



THE WEEKLY

COUNCIL INFORMATION REPORT

July 23, 2021

NEW DEPUTY CITY MANAGER AND SENIOR MANAGEMENT ANALYST

QUINTERO PROMOTED TO DEPUTY CITY MANAGER

Frank Quintero has been named Deputy City Manager. Mr. Quintero started his career with the City of Merced as an entry level Planner in April 1990 and worked up the ranks to Director of Economic Development.



Mr. Quintero currently serves as the Director of Economic Development, Acting Parks & Recreation Director, and temporarily handles the City's public information officer duties. He also oversees the development and renovation of Downtown Merced, supervises the staff at the Merced Yosemite Regional Airport, manages the City's real property assets, and is the point person for major rail, commercial and industrial investments, and projects.

"Serving under five City Manager Administrations over 30 years, Mr. Quintero brings a depth of knowledge and experience about the City that is second to none. He is a tremendous asset, well respected by his peers, and I look forward to his continued success," said City Manager Dietz.

"The face of Merced is changing, and what an awesome opportunity to be in the midst of the transition. I am grateful to continue serving the City of Merced, and for the mentorship provided to me from previous City Managers and Assistant City Managers," said Quintero.

FLACHMAN APPOINTED AS NEW SENIOR MANAGEMENT ANALYST / PIO

Jennifer Flachman is appointed as the City's new Senior Management Analyst / Public Information Officer. Ms. Flachman officially begins her new role on Monday, 7/26/21.



Ms. Flachman possesses broad experience in communications, marketing, media relations, and reputation management. Leading up to her new City role, Ms. Flachman served as Executive Director/CEO of Boys & Girls Clubs of South San Luis Obispo County, where she was responsible for the development of the organization's long-term strategic plan and overall direction and execution of the organization's community and media relations, as well covering digital and social media.

Ms. Flachman will be responsible for managing, planning, and overseeing public engagement, including direct partnerships with residents, businesses, and other stakeholder organizations to ensure the City maintains a positive public image and perception while facilitating the timely provision of information to citizens. Ms. Flachman will also serve as a liaison between the City and the media and performing duties as the Senior Management Analyst.

FIRE PERSONNEL DEPLOYED TO COMBAT DIXIE FIRE

On Wednesday, July 21st at 7:00 p.m., Strike Team 5806A was deployed to combat the Dixie Fire. Strike Team 5806A consists of fire department personnel from Merced County, Fresno, Selma, Visalia, and Los Banos. Their base camp is in Chico.

Leading the Strike Team is the City of Merced's Deputy Fire Chief Tom England.

Please wish them all a safe return.



PUBLIC WORKS IN ACTION

WATER QUALITY CONTROL STAFF AT THE MERCADO



The Water Quality Control Division (WQCD) provides public outreach regarding pollution prevention at the Merced County Hispanic Chamber of Commerce “Mercado on Main”.

The two topics discussed are 1) Stormwater Protection - “Only Rain Down the Drain!” and 2) Fats, Oils & Grease (FOG) - “Can it, Cool it, Bag it, Trash it”. Beth Ball, Environmental Compliance Officer II and Elyse Davis, Administrative Assistant II (pictured above), along with the rest of the WQCD staff, are glad to discuss Best Management Practices to avoid polluting the environment.

Stop by their booth at the next Mercado on Main to find out why pet waste and green waste are harmful to our local creeks.

WATER QUALITY CONTROL DIVISION



STREETS CREW REPLACES STREET LIGHT

Streets Division replaced a double mast light that was damaged by a vehicle accident on West Olive Avenue.



TREE CREWS PRUNE TREES

Tree Crews trimmed eucalyptus trees near La Playa Court.



WATER CREWS REPAIR MAIN LINE BREAKS

The Public Works Water crews repaired main line breaks at Windsor Avenue, Orchard Lane, and East 23rd Street. They also replaced a broken water main valve at M Street and Rambler, repaired a leaking service in the alley at West 22nd Street and at Conestoga Drive, and abandoned a section of water main at Bear Creek between G Street & McCombs Drive.

