map approvals or issuance of any building permits, whichever comes first. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
9. The project shall comply with all mitigation measures outlined in the

Mitigation Monitoring Program for Initial Study #19-28 (Attachment H of Planning Commission Staff Report #19-29) and all applicable mitigation measures outlined in the Mitigation Monitoring Program for Initial Study #10-06 (Appendix C of Initial Study #19-28, Attachment G of Staff Report #19-29).

10. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
11. All signs shall comply with the North Merced Sign Ordinance and Section 20.62.040 (B)(2) of the City's Zoning Ordinance for signs in a Neighborhood Commercial (C-N) zone.
12. The applicant shall construct all missing improvements along the property frontage on Yosemite Avenue and G Street including, but not limited to, sidewalk, curb, gutter, street lights, and street trees.
13. All necessary right-of-way along the property frontage, including Yosemite Avenue, G Street, and Sandpiper Avenue needed for public improvements shall be dedicated prior to the issuance of the first building permit or recordation of a parcel map, whichever comes first.
14. Appropriate turning radii shall be provided within the parking areas to allow for Fire Department and refuse truck access.
15. Parking lot trees shall be installed per City Parking Lot Landscape Standards and Section 20.38.070 (F). At a minimum, parking lot trees shall be provided at a ratio of one tree for every six parking spaces. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list).
16. All projects on this site shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
17. Prior to issuance of the first grading/building permit for any project on the site, the applicant shall demonstrate compliance with San Joaquin Valley Air Pollution Control District Rule 9510 to the Planning Department. Changes to the site plan resulting from compliance with Rule 9510 are subject to review by City Staff or the Planning Commission, as determined by the Director of Development Services.

18. Bicycle parking for all projects on the site shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.
19. All landscaping on the site shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Section 20.36 – Landscaping.
20. Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.
21. All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or park strips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.
22. For buildings over 30 feet tall, a minimum 26-foot-wide drive aisle shall be provided for emergency vehicle access. The developer shall work with the Fire Department to determine the areas that need the 26-foot-wide drive aisle. An emergency access lane made of an all-weather surface shall be constructed to the south of the southernmost multi-family building. This lane shall either be able to meet the turnaround needs of emergency vehicles if it is 150 feet long or more, or it shall be less than 149 feet long but still meet the needs of emergency access for the residential building. In the event that the southernmost residential building is 30 feet tall or less, this path shall be a minimum of 22 feet wide. If the southernmost residential building is more than 30 feet tall, the path shall be a minimum of 26 feet wide. These details shall be confirmed as acceptable by the Fire Chief or designee prior to the issuance of occupancy permits for any of the multi-family residential buildings.
23. A fire control room may be required for the buildings on the site. The applicant shall work with the Fire Department to determine the location of the fire control room. Additional fire control rooms may be required at the discretion of the Fire Chief.

EXHIBIT A  
OF PLANNING COMMISSION RESOLUTION #4034

24. Each building shall be provided with a Fire Department Connection.
25. Buildings that do not provide an elevator (other than a freight elevator) shall be provided with an additional exit. The developer shall work with the Chief Building Official to determine the number of exits required for each building.
26. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.
27. All storm water shall be retained onsite or in the basin immediately to the east of the project site and metered out to the City's storm water system in accordance with City Standards, subject to a storm drain plan approved by the City Engineer. The applicant shall submit calculations to the City showing, to the satisfaction of the City Engineer or designee, that the basin to the east of the project site has enough capacity for the proposed plans.
28. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
29. All parking lot and other exterior lighting shall be oriented in such a way so that it does not spill over onto adjacent properties.
30. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks as well as the number of containers needed to adequately serve the site. Use of a trash compactor should be considered to reduce the number of pick-ups per week.
31. All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.
32. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.
33. All mechanical equipment shall be screened from public view.

34. Instead of the typical requirements for additional Conditional Use Permits and Site Plan Review for interface, this Site Utilization Plan process will address interface regulations, additional review, and permissibility of specific uses in Planned Development #72. These modifications apply in the portions of Planned Development #72 covered by the subject site parcels (Assessor's Parcel Number 231-040-004 and 231-040-005) in the following manner, taking into consideration that the adjacency of parcels may change in the event of parcel modifications in the future:
- a. Multi-family housing will require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publically noticed public hearing at the Site Plan Review meeting per Section 20.32 of the Zoning Ordinance; and,
  - b. The hotel, rather than being "use not allowed", shall require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publically noticed public hearing at Site Plan Review meeting per Section 20.32 of the Zoning Ordinance, but will not require an additional Conditional Use Permit; and,
  - c. Restaurants selling alcohol for consumption on-site will require only a Site Plan Review Permit use without further requirement for a Conditional Use Permit or public hearing for interface considerations; and,
  - d. Gas and service stations will require only a Site Plan Review Permit without further requirement for a Conditional Use Permit unless the gas and service station wishes to sell alcohol, in which case a Conditional Use Permit is required, and a letter of Public Convenience and Necessity may be required, but an additional public hearing for interface consideration is not required; and,
  - e. Day care centers require only a Site Plan Review Permit without further requirement for a Minor Use Permit or public hearing for interface considerations; and,

