



# CITY OF MERCED

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

## Minutes Planning Commission

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Wednesday, November 4, 2020

7:00 PM

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### A. CALL TO ORDER

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

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

A.1. Moment of Silence

A.2. Pledge of Allegiance to the Flag

Commissioner DYLINA led the Pledge of Allegiance to the Flag.

### B. ROLL CALL

**Clerk's Note:** The Planning Commission has 1 vacancy at this time.

**Present:** 5 - Chairperson Michael Harris, Robert Dylina, Dorothea White, Jose Delgadillo, and Vice Chair Mary Camper

**Absent:** 1 - Stephanie Butticci

### C. ORAL COMMUNICATIONS

There were no public comments.

### D. CONSENT CALENDAR

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

**Aye:** 5 - Harris  
Dylina  
White  
Delgadillo  
Camper

**No:** 0

**Absent:** 1 - Butticci

**D.1. SUBJECT: Planning Commission Minutes of September 23, 2020 (Cancellation); October 7, 2020; and October 21, 2020 (Cancellation)**

**ACTION:**

Approving and filing the Planning Commission Minutes of September 23, 2020; October 7, 2020; and October 21, 2020

This Consent Item was approved.

**E. PUBLIC HEARINGS AND ACTION ITEMS**

E.1.

**SUBJECT:** Conditional Use Permit #1245, initiated by God’s Love Outreach Ministries, applicant for Roxanne and Michael Burns, property owners. This application involves a request to allow a State Licensed Adult Residential Care Facility with 10 beds at 1259 Lurs Court, generally located on the north side of Lurs Court, approximately 75 feet east of St Tropez Avenue, within Planned Development (P-D) #50 with a General Plan designation of Low Density (LD) Residential  
\*\*PUBLIC HEARING\*\*

**ACTION:** Approve/Disapprove/Modify  
Environmental Review #20-25 (*Categorical Exemption*)  
Conditional Use Permit #1245

**SUMMARY**

God’s Love Outreach Ministry (G.L.O.M.) is requesting Conditional Use Permit approval for a large State licensed adult residential care facility with 10 beds at 1259 Lurs Court. The subject site is a 6,000-square-foot lot with a 3,291-square-foot single-family home. The subject site has a zoning classification of Planned Development (P-D) #50, with a General Plan designation of Low Density (LD) Residential. The care facility would assist adults dealing with mental illness or disorders, and be used for dwelling purposes only. Counseling and treatment would take place offsite within approved medical or office locations. Per Merced Municipal Code Table 20.08-1 Permitted Land Uses in Residential Zoning Districts, Small Residential Care Facilities (6 people or less) are principally permitted within most residential zones, but Large Residential Care Facilities (7 people or more) require Conditional Use Permit approval in most residential zones, such as is required for this site. City staff, including the Police Department, have reviewed this request and are recommending approval with conditions.

**RECOMMENDATION**

Planning staff recommends that the Planning Commission approve Environmental Review #20-25 (*Categorical Exemption*) and Conditional Use Permit #1245 (including the adoption of the Draft Resolution at Attachment A) subject to the conditions in Exhibit A and the findings/considerations in Exhibit B of the Draft Resolution at Attachment A.

Commissioner DELGADILLO recused himself from Conditional Use Permit #1245 and Environmental Review #20-25 and did not view or participate in the item.

Associate Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #20-617. Staff also received fourteen emails in opposition to the project prior to the meeting from MR. and MRS. LOMELI, ALONDRA DE LA TORRE, ANDREA PICKINPAUGH, SOCORRO VELASQUEZ, JEREMA HAMMETT, ARIAL KING, CHRISTINE LIM, JAS KHINDA, LILY ZHAO, BOBBY MANN, LADDAWAN and MAL DONOHUE, ANNA REDDY, WILLIAM ZHANG, SHILPAN PATEL, ISABEL LAWIRE, and TSU YA. Those emails were provided to the Planning Commission via email. (Members of the public were given the opportunity to leave voice mail messages as well prior to the meeting, five were received from SINGH MANN, DONNA PENA YVONNE, MAL DONOHUE, and LADDAWAN DONOHUE. These were all in opposition to the project.)