Windsor Avenue:



Conestoga Drive:



M Street & Rambler Road:



West 22nd Street:



Bear Creek Drive & McCombs Drive:



20th Street & Orchard Lane:



East 23rd Street:



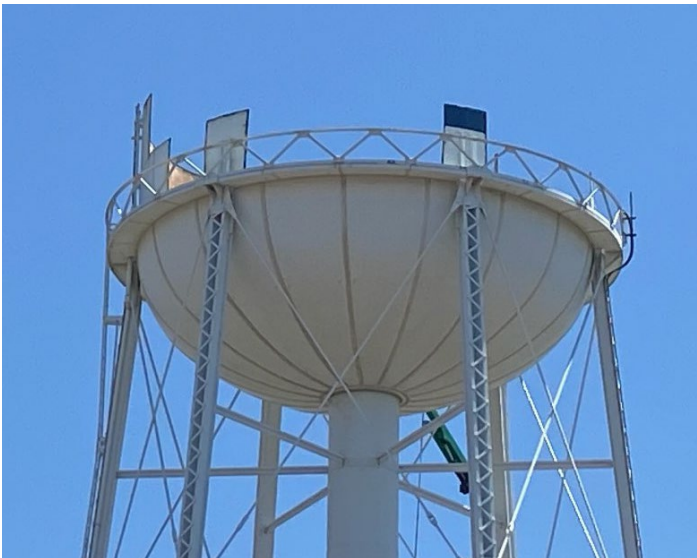
TREE PRUNING CONTRACT

Contracted tree pruning services continued this week with crews working along the Highway 59 area.



WELL SITE 3 TANK DEMOLITION

The contracted demolition of Well Site 3 Tank at 12th Street is currently underway. See in-progress photos below.



POLICE HIGHLIGHTS

PRESCHOOLERS TOUR POLICE STATION

Officer Fister provided a tour of the Merced Police Central Station to Ms. Biglardi's preschool class. The preschoolers also had a chance to meet Chief Cavallero and check out a patrol car.

The kids brought goodies and a "thank you" poster for Officer Fister and the rest of the MPD employees for their service.



EXPLOSIVES AWARENESS BY GACHES

Police Officer and Bomb Technician Tim Gaches gave a presentation and demonstration on explosives awareness and the dangers of explosive devices to his Police & Fire colleagues, and to members of the Merced County District Attorney’s Office and Department of Alcohol, Tobacco and Firearms.



“CHILL WITH A COP”

The Police Department had an enjoyable time with everyone who attended their “Chill with a Cop” event on Friday July 16th, held at Cold Stone Creamery in Downtown Merced. They celebrated National Ice Cream Day and had the opportunity to interact with community members. Thank you to everyone who came out to chill with K-9 Sam, K-9 Stas, Traffic Officer Crain, and the rest of the Police Team!



“CHILL WITH A COP”



JUNIOR GIANTS

Merced Junior Giants hosted its first Home Run Derby on July 22nd, with tons of support from parents, players, and coaches. Players and Coaches have an opportunity to test out their skills on what they have learned through the summer and put it to the test. Players selected their pitchers as they came in the form of coaches, parents, and grandparents. This was a fun event for all. July 28th marks the end of the season for Junior Giants as it will be the last game.



USTA TENNIS HITS

All good things come to an end as our Summer Tennis HITS wrapped up on July 22nd. Past participants were invited to a Red Ball Tournament with Session 3 participants as they challenged each other to a friendly one-on-one game. The day ended with some pizza, presentation of certificates, and one big challenge of staff versus kids. The City of Merced was invited to attend the Mubadala Silicon Valley CLASSIC in San Jose, one of the biggest women’s tournaments. Participants were invited for Kids Day in the morning full of festivities, guest speakers by professional players, and then invited to watch professional matches throughout the day.