- f. Drive-through and drive-up sales require only a Site Plan Review Permit without further requirement for a Conditional Use Permit or public hearing for interface considerations; and,
  - g. General retail uses, professional offices, restaurants, and banks require only a Site Plan Review Permit without further requirement for a public hearing for interface considerations .
35. The traffic signal at G Street and Project Driveway 1, north of the proposed hotel, shall be connected into the City's street synchronization system to the satisfaction of the City Engineer or designee.
  36. Sandpiper Drive, at a minimum, shall be constructed from Yosemite Avenue north to "Children's Avenue". Upon completion of the traffic signal at G Street and Project Driveway 1, north of the proposed hotel, Sandpiper Drive shall be constructed to Project Driveway 1. Prior to the issuance of any occupancy permit for any of the multi-family residential buildings, the two office buildings at the northern portion of the project site, or the hotel, Sandpiper Drive shall be constructed in its entirety to connect to Mercy Avenue.
  37. Safe pedestrian access from the multi-family residential portion of the project to the commercial portions of the site shall be provided.
  38. In the event that the parcels of the subject site are ever subdivided or modified, in the manner suggested by the site plan or otherwise, cross-access and use agreements shall be put into place such that parking for all uses meets or exceeds City standards.
  39. The entire development should be designed with a similar or complimentary aesthetic to the renderings shown at Attachment F of Planning Commission Staff Report #19-29.
  40. For any illuminated signs placed above the ground floor, all illumination shall be located and directed in such a manner that light does not spill over to the east or north. Prior to installation, illuminated signs shall be approved by the Planning Manager or designee, and may require an analysis of lumens or other measurements of illumination as deemed necessary. Monument signs are not subject to this condition.

**Findings and Considerations**  
**Planning Commission Resolution # 4034**  
**General Plan Amendment #19-03, Site Utilization Plan #3 to Planned**  
**Development (PD) #72**

**General Plan Compliance and Policies Related to This Application**

- A) With the proposed General Plan Amendment and Site Utilization Plan (SUP) Revision, the proposed project will conform with the General Plan designation of CN and zoning of P-D #72. The Site Utilization Plan (SUP) Revision includes changes to a number of aspects of Planned Development #72, including a four-story, 128-room hotel of approximately 80,104 square feet, and two medical office buildings totaling approximately 66,465 square feet. It also includes 44 Units of Multi-Family Residential Housing totaling approximately 29,887 square feet, fast food uses with drive-through windows totaling approximately 5,494 square feet, and a mixed-use development with approximately 59,616 square feet of other retail and office uses, shown on the Site Plan at Attachment D of Planning Commission Staff Report #19-29

The Zoning Ordinance describes uses that are allowed within a specific zone “by right” and those allowed with a discretionary review such as a Conditional Use Permit. Under ordinary circumstances, drive-through sales, alcoholic beverage sales in restaurants for on-site consumption, multi-family dwellings, and gas and service stations are allowed within a C-N zone with approval of a Conditional Use Permit. Day care centers require a Minor Use Permit and hotels are listed as “use not allowed” in an ordinary C-N zone.

The SUP Revision proposes to condense a number of the typical public hearings for interface along with Conditional Use Permits into the single SUP Revision. Notable exceptions are that the hotel and multi-family residential components will still require publicly noticed public hearings for their Site Plan Review Permits if they are on a parcel that is abutting or across from a parcel with R-1 or R-2 zoning. Section 20.32 of the Zoning Ordinance sets out the requirements for interface regulations to help integrate potentially incompatible zones. See Condition #34 for details.

The Zoning Ordinance does not specify a density for multi-family housing allowed within a C-N zone. The General Plan has a range of multi-family densities: Low-Medium Density (LMD) – 6 to 12 units/acre; High-Medium



Density (HMD) – 12 to 24 units/acre; and High Density (HD) 24 to 36 units/acre. The Zoning designations that correlate to the multi-family General Plan designations would be R-2; R-3-1.5; R-3, and R-4. The proposed density for this project, based on the number of units is approximately 16.4 units per acre, considering the size of the proposed parcel. This density fits into an HMD General Plan designation comfortably; the site also currently has the HMD designation for the portion of the site where the multi-family residential component is proposed.