Commissioner WHITE asked Associate Planner MENDOZA-GONZALEZ if Condition #10 were to be implemented to revoke the permit, if that completely revokes God's Love Outreach Ministries from operating or just downsizes it back to six clients.

Associate Planner MENDOZA-GONZALEZ explained that the six beds are allowed by the State, therefore the City is limited to reverting the beds to six.

Chairperson HARRIS asked for clarification of Condition #10 as to what is considered "excessive" and if there is a condition for parking.

Associate Planner MENDOZA-GONZALEZ elaborated on what excessive would mean for a neighborhood by having the Police Department collect data from calls and considering what the nature of the calls are and the Police Chief would determined what would be considered "excessive." Finding G and Condition #12 address parking.

Public testimony was opened at 7:28 PM

Speaker Via Teleconference in Favor:

DR. ALLEN TURNER, Applicant, Livermore

Speakers in Opposition Via Teleconference:

Recording Secretary LEE played the five voice mails previously noted.

Public testimony was closed at 8:01 PM

Chairperson HARRIS requested that Deputy City Attorney CAMPBELL explain to the public under what conditions the Commission may deny a permit.

Deputy City Attorney CAMPBELL confirmed there are specific types of permits and applications that are allowed by statute, for example G.L.O.M did not have to go to Planning Commission for the 6 beds they currently have because the State allows up to 6 beds with no local input. This is considered a Ministerial Approval by the State.

Director of Development Services MCBRIDE reminded the Commission to review the Findings at Exhibit B of the Draft Planning Commission Resolution found in the staff report. Mr. McBride explained that the Commission may deny an item if the Findings associated with the Conditional Use Permit cannot be made.

Chairperson HARRIS requested to change the language for Condition #10 to add "at the determination of the Police Chief or their designee" and to modify the condition regarding parking to limit on site parking to 3 vehicles including G.L.O.M.'s van.

(Note: ~~Strikethrough~~ deleted language, underline added language.)

- "10. If problems arise as a result of this use that may require excessive Police Department service calls, at the determination of the Police Chief or their designee, 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.
- "12. Transportation shall be provided by G.L.O.M shuttle vans. Clients shall not be allowed to park vehicles on site as noted in Attachment

F of Staff report #20-617." On-site parking shall be limited to a maximum of 3 vehicles, including the G.L.O.M van and employee vehicles."

Planning Manager ESPINOSA explained that since the motion failed to pass and there was no other motion, the permit is deemed denied.

**A motion was made by Member White, seconded by Chairperson Harris, to approve Conditional Use Permit #1245 and Environmental Review #20-25 with the modification of Condition #10 and #12 as shown above. The motion failed by the following vote:**

**Aye:** 2 - Harris  
White

**No:** 2 - Dylina  
Camper

**Absent:** 1 - Butticci

**Recused:** 1 - Delgadillo

**Clerk’s Note:** The Planning Commission meeting recessed from 8:36 to 8:45 p.m.

**E.2.**

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

**ACTION:** Approve/Disapprove/Modify  
Environmental Review #20-26 (*Categorical Exemption*)  
Conditional Use Permit #1246

**SUMMARY**

God’s Love Outreach Ministry (G.L.O.M.) is requesting Conditional Use Permit approval for a large State licensed adult residential care facility with 10 beds at 1369 Derby Court. The subject site is a 5,669-square-foot lot

with a 2,900-square-foot single-family home. The subject site has a zoning classification of Planned Development (P-D) #46, with a General Plan designation of Low Density (LD) Residential. The care facility would assist adults dealing with mental illness or disorders, and be used for dwelling purposes only. Counseling and treatment would take place offsite within approved medical or office locations. Per Merced Municipal Code Table 20.08-1 Permitted Land Uses in Residential Zoning Districts, Small Residential Care Facilities (6 people or less) are principally permitted within most residential zones, but Large Residential Care Facilities (7 people or more) require Conditional Use Permit approval in most residential zones, such as is required for this site. City staff, including the Police Department, have reviewed this request and are recommending approval with conditions.