ZOOKEEPER WEEK



This week is “Zookeeper Week”. In the spotlight is the City’s very own Ashley Fazzari, who is a Merced native and a recent graduate from Chico State University majoring in Environmental Sciences. Ms. Fazzari began volunteering four years ago to learn how it was really like to work with animals and if it was a profession she wanted to pursue. A year later, she is still here, but as a zookeeper, caring for animals, prepping diets, and interacting with animals.

Ashley has a soft spot for the animals she tends to. She said the things that she enjoys most about her job are prepping animal diets, being surrounded by good staff, and hearing the positive feedback from visitors. One of her favorite animals is the Magpie which are a very intelligent species of Aves.

PLANNING COMMISSION ACTION MEMO

Please find attached, the Planning Commission action memo for the meeting of 7/21/21.

REPORTS & CORRESPONDENCE

- 1. PC Action Memo Page 11
- 2. Vacancy Listing Page 35

BOARDS & COMMISSIONS VACANCIES

Please find attached, the list of vacancies for the City of Merced’s boards and commissions.

MERCED COUNTY FOOD BANK 2020-2021 ANNUAL REPORT

Please follow the link provided below to view the Merced County Food Bank 2020-2021 Annual Report to learn about how and who they serve:

<https://online.flippingbook.com/view/14301148/>

"CENTRAL VALLEY PORTRAITS" EXHIBIT

"Central Valley Portraits" Exhibit Showcases Everyday Life, Including Grief and Hope, in Merced.

Global Arts, Media and Writing Studies Professor Yehuda Sharim's exhibition "Central Valley Portraits," presented by the Merced County Arts Council, will be on display at the Merced Multicultural Arts Center from Aug. 4 through Oct. 3. The photography and multimedia installation reflects everyday life in changing urban complexes of Merced.

An opening reception will be held at 6 p.m. on Aug. 4 and an artist talk with Sharim is scheduled for 7 p.m. on Sept. 9. A screening of his documentary "Songs That Never End" and a question-and-answer session will take place at 7 p.m. on Sept. 23. The events are free and open to the public.

The Merced Multicultural Arts Center is located at 645 W. Main St. Additional details about events and exhibits can be found [here](#).

City of Merced
MEMORANDUM

DATE: July 22, 2021
TO: City Council
FROM: Kim Espinosa, Planning Manager
SUBJECT: Actions at the Planning Commission Meeting of July 21, 2021

At their meeting of July 21, 2021, the Planning Commission heard and approved Conditional Use Permit #1256 for a food truck located at 224 West Main Street.

The Commission heard and approved Commercial Cannabis Business Permits #21-02, #21-03, and #21-04 to permit the Cultivation of cannabis; the Distribution of cannabis and cannabis-based products; and the Manufacturing of cannabis-based products using both volatile and non-volatile methods on three parcels totaling approximately 49.6 acres at 1785 Ashby Road.

The Commission made a recommendation to City Council to change the Boards and Commissions Attendance policy to allow for two excused absences per year-period for planned vacations with at least one weeks' notice.

If you have any questions about these items, please feel free to contact me.

Attachments

n:shared:Planning:PCMemos

**CITY OF MERCED
Planning Commission**

Resolution #4066

WHEREAS, the Merced City Planning Commission at its regular meeting of July 21, 2021, held a public hearing and considered **Conditional Use Permit #1256**, submitted by Antonio Segura, on behalf of Lourdes Mendez, property owner. This application involves a request to operate a food truck within the designated patio area located behind the El Palacio Nightclub at 224 W. Main Street, generally located on the south side of W. Main Street and approximately 145 feet west of I Street, within a Central Commercial (C-C) Zone; said property being more particularly described as a portion of Lots 3 and 4 of Block 188, as shown on that certain map entitled "Supplemental Map to Town of Merced," recorded in Volume 2, Page 12 of Merced County Records; also known as Assessor's Parcel Number (APN) 031-154-013; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through J (Exhibit B) of Staff Report #21-544; 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 #21-13, and approve Conditional Use Permit #1256, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

Upon motion by Commissioner DYLINA, seconded by Commissioner WHITE, and carried by the following vote:

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

NOES: None

ABSENT: None (two vacancies)


ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4066

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July 21, 2021

Adopted this 21st day of July 2021



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachments:

Exhibit A - Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4066
Conditional Use Permit #1256

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (Site Plan) - Attachment C of Staff Report #21-544, 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, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City including, but not limited to, City’s attorney’s fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #4066

of the City Attorney and to provide all required deposits to fully fund the City's defense immediately but in no event later than five (5) days from that date of a demand to do so from City. In addition, the developer/applicant shall be required to satisfy any monetary obligations imposed on City by any order or judgment.