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

*Policy H 1.1.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 1.8b*      *Prioritize City efforts to encourage residential development by focusing on in-fill development and densification within the existing City Limits.*

The proposed project is on an in-fill site and proposes a density that is equal to the City's HMD 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.*

Additionally, Policy L 2.7.a notes that there are very unique circumstances under which retail commercial destinations can be located at the intersections of two arterial streets. Among the criteria are a project of minimum size of 20 acres, strong connectivity to the adjacent neighborhood,

provision of a mix of uses, and provision of good transit and pedestrian access. This project is approximately 21.5 acres, will connect to the adjacent neighborhood via Sandpiper Avenue and the future “Children’s Avenue”, provides for multi-family residential use in addition to commercial retail and office uses, and is on a site that is already near to existing transit routes. Planning staff believes that this project meets the criteria to proceed forward at the proposed location while being compatible with the guidelines laid out in Policy L 2.7.a.

### **Traffic/Circulation**

- B) The project site is located at the northeast corner of Yosemite Avenue and G Street. The Project proposes to develop 66,465 square feet of medical-dental office space, a 128-room hotel, 11,458 square feet of fast-food restaurant with drive-through window(s), a gasoline/service station with convenience market (12 fueling positions), 18,222 square feet of shopping center, 5,000 square feet high turnover (sit-down) restaurant, 12,000 square feet of general office space, 4,804 square feet of day care center, and 44 multifamily units. At present, all intersections studied in the Traffic Impact Analysis operate at an acceptable Level of Service (LOS) during both peak periods. The City of Merced has determined that roads must operate at LOS of “D” or greater in order to be acceptable. The Traffic Impact Analysis, prepared by JLB Traffic Engineering, Inc. appears at Appendix B of Attachment G of Planning Commission Staff Report #19-29.

### **Project Access**

Based on the Project Site Plan, access to and from the Project site will be from five (5) access driveways located along Sandpiper Avenue, G Street, and Yosemite Avenue. Two (2) access points are proposed to be located along the east side of G Street. One is located approximately 1,250 south of Mercy Avenue and is proposed as a full access (with a future signal), with left turns in and out. The other is located approximately 625 feet north of Yosemite Avenue and is proposed as left-in, right-in and right-out access only. The access point off of Yosemite Avenue is located approximately 300 feet east of G Street and is limited to right-in and right-out access only. The remaining two access points are proposed to be located along the extension of Sandpiper Avenue. While Sandpiper Avenue will eventually go through to Mercy Avenue, at the beginning of the project, access to Sandpiper

Avenue will be limited to Yosemite Avenue, which will be limited to right-in and right-out access only onto Sandpiper. Sandpiper will connect to The future “Children’s Avenue,” which will go through to Mansionette Drive.

### Walkways

Currently, walkways exist in the vicinity of the proposed Project site along G Street, Yosemite Avenue, and Mercy Avenue. The *Merced Vision 2030 General Plan* recommends that walkways be implemented during all phases of a Project to guarantee adequate and safe pedestrian facilities at all times. Therefore, it is recommended that the Project implement a walkway along its frontage to Sandpiper Avenue and complete the walkway along its frontage to G Street.

### Bikeways

Currently, bikeways exist in the vicinity of the proposed Project site along G Street, Yosemite Avenue, Mercy Avenue, and Mansionette Drive. The *Merced Vision 2030 General Plan* recommends that a Class II Bike Lane be implemented on G Street north of Yosemite Avenue and a Class I Bike Lane beginning on G Street and extending approximately 950 feet north of Mercy Avenue. Therefore, it is recommended that the Project implement a Class II Bike Lane along its frontage to G Street.

### Transit

The Bus, Merced’s Regional Transit System, is the single public transportation service provider for all of Merced County. At present, there are three routes - M3, M4 and UC - that have stops adjacent to the proposed Project and two more - M1 and M2 - that stop approximately 0.5 miles from the Project. Retention of the existing and expansion of future transit routes is dependent on transit ridership demand and available funding.

### Trip Generation

Trip generation rates for the proposed Project were obtained from the 10th Edition of the Trip Generation Manual published by the Institute of Transportation Engineers (ITE). The Project buildout is estimated to generate a maximum of 13,160 daily trips, 1,009 AM peak hour trips and 1,059 PM peak hour trips (before internal capture and pass-by rate reductions are taken into account). JLB also analyzed the estimated maximum trip generation of a prior version of the Project Site Plan. Due to a lack of secured users for the site, the exact square footages of the pads

## EXHIBIT B

## OF PLANNING COMMISSION RESOLUTION #4034

shown on the latest Project Site Plan may differ. At buildout, the prior Project Site Plan is anticipated to generate a maximum of 13,741 daily trips, 1,092 AM peak hour trips and 1,074 PM peak hour trips (before internal capture and pass-by rate reductions are taken into account). Compared to the prior Project Site Plan, the latest Project Site Plan is estimated to yield less traffic by 581 daily trips, 83 AM peak hour trips and 15 PM peak hour trips (before internal capture and pass-by rate reductions are taken into account). The TIA assumed the trip generation of the prior Project Site Plan, as it is the more impactful.

The following Mitigation Measure is recommended in Initial Study #19-28 for this project to ensure intersections operate at an acceptable level of service (see the Mitigation Monitoring Program at Attachment H of Planning Commission Staff Report #19-29).