#### **RECOMMENDATION**

Planning staff recommends that the Planning Commission approve Environmental Review #20-26 (*Categorical Exemption*) and Conditional Use Permit #1246 (including the adoption of the Draft Resolution at Attachment A) subject to the conditions in Exhibit A and the findings/considerations in Exhibit B of the Draft Resolution at Attachment A.

Commissioner DELGADILLO recused himself from Conditional Use Permit #1246 and Environmental Review #20-26 and did not view or participate in the item.

Associate Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #20-631. Staff also received seven emails in opposition to the project prior to the meeting from SIU KEUNG CHOW, SOCORRO VELAZQUEZ, JERENA HAMMETT, NALINI CHERVELA, IVAN PEREZ, ARIAL KING, and ISABEL LAWIRE. Those emails were provided to the Planning Commission via email. (Members of the public were given the opportunity to leave voice mail messages as well prior to the meeting, none were received).

Public testimony was opened at 8:53 PM

#### Speakers Via Teleconference in Favor:

DR. ALLEN TURNER, Applicant, Livermore

#### Speakers in Opposition Via Teleconference:

Emails in opposition were noted above.

No voice mails were received for this item.

Public testimony was closed at 8:56 PM

The Planning Commission asked the applicant to do more neighborhood outreach and he agreed.

**A motion was made by Member Dylina, seconded by Member White, to continue Conditional Use Permit #1246 and Environmental Review #20-26 to the December 9, 2020, Planning Commission meeting. The motion carried by the following vote:**

**Aye:** 5 - Harris  
Butticci  
Dylina  
White  
Camper

**No:** 0

**Absent:** 0

**Recused:** 1 - Delgadillo

**E.3.**

**SUBJECT:** Conditional Use Permit #1247, initiated by God’s Love Outreach Ministries, applicant for Roxanne and Michael Burns, property owners. This application involves a request to allow a State Licensed Adult Residential Care Facility with 12 beds at 1214 Cavalaire Court, generally located on the south side of Cavalaire Court, approximately 450 east of St Tropez Avenue, within Planned Development (P-D) #50 with a General Plan designation of Low Density (LD) Residential \*\*PUBLIC HEARING\*\*

**ACTION** Approve/Disapprove/Modify  
Environmental Review #20-27 (*Categorical Exemption*)  
Conditional Use Permit #1247

**SUMMARY**

God’s Love Outreach Ministry (G.L.O.M.) is requesting Conditional Use Permit approval for a large State licensed adult residential care facility with 12 beds at 1214 Cavalaire Court. The subject site is a 6,000-square-foot lot with a 3,576-square-foot, two-story single-family home. The subject site has a zoning classification of Planned Development (P-D) #50, with a General Plan designation of Low Density (LD) Residential. The care facility would assist adults dealing with mental illness or disorders, and be used for dwelling purposes only. Counseling and treatment would take place offsite within approved medical or office locations. Per Merced Municipal

Code Table 20.08-1 Permitted Land Uses in Residential Zoning Districts, Small Residential Care Facilities (6 people or less) are principally permitted within most residential zones, but Large Residential Care Facilities (7 people or more) require Conditional Use Permit approval in most residential zones, such as is required for this site. City staff, including the Police Department, have reviewed this request and are recommending approval with conditions.

#### RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #20-27 (*Categorical Exemption*) and Conditional Use Permit #1247 (including the adoption of the Draft Resolution at Attachment A) subject to the conditions in Exhibit A and the findings/considerations in Exhibit B of the Draft Resolution at Attachment A.

Commissioner DELGADILLO recused himself from Conditional Use Permit #1247 and Environmental Review #20-27 and did not view or participate in the item.