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, except for those already in the outdoor patio area approved under Site Plan (SP) #403, 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 during the hours of operation for the nightclub, 8:00 p.m. to 2:00 a.m., Friday through Sunday. Because the business will be open after dark at this location, 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.

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #4066

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 of Staff Report #21-544, 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, in the opinion of the Police Chief, 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 in the opinion of the Police Chief, 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 length of the back patio, ensuring that their operations are not interfering with the operations of the nightclub that occur on the patio. The area on the patio reserved for the nightclub serving alcohol shall be fenced off from the food truck per Alcohol Beverage Control (ABC) regulations.
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.

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #4066

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 are the required parking standards for food trucks. These spaces shall be met by the Merced Downtown Parking District parking lots.
22. Food truck activities shall in no way interfere with the operation of any business on the lot, or nearby businesses, including noise, litter, loitering, and traffic circulation, refuse service, and public safety.
23. The owner of the food truck 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. If the owner of the food truck has an agreement with the nightclub for access to the restrooms, employees operating the food truck shall be at least 21 years of age. Food truck employees using the restrooms provided by the nightclub shall be at least 21 years of age.
25. The mobile food vendor is prohibited from selling alcohol.
26. "No Loitering" signs shall be posted on the food truck and building onsite at specific locations approved by the City Police Department.

**Findings and Considerations
Planning Commission Resolution #4066
Conditional Use Permit #1256**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

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

Traffic/Circulation

- B) The applicant is proposing to locate the food truck within the western portion of the designated patio area behind the El Palacio Nightclub (Attachment C of Staff Report #21-544). The food truck would be located a little more than 46 feet from the nightclub's rear alley access entrance, separated by a 3-foot fence with a 10-foot, 7-inch opening to allow for the placement of the truck. The food truck would be oriented perpendicular to the length of the patio (Condition #18 of Staff Report #21-544), in a manner that does not interfere with the operation of nightclub activities that occur on the patio and does not block customer access to the nightclub. 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 of Staff Report #21-544).

Parking

- C) Mobile Food Vendors require a minimum of 2 parking stalls per the Merced Zoning Ordinance Chapter 20.38 – Parking and Loading. The subject site is located with the Merced Downtown Parking District; therefore, their required 2 parking stalls are met by the surrounding parking lots.

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 on the south side of W. Main Street, approximately 145 feet west of I Street. The subject site is a developed 7,499-square-foot parcel with an 4,076-square-foot building on the northern portion of the parcel. Vehicle access is available from the alley between W. Main and W. 16th Streets; however, the food truck owner proposes to serve only the customers of the El Palacio Nightclub, and not the main public. Customer parking is available within the Downtown Parking District. As shown at Attachment C of Staff Report #21-544, the food truck would be located a little more than 46 feet from the nightclub's rear alley access entrance, separated by a 3-foot fence and be oriented in a manner that does not create congestion between food truck customers and other customers on the patio. The

property owner is not proposing to make any interior or exterior modifications to the existing building. Additional outdoor seating is prohibited for the food truck (e.g. tables, umbrellas, chairs, etc.) as shown under Condition #8 of Staff Report #21-544, unless subsequently approved by the Planning Department. “No Loitering” signs shall be posted on the food truck and building onsite at specific locations approved by the City Police Department (Condition #25 of Staff Report #21-544).