Mitigation Measures

- TRA-01** Project Driveway 1 shall have a minimum throat depth of 150 feet before any vehicular openings to the north.
  
- TRA-02** The Project shall implement a walkway along its frontage to Sandpiper Avenue and complete the walkway along its frontage to G Street. Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer.
  
- TRA-03** The Project shall implement a Class II Bike Lane along its frontage to G Street. Based on the implementation progress of the project, the timing of this improvement shall be at the discretion of the City Engineer.
  
- TRA-04** The intersection of G Street and Project Driveway 1 shall be signalized with protective left-turn phasing in all directions prior to the issuance of any occupancy permits.
  
- TRA-05** The intersection of Sandpiper Avenue and Mercy Avenue shall be modified as an All-Way Stop with the following details:
  - Stripe a westbound left-turn lane;
  - Modify the westbound left-through-right lane to a through-right lane;
  - Stripe a northbound left-turn;

- Modify the northbound left-through-right lane to a through-right lane;
- Implement an all-way stop control; and,
- Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer.

**TRA-06** The intersection of G Street and Yosemite Avenue shall have a second southbound left-turn lane added, the traffic signal shall be modified to implement overlap phasing of the northbound right-turn with the westbound left-turn phase, and westbound to eastbound U-turns shall be prohibited. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.

**TRA-07** The intersection of Paulson Road and Yosemite Avenue shall have an eastbound through-right lane with a receiving lane east of Paulson Road added. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.

In addition, all applicable previously approved mitigation measures from Initial Study #10-06 would still apply. A copy of the mitigation monitoring program for Initial Study #10-06 can be found at Appendix C of Initial Study #19-28, which is Attachment G of Planning Commission Staff Report #19-29.

### **Parking**

C) Parking for the non-residential portions of the project are based on projected uses, and their requirements per Table 20.38-1 of the Zoning Ordinance. 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 606 spaces.

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. Based on this calculation, the residential portion of this project would require 74 parking spaces.

The total project requires 680 parking spaces. The proposed site plan

envisions 964 parking spaces in total, meeting and exceeding the City’s parking requirements. 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. Although this project has not formally applied for a modification to the final map of the parcels, the site plan is drawn in such a way that future subdivision is possible, if not likely. Reviewing the individual uses in such a way that the parking on each potential parcel is tracked separately yields some uses (the Medical Offices, the Hotel, and the Multi-Family residences) that are slightly deficient on parking. The Parking Analysis table below provides more detail. Since the overall parking provided is significantly higher than the overall parking required for the project, staff believes that with proper cross-access and use agreements in place (Condition #38), parking needs for the proposed uses are met and exceeded.

Parking Analysis

	SF	Units	Reduction	Spaces per SF	Req. Spaces	Prov. Spaces	Difference
Gen. Retail	18,222	N/A	15%	1/300	52	113	61
Restaurants	7,404	N/A	30%*	1/100	52	93	41
Bank	3,560	N/A	15%	1/250	13	35	22
Gas/Service	3,150	N/A	15%	1/250 + 3	14	19	5
Office	12,000	N/A	15%	1/250	41	87	46
Fast Food	5,494	N/A	15%	1/350	14	111	97
Day Care	4,804	N/A	15%	1/400 +1/employee**	23	63	40
Hotel	80,104	128	N/A	Per Unit***	114	111	-3
Multi-Family	29,887	44	N/A	Per Unit****	74	62	-12
Medical Office	66,465	N/A	15%	1/200	283	270	-13

\*70% of total square footage assumed for seating

\*\*10 employees assumed

\*\*\*Hotel requires 1 space/unit for the first 100 units, and 0.5 spaces/unit thereafter

\*\*\*\*Multi-family requires 1.75 spaces/unit for the first 30 units and 1.5 spaces/unit thereafter

**Public Improvements/City Services**

D) Water

There is a 16-inch water line in Yosemite Avenue and another 16-inch line in G Street to serve the project site. The City’s water supply would be

sufficient to serve the proposed project.

### Sewer

An 18-inch sewer line exists in Yosemite Avenue which flows to G Street, then continues out to the Waste Water Treatment Plant (WWTP). The G Street sewer line is 27 inches wide at the project location. There is sufficient capacity at the WWTP, and the existing lines in Yosemite Avenue and G Street have enough capacity during peak hours to accommodate the additional wastewater and transmit it to the WWTP for processing.

### Stormwater

A 24-inch storm drain exists in G Street. The project would be required to retain storm water onsite or in the collection basin to the east of the site that is part of P-D #72, and meter it into the City's system (Condition #27).