Senior Planner NELSON informed the Commission that this application has been withdrawn by the applicant. Staff also received a petition with thirty-six signatures and thirteen emails in opposition to the project prior to the meeting from JERENA HAMMET, STEVE KILE, ISABEL LAWIRE, IGNACIO LOPEZ-CALVO, AMANDEEP SINGH, SOCORRO VELAZQUEZ, WILLIAM ZHANG, KOU HER, ARIAL KING, CHRISTINE LIM, SHIPUN PATEL, NATALIE SOBALVARRO, and LILY ZHAO. Those emails were provided to the Planning Commission via email. (Members of the public were given the opportunity to leave voice mail messages as well prior to the meeting, one was received from GREG KABOTA. This was in opposition).

**This Public Hearing Item was withdrawn.**

#### E.4.

**SUBJECT: Conditional Use Permit #1248, initiated by God's Love Outreach Ministries, applicant for Grace and Alexander Marania, property owners. This application involves a request to allow a State Licensed Adult Residential Care Facility with 8 beds at 189 Korbelt Avenue, generally located on Korbelt Avenue, approximately 165 feet west of Rutherford Avenue, within Planned Development (P-D) #42 with a General Plan designation of Low-Medium Density (LMD) Residential**  
**\*\*\*PUBLIC HEARING\*\***



**ACTION:** Approve/Disapprove/Modify  
 Environmental Review #20-28 (*Categorical Exemption*)  
 Conditional Use Permit #1248

**SUMMARY**

God’s Love Outreach Ministry (G.L.O.M.) is requesting Conditional Use Permit approval for a large State licensed adult residential care facility with 8 beds at 189 Korbel Avenue. The subject site is an approximately 2,922-square-foot lot with an 1,863-square-foot single-family home. The subject site has a zoning classification of Planned Development (P-D) #42, within a General Plan designation of Low-Medium Density (LMD) Residential. The care facility would assist adults dealing with mental illness or disorders and be used for dwelling purposes only. Counseling and treatment would take place offsite within approved medical or office locations. Per Merced Municipal Code Table 20.08-1 Permitted Land Uses in Residential Zoning Districts, Small Residential Care Facilities (6 people or less) are principally permitted within most residential zones, but Large Residential Care Facilities (7 people or more) require Conditional Use Permit approval in most residential zones, such as is required for this site. City staff, including the Police Department, have reviewed this request and are recommending approval with conditions.

**RECOMMENDATION**

Planning staff recommends that the Planning Commission approve Environmental Review #20-28 [Categorical Exemption] and Conditional Use Permit #1248, subject to the Conditions in Exhibit A and the Findings and Considerations in Exhibit B of the Draft Resolution at Attachment A.

At 9:12 p.m., Commissioner DELEGADILLO returned to participate in the meeting.

Development Services Technician II DAVIS reviewed the report on this item. For further information, refer to Staff Report #20-618. Staff also received six emails in opposition to the project prior to the meeting from GINA ZAPATA, MARLENE CATIVO-SOSA, CARLOS SOSA-VELASCO, YAMILET CATIVO, JERENA HAMMETT, AND ARIAL KING. Those emails were provided to the Planning Commission via email. (Members of the public were given the opportunity to leave voice mail messages as well prior to the meeting, three were received from GINA ZAPATA, RUTH CATIVO MORENA, and MARLENE CATIVO-SOSA. These were in opposition to the project.)

Public testimony was opened at 9:22 PM

Speaker Via Teleconference in Favor:

DR. ALLEN TURNER, Applicant, Livermore

Speakers in Opposition Via Teleconference:

Recording Secretary LEE played the three voice mails noted above.

Emails in opposition were noted above.

Public testimony was closed at 9:36 PM

Principal Planner HREN asked Chairperson HARRIS if he wanted to make the same modifications to the Conditions as Conditional Use Permit #1245.

Chairperson HARRIS asked that the same modifications that were made to Conditional Use Permit #1245 be applied to Conditional Use Permit #1248.

(Note: ~~Strikethrough~~ deleted language, underline added language.)