Neighborhood Impact/Interference

- F) The subject site is surrounded by a variety of commercial uses. Surrounding uses to the north, south, east, and west, include Servicios Latinos Ambriz, alley and back of San Benito Glass, Inc., JD Customs, and Main Street Tattoo Parlor, respectively. There is a chain link fence between the subject site and the surrounding commercial uses and it fronts an alley with a gravel area between the access and the patio (Attachment C of Staff Report #21-544). The owner of the food truck does not anticipate outside customers and only plans on serving the customers of the El Palacio Nightclub.

Signage

- G) The food truck is not allowed any signs other than what is provided on the vehicle itself. Condition #10 of Staff Report #21-544 prohibits the use of any A-frame signs, inflatable signs, feather signs, pennants, or other freestanding signs.

Truck Details/Operation

- H) The food truck is standard in appearance and size. It is approximately 8 feet wide by 14 feet long, and approximately 7 ½ feet tall. The food truck will operate within the hours that the El Palacio Nightclub is open; Friday through Sunday, from 8:00 p.m. to 2:00 a.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 of Staff Report #21-544). The sale of alcohol is prohibited (Condition #24 of Staff Report #21-544). Employee restrooms will be available inside the nightclub as allowed by the Health Department and agreed upon by the property owner (Condition #23 of Staff Report #21-544). Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility (Condition #13 of Staff Report #21-544). 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 Staff Report #21-544, or as otherwise required by the WQCD (Condition #14 of Staff Report #21-544).

Conditional Use Permit Findings

- I) A Conditional Use Permit is required to allow mobile food vendors within a Central 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."

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 Regional/Community Commercial (RC) and the zoning designation of Central Commercial (C-C) 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, including modifications within this approval.

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 (i.e. no further environmental review is needed) is being recommended (Attachment E of Staff Report #21-544).

CITY OF MERCED
Planning Commission

Resolution #4067

WHEREAS, the Merced City Planning Commission at its regular meeting of July 21, 2021, held a public hearing and considered **Commercial Cannabis Business Permits #21-02, #21-03, and #21-04**, initiated by Merced Distribution, LLC., on property owned by Morning Star Merced, LLC. These applications are requests to permit the Cultivation of cannabis; the Distribution of cannabis and cannabis-based products; and the Manufacturing of cannabis-based products using both volatile and non-volatile methods on three parcels totaling approximately 49.6 acres at 1785 Ashby Road within a Heavy Industrial (I-H) zone; also known as Assessor's Parcel Numbers (APN) 059-051-029, 059-051-002, and 059-450-046; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K (Exhibit B) of Staff Report #21-565; 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 #21-16, and approve Commercial Cannabis Business Permits #21-02, #21-03, and #21-04, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner DYLINA, seconded by Commissioner DELGADILLO, and carried by the following vote:

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

NOES: None

ABSENT: None (two vacancies)


ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4067

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July 21, 2021

Adopted this 21st day of July 2021



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Findings and Considerations

Conditions of Approval
Planning Commission Resolution #4067
Commercial Cannabis Business Permits #21-02, #21-03, and #21-04

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (elevations)- Attachments C and E of Staff Report #21-565, and all other application materials submitted by the applicant, including business plans, security plans, etc., except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code Section 20.44.170, "Regulation of Commercial Cannabis Activities— Commercial Cannabis Business Permit required" shall apply.
3. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City including, but not limited to, City's attorney's fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and to provide all required deposits to fully fund the City's defense immediately but in no event later than five (5) days from that date of a demand to do so from City. In addition, the

developer/applicant shall be required to satisfy any monetary obligations imposed on City by any order or judgment. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

4. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
5. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control. State Law shall prevail in regards to cannabis activities as permitted by State Law.
6. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), as it may be amended or updated from time to time.
7. The proposed project shall provide that all manufacturing, cultivation, and distribution activities occur indoors within a fully enclosed and secure structure, and ensure that the property on which the structure sits is secure and appropriately screened. The details of the property's fencing, security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
8. The applicant shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment I of Staff Report #21-565) at the time of submittal for building permits for tenant improvement.
9. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections.