### Building Design

- E) As shown on the Rendering and Typical Elevations and Floor Plans, Attachments F and E, the retail buildings on the site would stand one story tall and have a modern design with wood or faux wood fascia, stone, glass, and metal as primary features and elements. The buildings would have clean lines and use a variety of building materials to provide interest and differentiate between businesses. The retail portion of the project is proposed as the first phase of development, and future phases, including the hotel, the residential buildings, and the office buildings, would all use the retail phase's stylistic elements as a template for a cohesive, but not identical, thematic design for the entire site. Final design details will be approved by staff at the Site Plan Review stage.

### Site Design

- F) The project site is bounded by Yosemite Avenue to the south, G Street to the west, the future extension of Sandpiper Avenue to the east, and approximately a hypothetical extension of University Avenue or Bobolink Court to the north. For clarity, Sandpiper Avenue is projected to extend between Yosemite Avenue and Mercy Drive during the lifespan of this project, while neither Yosemite Avenue nor Bobolink Court have such projections and are mentioned for the purpose of illustration only.

The site plan is still conceptual, especially as potential tenants are concerned, which may lead to modifications as development proceeds. Changes to the site plan could be approved by the Site Plan Review Committee. As proposed, the project site includes:

- 3,150 SF for a Gas/Service Station
- 3,560 SF for a Bank
- 4,804 SF for a Day Care
- 5,494 SF of Fast Food with Drive-Through
- 7,404 SF of Restaurants
- 12,000 SF of General Offices
- 18,222 SF of General Retail
- 29,887 SF for Multi-Family Residential; 3 Two-Story Buildings of 44 Rooms Total
- 66,465 SF of Medical Offices
- 80,104 SF for a 4-Story Hotel with 128 Rooms

The first phase of the project would include the development of the retail spaces, including the restaurants, the fast food, the gas/service station, and potentially the bank. Later phases will largely be determined by tenant interest and opportunity, but it is projected that the hotel, office uses, and day care are the most likely to proceed in a second phase, with the multi-family residential development as the third phase. There are not timing projections on these phases at this point.

The developers held a Neighborhood Outreach meeting at Cruickshank Middle School, 601 Mercy Avenue, near the project site on May 30, 2019, beginning at 6 PM. At this meeting, the applicants presented the project concepts as they stood at the time to interested residents, and solicited feedback. In response to comments received at this outreach meeting, the applicants modified their site plan to the current version, eliminating the plans for a car wash that residents suggested could have noise impacts on surrounding properties, and modifying the site layout such that the multi-family residential portion of the site is further north than was originally proposed. These changes have made the site design more congruent with its surroundings, with the multi-family housing acting as a buffer for other uses that would generate more noise and potential impacts to the existing



neighborhood. Also in response to comments that City staff heard at the meeting regarding the concerns over hotel signage, Condition #40 regarding the illumination of signs has been added.

### **Landscaping**

- G) As shown in the rendering (Attachment F), the area between the retail buildings would be landscaped to create a welcoming outdoor area. Parking lot trees would be provided throughout the site in compliance with the City's Parking Lot Landscape Standards (Condition #15).

According to Table 20.36-1 of the Zoning Ordinance, the site is required to provide a minimum landscape area equal to 15% of the project site. Landscaping and irrigation shall be required to meet the City's Water Efficient Landscape Ordinance (Condition #19).

### **Neighborhood Impact/Interface**

- H) As previously described, the project site is bordered on the east by residential uses as well as Merced College to the west across G Street. The developer held a neighborhood meeting on May 30, 2019, at Cruickshank Middle School, the impacts of which on the proposal are detailed further in Finding F, above.

The Zoning Ordinance describes uses that are allowed within a specific zone "by right" and those allowed with a discretionary review, such as a Conditional Use Permit. Under ordinary circumstances, drive-through sales, alcoholic beverage sales in restaurants for on-site consumption, multi-family dwellings, and gas and service stations are allowed within a C-N zone with approval of a Conditional Use Permit. Day care centers require a Minor Use Permit and hotels are listed as "use not allowed" in an ordinary C-N zone.

Additionally, Section 20.32 of the Zoning Ordinance sets out the requirements for interface regulations to help integrate potentially incompatible zones. This section requires Site Plan Review be obtained prior to construction on a parcel with a Neighborhood Commercial (C-N) zone when it is adjacent to or across the street from an R-1-6 zone. In this case, several properties to the east are zoned R-1-6. The uses in this area include single-family dwellings located on approximately 0.2-acre lots. This project is designed in such a way that may at a future time be desirable to separate

#### **EXHIBIT B**

#### **OF PLANNING COMMISSION RESOLUTION #4034**

the parcels, as noted by the “proposed parcel line” notations on the Site Plan, shown at Attachment D; however, no parcel modifications have been submitted at this time.