“10. If problems arise as a result of this use that may require excessive Police Department service calls, at the determination of the Police Chief or their designee, 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.

“12. Transportation shall be provided by G.L.O.M shuttle vans. Clients shall not be allowed to park vehicles on site as noted in Attachment G of Staff report #20-618.” On site parking shall be limited to a maximum of 3 vehicles, including the G.L.O.M van and employee vehicles.”

**A motion was made by Member Delgadillo, seconded by Member White, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #20-28 and approve Conditional Use Permit #1248, subject to the Findings and Conditions set forth in Staff Report #20-618, with the modification of Condition #10 and #12 as shown above (RESOLUTION #4047). The**

**motion carried by the following vote:**

**Aye:** 5 - Harris  
Dylina  
White  
Delgadillo  
Camper

**No:** 0

**Absent:** 1 - Butticci

**E.5.**

**SUBJECT:** Modification of Conditional Use Permit #1200, submitted by Rick Telegan, on behalf of BP Investors, LLC. This request is to modify Condition #10 of City Council Resolution No. 2015-33 to allow the construction of a part-width roadway for Merrill Place (extended east of G Street). \*\*PUBLIC HEARING\*\*

**ACTION PLANNING COMMISSION:**

Recommendation to City Council  
Environmental Review #20-20 (CEQA Section 15162 Findings)

Modification of Conditional Use Permit #1200

**CITY COUNCIL:**

Approve/Disapprove/Modify  
Environmental Review #20-20 (CEQA Section 15162 Findings)

Modification of Conditional Use Permit #1200

**RECOMMENDATION**

Planning staff recommends that the Planning Commission recommend approval of Environmental Review #20-20 (CEQA Section 15162 Findings) and the applicant’s request to allow a part-width street be constructed for Merrill Place, east of G Street, subject to the approval of the modification of Finding B “Traffic/Circulation” of Exhibit B, and the modification of Condition #10 and deletion of Condition #21 of Exhibit C (Conditions of Approval) of City Council Resolution #2015-33, as shown on Attachment A).

Senior Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #20-623.

Public testimony was opened at 9:56 PM

Speaker Via Teleconference in Favor:

RICK TELEGAN, Applicant, Fresno

Speakers in Opposition Via Teleconference:

GARTH PECCHENINO, Engineer, Merced

MR. and MRS. PETE BANDONI, Property Owner, Merced

Public testimony was closed at 9:36 PM

**A motion was made by Member Delgadillo, seconded by Member Dylina, to recommend to the City Council approval of Environmental Review #2020 (CEQA Section 15162 Findings) and approval of the Modification to Conditional Use Permit #1200, subject to the modification of Condition #10 and deletion of Condition #21 of Exhibit C (Conditions of Approval) of City Council Resolution #2015-33 as shown on Attachment A of Planning Commission Staff Report #20-623. The motion carried by the following vote:**

**Aye:** 5 - Harris  
Dylina  
White  
Delgadillo  
Camper

**No:** 0

**Absent:** 1 - Butticci

**E.6.**

**SUBJECT:** Cancellation of November 18, 2020, due to lack of items

**ACTION:**

Cancel the Planning Commission Meeting of November 18, 2020

Planning Manager ESPINOSA stated that the Planning Commission Meeting of November 18, 2020, should be cancelled due to the lack of items.

**A motion was made by Member Dylina, seconded by Member White, to cancel the Planning Commission Meeting of November 18, 2020, due to lack of items. The motion carried by the following vote:**

**Aye:** 5 - Harris  
Dylina  
White  
Delgadillo  
Camper

**No:** 0

**Absent:** 1 - Butticci

**F. INFORMATION ITEMS**

**F.1.**                    **SUBJECT:** Report by Planning Manager of Upcoming Agenda Items

**ACTION**

Information only.