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #4067

- These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
10. The facility operated by the applicants shall be secured from intentional or accidental access by any person not employed, contracted, or otherwise authorized on the premises, including any tenants of other buildings on the same property.
 11. Fire sprinklers shall be modified to accommodate the building configuration and process configuration prior to occupancy.
 12. Regulatory Fees, as per Resolution #2021-43, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
 13. Prior to issuance of a certificate of occupancy, a lot merger or other appropriate parcel combination process shall be performed such that the project parcels, APN #059-051-029, 059-051-002, and 059-450-046, are merged into a single parcel.
 14. No cannabis activities shall take place on the parcel with APN #059-051-010. This parcel is not within the City of Merced's jurisdictional control, and no permit issued for cannabis by the City of Merced shall be construed to allow cannabis activities on that parcel. Parking and other ancillary uses that do not involve the storage, cultivation, manufacturing, processing, handling, or maintaining of cannabis, nor otherwise performing activities relating to cannabis may occur on this parcel provided that all appropriate codes and regulations of the County of Merced are met.
 15. Prior to issuance of a Certificate of Occupancy, applicant shall acquire a City of Merced Business License.
 16. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with MMC 20.44.170(L)(5), "Commercial Cannabis Business Permit Renewal (All Types)", at least sixty (60) calendar days before the expiration of the current permit. If the permittee

EXHIBIT A
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allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.

17. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to the cultivation, manufacturing, and distribution of cannabis and cannabis-based products may be authorized with the approval of the Director of Development Services by submitting a request for Minor Modification, in accordance with MMC 20.44.170(L)(7), "Modifications to Commercial Cannabis Business Permit (All Types)".
18. Prior to issuance of a Certificate of Occupancy, applicant shall provide or cause to be provided a Knox override switch at the main entry gate, a Knox padlock at the secondary access gate, and three (3) Knox boxes for the building including one at the fire alarm control room, one at the west side of the building, and one at the east side of the building. Access to this equipment shall be provided to the City of Merced Police, Fire, and Refuse Departments.
19. Prior to commencement of volatile or non-volatile extraction activities on site, floor plans, equipment, material sheets, and such other materials/plans/permits as deemed necessary shall be approved by the Chief Building Official and Fire Chief.
20. Prior to commencement of cannabis growing activities, applicant shall provide an estimated volume of City water to be used annually to the City Water Department, and shall have floor plans, equipment, material sheets, and such other materials/plans/permits as deemed necessary approved by the Chief Building Official and Fire Chief.
21. In accordance with Table 11B-208.2, "Parking Spaces" of the California Building Code, Title 24, Part 2, the applicant shall provide or cause to be provided a minimum of 5 Accessible Parking Spaces.
22. In accordance with Table 20.38-4, "Required Bicycle Parking Spaces" of the City of Merced Zoning Ordinance, the applicant shall provide or cause to be provided a minimum of 9 short-term and 9 long-term bicycle parking spaces.

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23. Signage shall be limited to no more than fifty square feet and must comply with MMC 20.44.170(I)(2) that no exterior evidence of cannabis cultivation shall be visible from the public right-of-way. The display of the name of the facility shall not be construed on its own to provide such evidence. Details to be worked out with Planning staff.
24. Within two years of opening, the applicant shall provide or cause to be provided exterior renovations to the facility at minimum to include painting, visible from the right-of-way.

Findings and Considerations
Planning Commission Resolution #4067
Commercial Cannabis Business Permits #21-02, #21-03, and #21-04

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

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

Land Use Issues

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

Proposed Operations

- C) The full text of the operations plan provided by the applicant can be found as part of Attachment F of Staff Report #21-565. The applicant intends to establish and operate a cultivation, manufacturing, and distribution facility for cannabis and cannabis-based products. While the full scope of activities allowable under cultivation and manufacturing permits is granted should the Planning Commission award the permits, the initial operational phase of the applicant's proposal focuses largely on processing cannabis that has been cultivated in other locations. These processing activities fall under the City's definition of cultivation, even if the site is not actively growing or maturing live plants. Future phases of the project are projected to include cultivation on-site; the building permit process will allow City staff to ensure that all standards are met or exceeded when the applicant chooses to undertake that phase of the project's growth.