Instead of the typical requirements for additional Conditional Use Permits and Site Plan Review for interface, this Site Utilization Plan process will address interface regulations, additional review, and permissibility of specific uses in Planned Development #72 (Condition #34). These modifications apply in the portions of Planned Development #72 covered by the subject site parcels (Assessor’s Parcel Number 231-040-004 and 231-040-005) in the following manner, taking into consideration that the adjacency of parcels may change in the event of parcel modifications in the future:

- Multi-family housing will require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publicly noticed public hearing at the Site Plan Review meeting per Section 20.32 of the Zoning Ordinance.
- The hotel, rather than being a “use not allowed,” shall require a Site Plan Review Permit rather than a Conditional Use Permit, and if on a parcel abutting or across from (per the definitions in Section 20.32.020 of the Zoning Ordinance) a property with R-1 zoning, will require a publicly noticed public hearing at a Site Plan Review meeting per Section 20.32 of the Zoning Ordinance, but will not require an additional Conditional Use Permit.
- Restaurants selling alcohol for consumption on-site will require only a Site Plan Review Permit use without further requirement for a Conditional Use Permit or public hearing for interface considerations.
- Gas and service stations will require only a Site Plan Review Permit without further requirement for a Conditional Use Permit unless the gas and service station wishes to sell alcohol, in which case a Conditional Use Permit is required, and a letter of Public Convenience and Necessity may be required, but an additional public hearing for interface consideration is not

required.

- Day care centers require only a Site Plan Review Permit without further requirement for a Minor Use Permit or public hearing for interface considerations.
- Drive-through and drive-up sales require only a Site Plan Review Permit without further requirement for a Conditional Use Permit or public hearing for interface considerations.
- General retail uses, professional offices, restaurants, and banks require only a Site Plan Review Permit without further requirement for a public hearing for interface considerations.

Public hearing notices were sent to all property owners within 300 feet of the site. To date, staff has not had any comments other than those heard at the community meeting held by the applicants.

### **Signage**

- I) All signs on the site would be required to comply with the North Merced Sign Ordinance and the Neighborhood Commercial sign regulations (Condition #11) as well as Condition #40 dealing with illumination. Final sign/design details will be addressed by staff at the Site Plan Review phase.

### **Environmental Clearance**

- J) The Planning staff has conducted an environmental review (Initial Study #19-28) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Mitigated Negative Declaration (i.e., no significant effects in this case because of the mitigation measures and/or modifications described in Initial Study #19-28) is being recommended (Attachment G of Planning Commission Staff Report #19-29).

<p style="text-align: center;"><b>ENVIRONMENTAL REVIEW #19-28</b> <b>Mitigation Monitoring Program</b></p>
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**MITIGATION MONITORING CONTENTS**

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

**LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM**

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own “Mitigation Monitoring and Reporting Program” (MMC 19.28). The City’s program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor’s Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

- 1) The requirements of the adopted mitigation monitoring program for the General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development #72 shall run with the real property. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

**MITIGATION MONITORING PROCEDURES**

In most cases, mitigation measures can be monitored through the City’s construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

## **GENERAL PLAN MITIGATION MEASURES**

As a second tier environmental document, Initial Study #19-28 incorporates some mitigation measures adopted as part of the *Merced Vision 2030 General Plan Program Environmental Impact Report* (SCH# 2008071069), as mitigation for potential impacts of the Project.

## **NONCOMPLIANCE COMPLAINTS**

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Director of Development Services in written form providing specific information on the asserted violation. The Director of Development Services shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the Director of Development Services shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

## **MONITORING MATRIX**

**The following pages provide a series of tables identifying the mitigation measures proposed specifically for General Plan Amendment #19-03 and Site Utilization Plan Revision #3 to Planned Development #72. The columns within the tables are defined as follows:**

<b>Mitigation Measure:</b>	Describes the Mitigation Measure (referenced by number).
<b>Timing:</b>	Identifies at what point in time or phase of the project that the mitigation measure will be completed.
<b>Agency/Department Consultation:</b>	This column references any public agency or City department with which coordination is required to satisfy the identified mitigation measure.
<b>Verification:</b>	These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

**General Plan Amendment #19-02/Site Utilization Plan Revision #3 to Planned Development #72  
Mitigation Monitoring Checklist**

Project Name: \_\_\_\_\_ File Number: \_\_\_\_\_  
Approval Date: \_\_\_\_\_ Project Location: \_\_\_\_\_  
Brief Project Description \_\_\_\_\_

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

3) Air Quality				
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
c	<p>AIR-1) Consistent with SJVAPCD Regulation VIII (Fugitive PM10 Prohibitions), the following controls are required to be included as specifications for the proposed project and implemented at the construction site:</p> <ul style="list-style-type: none"> <li>-All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.</li> <li>-All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant</li> <li>-All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.</li> <li>-When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.</li> <li>-All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday.</li> </ul> <p><i>(continued on next page)</i></p>			

<b>Impact No.</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
c	-The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden. - Following the addition of materials to, or the removal of materials from, the surface of out-door storage piles, said piles shall be effectively stabilized of fugitive dust emission utilizing sufficient water or chemical stabilizer/suppressant.	Building Permits	Planning Department	
c	AIR-2) The project contractor shall ensure all off-road diesel-powered construction equipment of 50 horsepower or more used for the project meet the California Air Resources Board (CARB) Tier 2 with a Level 3 Diesel Particulate Filter emissions standards or equivalent.	Building Permits	Planning Department	