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

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

- Nov.2      City Council, 6:00 p.m. **(In person)**
- 4      Planning Commission, 7:00 p.m. **(By Teleconference)**
- 16     City Council, 6:00 p.m. **(May be by Teleconference)**
- 18     Planning Commission, 7:00 p.m. **(To be Cancelled)**
- Dec.7      City Council, 6:00 p.m. **(May be by Teleconference)**
- 9      Planning Commission, 7:00 p.m. **(By Teleconference)**
- 21     City Council, 6:00 p.m. **(May be by Teleconference)**
- 22     Bicycle/Pedestrian Advisory Commission, 4:00 p.m. **(By Teleconference - to be rescheduled)**
- 23     Planning Commission, 7:00 p.m. **(May be Cancelled)**

**G. ADJOURNMENT**

**Clerk's Note:** The Regular Meeting adjourned at 10:37 PM.

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

**Aye:** 5 - Harris  
          Dylina  
          White  
          Delgadillo  
          Camper

**No:** 0

**Absent:** 1 - Butticci

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

**Resolution #4047**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of November 4, 2020, held a public hearing and considered **Conditional Use Permit #1248**, initiated by God’s Love Outreach Ministries (G.L.O.M.), on behalf of Grace and Alexander Marania, property owners. This application involves a request to allow a State Licensed Adult Residential Care Facility with 8 beds at 189 Korbel Avenue, generally located on Korbel Avenue, approximately 165 feet west of Rutherford Avenue, within Planned Development (P-D) #42 with a General Plan designation of Low-Medium Density (LMD) Residential; also known as Assessor’s Parcel No. 230-081-013; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings/Considerations A through J of Staff Report # 20-618 (Exhibit B); and,

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

**NOW THEREFORE**, after reviewing the City’s Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #20-28, and approve Conditional Use Permit #1248, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

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

PLANNING COMMISSION RESOLUTION #4047

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November 4, 2020

Adopted this 4<sup>th</sup> day of November 2020

*Michael Harris*

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Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:



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Secretary

Exhibits:

Exhibit A – Conditions of Approval

Exhibit B – Findings/Considerations

**Conditions of Approval**  
**Planning Commission Resolution #4047**  
**Conditional Use Permit #1248**

1. The proposed project shall be constructed/designed/operated as shown on Attachment G of Staff Report #20-618, and as modified by the conditions of approval within this resolution.
2. All conditions contained in *Resolution #1249-Amended* (“*Standard Conditional Use Permit Conditions*”) shall apply.
3. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply including, but not limited to, accessibility compliance.
4. 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.
5. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and



- a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
6. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials and paint colors.
  7. A licensed architect or engineer shall submit plans to the Building Department and meet all requirements prior to expanding the facility to serve more than 6 clients.
  8. Exterior signage shall be limited to 1-square-foot as allowed by the Merced Municipal Code.
  9. Approval for this use shall be limited to a maximum of 8 clients. An increase in clients shall require a modification to this Conditional Use Permit approved by the Planning Commission.
  10. If problems arise as a result of this use that may require excessive Police Department service calls, at the determination of the Police Chief or their designee, 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.
  11. As noted under the Letter from the Applicant at Attachment G of Staff Report #20-618, the site shall be used for dwelling purposes only. Medical treatment shall take place off-site at an approved location.
  12. Transportation shall be provided by G.L.O.M. shuttle vans. Clients shall not be allowed to park vehicles on site as noted in Attachment G of Staff Report #20-618. On-site parking shall be limited to a maximum of 3 vehicles, including the GLOM van and employee vehicles.
  13. A Program Manager shall be onsite 24-hours a day, 7 days a week, as noted in Attachment G of Staff Report #20-618.
  14. The adult residential care facility shall comply with all relevant California Department of Social Services requirements and permits.
  15. All property not occupied by paving or landscaping shall be maintained to acceptable standards for health, fire safety, and aesthetic reasons. Grasses and weeds shall be kept to a maximum of six inches in height or as otherwise required by the Fire Department and County Health Department.