Similarly, the initial operational phase of the manufacturing permit would involve sorting, packaging, labeling, and other similar activities that fall under the umbrella of manufacturing. Volatile and non-volatile extraction activities will not take place at this site until 2022 or later, depending on the speed at which future phases of the business plan can be implemented. The building permit process will require the applicant to provide all necessary and ongoing equipment certification and maintenance processes, in addition to ensuring that all applicable codes are met when the applicant chooses to undertake that phase of the project's growth.

The distribution permit allows for storage of cannabis products. In the initial operational phase these would be products shipped to this site from other licensed facilities the applicant holds throughout the State of California. The distribution license also allows the applicant to operate its own vehicles for cannabis shipping activities without need for an outside vendor to provide such services, and to warehouse cannabis. The maximum area of cannabis storage is 17,279 square feet,

which occupies the northwest space of the existing building.

Traffic/Circulation

- D) As the project is proposed in an existing building with existing access to the City's roadway infrastructure, and due to conformity with the zoning and land use for the site, no concerns related to traffic or circulation have been raised as a result of this project.

Parking

- E) The site plan proposes 111 parking spaces adjacent to the 104,000 square-foot building. Using the regulation for Warehousing, Wholesaling, and Distribution, the number of required spaces is 1 per 2,000 square feet of floor area, or 52 spaces. Bicycle parking spaces and Accessible spaces shall be provided as required in Conditions #21 and #22.

Neighborhood Impact/Interface

- F) The subject site is surrounded by industrial uses to the north, a business park to the south, commercial uses including a restaurant to the west, and high-medium density residential uses and a mobile home park to the east across Highway 59. Because of the separation across Highway 59 between this use and the residentially-zoned properties, the fact that the facility will be screened and maintained indoors with HVAC and air-filtering equipment to prevent odors, and the site's prior use as a similar facility as the Ragu/Bertolli Tomato plant retaining the character and functionality of the area, staff believes that approval of this request should not have a significant impact on the surrounding area.

A public hearing notice was circulated in the Merced County Times and mailed to property owners within 300 feet of the subject site three weeks prior to this public hearing. As of the date that this report was prepared, staff has not received any comments from the community about this project.

Signage

- G) Currently submitted plans do not show any request for signage. Any future signage must comply with Condition #23 and are limited to 50 square feet maximum. Any signs shall not provide evidence of cannabis cultivation activities. The display of the name of the facility shall not be construed on its own to provide such evidence.

Safety/Security

- H) The full text of the security plan provided by the applicant can be found as part of Attachment F of Staff Report #21-565. Excerpts from the plan are provided below with corrections made to indicate City officials instead of County officials, as the plan initially indicated.

“Merced Distribution LLC has taken extensive measures to develop an industry appropriate and compliant security doctrine. The preventative measures adopted in this doctrine are our best practices to minimize risk while protecting the public, our

environment, and staff.

This facility will be equipped with a video surveillance system. Cameras are recorded 24 hours per day at a minimum of 2MP (1920 x 1080) resolution and 30 frames per second, which is more than sufficient to capture fine details such as faces and license plates. All cameras will have night vision (for unlit rooms and low light hours) and motion sensing capabilities. A failure notification system will provide both audible and visual notifications if there are any recording failures or discrepancies.

The security at our location is limited to authorized employees only; reducing the likelihood of security breaches, and providing an immediate response to potential security discrepancies. We intend to install a CAC (Controlled Access Card) system. Our Executive Team will only have access to sensitive areas of the facility. All others will only have limited access. Documentation will be kept in a secured location in the administration office.