<b>4) Biological Resources</b>				
<b>Impact No.</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
<i>a</i>	<p>BIO-1) Impacts of the proposed project upon vegetation and wildlife habitat can be mitigated by preserving as many of the existing trees as possible (if any still exist) and incorporating them into the proposed project. The Cottonwood trees have the greatest wildlife habitat value, although they are generally less visually attractive and in poorer condition than either the Olive trees or the Eucalyptus trees. However, in spite of appearances, a Cottonwood, even in poor condition, provides good wildlife habitat.</p> <p>Impacts to wildlife habitat can also be reduced by using native plant materials in landscaping to the greatest extent possible. Native plant species provide the best wildlife habitat since native vegetation has co-evolved with the wildlife and affords food sources for which wildlife is best adapted. Native species cannot always be used to produce the desired form and floral characteristics, but some native species can usually be incorporated.</p>	Building Permits	Planning Department	

<b>5) Cultural Resources</b>				
<b>Impact No.</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
<i>a</i>	<p>CUL-1) If unknown pre-contact or historic-period archaeological materials are encountered during project activities, all work in the immediate vicinity of the find shall halt until a qualified archaeologist can evaluate the find and make recommendations.</p> <p>Cultural resources materials may include pre-contact resources such as flaked and ground stone tools and debris, shell, bone, ceramics, and fire-affected rock, as well as historic resources such as glass, metal, wood, brick, or structural remnants. If the qualified archaeologist determines that the discovery represents a potentially significant cultural resource, additional investigations shall be required to mitigate adverse impacts from project implementation. These additional studies may include, but are not limited to, recordation, archaeological excavation, or other forms of significance evaluations.</p> <p>The applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological deposits, and include the following directive in the appropriate contract documents:                      (continued on next page)</p>			

<b>Impact No.</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
	<p>“The subsurface of the construction site is sensitive for archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist shall assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery.</p> <p>Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include, but are not limited to, shellfish remains; bones, including human remains; and tools made from, obsidian, chert, and basalt; mortars and pestles; historical trash deposits containing glass, ceramics, and metal artifacts; and structural remains, including foundations and wells.”</p> <p>The City shall verify that the language has been included in the grading plans prior to issuance of a grading permit or other permitted project action that includes ground-disturbing activities on the project site.</p>	<p>Building Permits</p>	<p>Planning Department</p>	

<b>Impact No.</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
c	<p>CUL-3) If human remains are identified during construction and cannot be preserved in place, the applicant shall fund: 1) the removal and documentation of the human remains from the project corridor by a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archaeology; 2) the scientific analysis of the remains by a qualified archaeologist, should such analysis be permitted by the Native American Most Likely Descendant; and, 3) the reburial of the remains, as appropriate. All excavation, analysis, and reburial of Native American human remains shall be done in consultation with the Native American Most Likely Descendant, as identified by the California Native American Heritage Commission.</p>	Building Permits	Planning Department	

<b>6) Energy</b>					
<i>a</i>	ENE-1)	The applicant shall comply with all applicable California Energy Code, AB 341, and San Joaquin Valley Air Pollution Control District rules and regulations regulating energy efficiency and waste.	Building Permits	Building Department	
<i>b</i>	ENE-2)	Implementation of Mitigation Measure ENE-1.	Building Permits	Building Department	
<b>7) Geology and Soils</b>					
<b>Impact No.</b>		<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
<i>b</i>	GEO-1)	The project shall comply with all requirements of the State Water Resources Board (SWRCB) and obtain a General Construction Activity Stormwater Permit.	Building/ Encroachment Permits	Engineering Department	
<i>b</i>	GEO-2)	The project shall comply with all applicable mitigation measures for Expanded Initial Study #02-27 for General Plan Amendment #02-02 and Annexation/Pre-Zoning Application #02-02.	Building/ Encroachment Permits	Engineering Department	

<b>8) Hydrology and Water Quality</b>			
<i>a</i>	<p>HYDRO-1) To minimize any potential short-term water quality effects from project-related construction activities, the project contractor shall implement Best Management Practices (BMPs) in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity. In addition, the proposed project shall be in compliance with existing regulatory requirements, including the Water Pollution Control Preparation (WPCP) Manual. In addition, implementation of a Storm Water Pollution Prevention Plan (SWPPP) would be required under the National Pollutant Discharge Elimination System (NPDES) to regulate water quality associated with construction activities.</p>	<p>Building/ Encroachment Permits</p>	<p>Engineering Department</p>