16. The noise generated from the proposed location shall be kept to a minimum so as not to disturb the surrounding neighborhood. If sufficient complaints are received regarding noise from the proposed location, the applicant shall provide a means for suppressing the noise coming from the structure. The means and method used shall be approved by the Building Department prior to installation.

**FINDINGS AND CONSIDERATIONS  
CONDITIONAL USE PERMIT (CUP) #1248  
PLANNING COMMISSION RESOLUTION #4047**

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

- A. The proposed project complies with the General Plan designation of Low-Medium Density Residential (LMD) and the Zoning Classification of Planned Development (P-D) #42 with a Conditional Use Permit. The Low-Medium Density Residential General Plan designation is a residential designation that allows for 6 to 12 dwelling units per acre. This designation is intended to provide for the development of duplexes, triplexes, four-plexes, condominiums, zero-lot-line as well as single-family detached units on appropriately sized lots.

**Associated California Health and Safety Codes**

- B. State Health & Safety Code Section 1566.3 requires that cities permit community care facilities with 6 or fewer persons within residential properties without having to go through a local land use review process. Residential care facilities with more than 6 people may need to go through a land use permit process if required by a city. The City of Merced Zoning Ordinance requires residential care facilities with more than 6 people to obtain a conditional use permit. There are various types of community and health care facilities defined by the State which includes Group Homes, Adult Residential Care Facilities, Social Rehabilitation Facilities, Alcohol and Drug Rehabilitation Facilities, and Foster Family Homes. Health & Safety Code Section 11834.20 indicates that the State policy is intended to allow and encourage enough recovery or treatment facilities to meet local needs. Health & Safety Code Section 1520.5 addresses the over concentration of community care facilities by stating that new facilities must be 300 feet or more from existing facilities (except elder care facilities). Congregate living facilities must be 1,000 feet or more from other existing facilities. Additional information regarding State Law on Health and Community Care Facilities is provided at Attachment F.

**Distance Requirements**

- C. As mentioned under Finding B, Health & Safety Code Section 1520.5 addresses the over concentration of community care facilities by stating that new facilities must be 300 feet or more from existing facilities (except from Residential Care Facilities for the Elderly). This is a State distance requirement, the City's Municipal Code does not have a distance requirement between care facilities, other than what is required by the State. As shown at Attachment C (provided by California Department of Social Services), the subject site is not within 300 feet of another adult residential care facility, thus satisfying the State's distance requirements.

**Program Details**

- D. As shown at Attachment G, the applicant has provided a letter outlining program operations and daily services. The proposed adult residential care facility would serve the general adult population between the ages of 18 and 59 years old. The facilities would include at

least one program manager that would watch clients 24 hours a day, 7 days a week. Clients residing in the property would generally be individuals who have been diagnosed with a mental illness or disorder such as schizophrenia, PTSD, bipolar, etc. Many clients were previously homeless and have since received assistance from the Merced County Behavioral Health and Recovery Services prior to being referred to G.L.O.M. to go through the final steps towards obtaining independent living.

G.L.O.M.'s care facility is used for dwelling purposes only. Regarding daily routine, clients generally wake up around 9:00 a.m. where they are transferred to an activity treatment center at 1020 W. Main Street. At this location, clients meet with mental health groups, therapist(s) for individual sessions, participate in crafts/computer classes, and have lunch. Between 1:00 p.m. and 2:30 p.m., clients are taken to an outside activity. Around 3:00 p.m., clients return home where they have dinner, and participate in life skill classes. In the evening, clients will participate in activities outside the home and return around 8:30 p.m. where they take evening medication and go to bed by their 9:00 p.m. curfew.

### **Neighborhood Impacts and Existing Care Facilities**

E. The Department of Social Services has indicated that there are currently 33 health and community care facilities within the City of Merced. As noted under Finding B, health and community care facilities include Group Homes, Adult Residential Care Facilities, Social Rehabilitation Facilities, Alcohol and Drug Rehabilitation Facilities, and Foster Family Homes. Of the 33 health and community care facilities, 28 are small facilities (for 6 people or fewer), and 5 are large facilities (7 people or more). The list at Attachment H, shows all small and large State licensed care facilities within the City.