<b>Impact No.</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
<b>a</b>	HYDRO-2 If any storm drainage from the site is to drain into MID facilities, the developer shall first enter into a "Storm Drainage Agreement" with MID and pay all applicable fees.	Building/ Encroachment Permits	Engineering Department	
<b>a</b>	HYDRO-3) To reduce the potential for degradation of surface water quality during project operation, a SWPPP shall be prepared for the proposed project. The SWPPP shall describe specific programs to minimize stormwater pollution resulting from the proposed project. Specifically, the SWPPP shall identify and describe source control measures, treatment controls, and BMP maintenance requirements to ensure that the project complies with post-construction stormwater management requirements of the RWQCB.	Building/ Encroachment Permits	Engineering Department	
<b>c</b>	HYDRO-4 Prior to issuance of a building permit or as required by the City Engineer, the developer shall demonstrate to the City that storm drainage facilities are adequate to meet the Project demands and that improvements are consistent with the City Standards and the City's Storm Drain Master Plan.	Building/ Encroachment Permits	Engineering Department	

<b>13) Noise</b>	<b>Impact No.</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
<b>a</b>	NOI-1)	<p>To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the project:</p> <ul style="list-style-type: none"> <li>• The construction contractor shall ensure that all internal combustion engine-driven equipment is equipped with mufflers that are in good condition and appropriate for the equipment.</li> <li>• The construction contractor shall locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction disturbance area. In addition, the project contractor shall place such stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.</li> <li>• The construction contractor shall prohibit unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes is prohibited).</li> <li>• The construction contractor shall locate, to the maximum extent practical, on-site equipment staging areas so as to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.</li> </ul> <p><i>(continued on next page)</i></p>	Building Permit	Building Department	



<b>Impact No.</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
	<ul style="list-style-type: none"> <li>The construction contractor shall limit all noise producing construction activities, including deliveries and warming up of equipment, to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No such work shall be permitted on Sundays or federal holidays without prior approval from the City.</li> </ul>	Building Permit	Planning Department	
<b>17) Transportation and Traffic</b>				
<b>a, c</b>	<b>TRA-01</b> Project Driveway 1 shall have a minimum throat depth of 150 feet before any vehicular openings to the north.	Building Permit	Planning/Engineering Department	

<b>17) Transportation and Traffic</b>				
<b>Impact No.</b>	<b>Mitigation Measures</b>	<b>Timing</b>	<b>Agency or Department</b>	<b>City Verification (date and initials)</b>
<b>a, c</b>	<b>TRA-01</b> Project Driveway 1 shall have a minimum throat depth of 150 feet before any vehicular openings to the north.	Building Permit	Planning/Engineering Department	
<b>a, c</b>	<b>TRA-02</b> The Project shall implement a walkway along its frontage to Sandpiper Avenue and complete the walkway along its frontage to G Street. Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer.	Building Permit	Planning/Engineering Department	
<b>a, c</b>	<b>TRA-03</b> The Project shall implement a Class II Bike Lane along its frontage to G Street. Based on the implementation progress of the project, the timing of this improvement shall be at the discretion of the City Engineer.	Building Permit	Planning/Engineering Department	
<b>a, c</b>	<b>TRA-04</b> The intersection of G Street and Project Driveway 1 shall be signalized with protective left-turn phasing in all directions.	Building Permit	Planning/Engineering Department	

<p><i>a, c</i></p>	<p><b>TRA-05</b> The intersection of Sandpiper Avenue and Mercy Avenue shall be modified as an All-Way Stop with the following details:</p> <ul style="list-style-type: none"> <li>○ Stripe a westbound left-turn lane;</li> <li>○ Modify the westbound left-through-right lane to a through-right lane;</li> <li>○ Stripe a northbound left-turn;</li> <li>○ Modify the northbound left-through-right lane to a through-right lane; and</li> <li>○ Implement an all-way stop control.</li> <li>○ Based on the implementation progress of the project, the timing of these improvements shall be at the discretion of the City Engineer.</li> </ul>	<p>Building Permit</p>	<p>Planning/ Engineering Department</p>	
<p><i>a, c</i></p>	<p><b>TRA-06</b> The intersection of G Street and Yosemite Avenue shall have a second southbound left-turn lane added, the traffic signal shall be modified to implement overlap phasing of the northbound right-turn with the westbound left-turn phase, and westbound to eastbound U-turns shall be prohibited. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.</p>	<p>Building Permit</p>	<p>Planning/ Engineering Department</p>	

a, c	<p><b>TRA-07</b> The intersection of Paulson Road and Yosemite Avenue shall have an eastbound through-right lane with a receiving lane east of Paulson Road added. Prior to implementation of this measure, design details and timing are to be approved by the City Engineer.</p>	Building Permit	Planning/ Engineering Department	
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**Certificate of Completion:**

By signing below, the environmental coordinator confirms that the required mitigation measures have been implemented as evidenced by the Schedule of Tasks and Sign-Off Checklist, and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

\_\_\_\_\_  
 Environmental Coordinator

\_\_\_\_\_  
 Date