None of these facilities specifically operate like G.L.O.M., but there are a few facilities that have a history of reserving rooms for patients with mental illness and providing services to them. These facilities include Better Living Care, Better Living Care 2, Alexander Residential Care Home, Dutchhollow Suites III, and Kazlin Infinite Care, LLC. Many of these facilities have been operating for many years, some have been in operation for over 12 years.

The Police Department has reviewed this application and indicated that residential care facilities generally do not generate more incident calls than typical residences. Based on this information, and the fact that the proposed care facility would maintain the appearance of a home, staff does not anticipate that approval of this care facility would create any unusual circumstances for the neighborhood.

### **Plans and Inspections**

F. The floor plan for 189 Korbel Avenue is provided at Attachment D and elevations are included in Attachment E to provide visuals of the exterior and interior of the home and placement on the lot. This existing two-story 1,863 square-foot home has 4 bedrooms, 2.5 bathrooms, a two-car garage, and about 300 square feet of rear yard. The applicant is not proposing any significant modifications to the building footprint.

The proposed adult residential care facility would be licensed by the State. As part of the licensing process, the applicant would coordinate with the State to ensure that their facility meets their building requirements for this type of use. This may include improvements to entry doors, panic hardware, windows, emergency exit signs, fire sprinklers, bathroom accessibility, kitchen or counter upgrades, etc. The City's Fire Department would initially conduct an inspection to ensure that these requirements are met. The Fire Department's inspection list is provided at Attachment I; this list is updated periodically and sometimes deviates based on the specific care facilities. Per State law, the local Fire Department is required to perform annual inspections at these residential care facilities; additionally, the Fire Department can conduct inspections if there is a change in ownership or change in the number of clients.

### **Parking**

- G. Per Merced Municipal Code Chapter 20.38 – Parking and Loading, the parking requirement for Large Residential Care Facilities is 1 parking space per 4 beds; plus 1 parking space per 300 square feet of office space or 1 parking space per employee, whichever is greater. Based on the number of beds and number of employees onsite (one project manager and one staff member at one time), this proposal would require 3 parking spaces. However, the applicant has indicated that clients generally do not have vehicles and that clients either receive mobile services that come to them (such as food or clothing) or are transported by G.L.O.M. shuttle vans for treatment or activities. Based on this information, staff expects that the existing 2 parking spaces would adequately serve this site.

### **Public Hearing Notice**

- H. A Public Hearing Notice regarding this proposal was mailed to property owners within 300 feet of the subject site and published in the Merced County Times three weeks prior to this meeting. The map at Attachment J shows the notice area in relation to the proposed site location. As of the time that this report was prepared, staff has received two inquiries or comments from the public regarding this project. Comments from the community were in regards to parking, site maintenance, potential loitering, and management.

### **Conditional Use Permit Finding**

- I. Per MMC 20.68.020 (E) Findings for Approval. The review authority may approve an application for a conditional use or minor use permit application only if all of the following findings can be made:
1. *The proposed use is consistent with the purpose and standards of zoning district, the general plan, and any adopted area or neighborhood plan, specific plan, or community plan.*

The proposed project complies with the General Plan designation of Low-Medium Density (LMD) Residential and the zoning designation of Planned Development (P-D) #42 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 applicant will not be making any significant modifications to the interior or exterior of the building, besides what is required by the State and Building Code. Staff does not anticipate that the approval of this proposal would significantly change the character of the neighborhood or create any unusual circumstance for the surrounding area.

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

This adult residential care facility is currently in operation by G.L.O.M. for up to 6 clients, as allowed by the State and principally permitted by the Zoning Ordinance. Staff does not anticipate that increasing the number of clients from 6 to 10 would result in impacts that are detrimental to the public health, safety, and welfare of the City.

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

The subject site is fully developed with a single-family home that is served by existing infrastructure.

#### **Environmental Clearance**

- J. Planning staff 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 K).