Merced Distribution LLC will provide lockable storage cabinets to store individual security guard and personnel records at all city-approved facilities on site. Merced Distribution LLC will strictly control access to the cabinets with access granted to the Operations Manager, city, state, and local law enforcement officials only upon request. Merced Distribution LLC will view the identification of personnel requesting access to guard and staff records; recording the name of anyone granted access in the security guards daily log. Specific, detailed procedures and processing requirements for the facility will be contained in the site's finalized Post Orders.

The applicant will have a cloud-based system that will log all access cards. An Admin username and password will be granted to the Police Department for access at any time. Security Personnel and Owner will accompany the Police Dept. personnel on property to avoid any possible fraudulent visits and will escort Police personnel to Admin. Office to meet owner(s).

Exterior lighting shall be white light using LED lamps with full cutoff fixtures to limit glare and light trespass. Broken or damaged exterior lighting shall be repaired or replaced within 48 hours of being noted. Exterior lighting shall be shielded or otherwise designed to avoid spillover illumination to adjacent properties.

There will be fencing surrounding the entire perimeter of the building with 24/7 camera surveillance, and on site security personnel monitoring it at all times.

The security area will contain a remote panic duress button, closed circuit television monitor with a digital video recording system, fire alarm/panel system, emergency medical kit (with trauma kit), one (1) ABC class fire extinguisher, two (2) ultra-bright 20000 lumen rechargeable LED torch lamps, ten (10) 2-way radios with charging stations, file cabinet, and one computer terminal. Access into the cabinetry that contains these devices and equipment will be strictly controlled.

EXHIBIT B
OF PLANNING COMMISSION RESOLUTION #4067

The mechanical room will contain the video surveillance recording equipment and backup power system. Ingress and egress access to this room is monitored 24/7 by HD cameras, with clear definition provided for both ingress and egress.

The area for processing will be secured and equipped with one remote panic/duress button, two stationary 1080P HD cameras monitoring ingress and egress, fire/smoke sensors, wireless PIR motion detectors, emergency medical kit (with trauma), two high powered flashlights, and two LED torch lamps.

This facility has a storage area that is secured and only accessible by a manager or authorized personnel, with both ingress and egress monitored 24/7 by HD cameras. Processed products will be stored in the designated storage areas. Inventory will be removed from the storage room only for immediate transport to city and state authorized licensees. At the designated storage area, there will be video surveillance. Furthermore, there will be eyes on the same location from the security office near the main gate, as well as spot day/night security patrol checks.

Guard personnel will make roving patrol rounds to check general facility security and report any suspicious or unusual situations to the Site Supervisor.

1. Guards will make at least three patrols each shift at random times. Guards will make rounds in a random manner to prevent establishing a pattern of movement.
2. Guards will check all interior/exterior doors and report any unlocked doors to the Site Supervisor.
3. Guards will check the MDLLC front gate. Any unlocked gate shall be reported to the Site Supervisor.
4. Guards will monitor the Closed-Circuit TV cameras for suspicious or unusual behavior or situations. The cameras monitoring the perimeter fence shall be given close scrutiny to provide alert for attempted access via the fence. Any suspicious or unusual situations shall be reported to the Site Supervisor. Roving guards are authorized to visually inspect any discrepancy. Static guards must never leave their post unless properly relieved.

Cash on site will be minimal, however, management will oversee all cash handling. Cash will be transferred offsite by the owner. Security team will assist on “pay day” helping oversee pay day operation, bi-weekly. In the event a manager needs an escort, the security will provide an escort when requested.

Unauthorized persons on the property will be reported to a qualified manager or guard. If there is an immediate threat, the manager or guard will call 911. Staff will be trained to identify and respond appropriately to all levels of suspicious activity. Loitering will not be tolerated on the premises. Visitors and employees will be verbally advised of our no loitering policy. Noncompliance will result first in a warning, followed by law enforcement intervention.

Merced Distribution LLC will provide its own security and have oversight responsibility to review and update the security plan on a regular and as needed basis

EXHIBIT B
OF PLANNING COMMISSION RESOLUTION #4067

to ensure our facility maintains security compliance in accordance with the City of Merced. Merced Distribution LLC will operate under a good-neighbor policy and be seen as an active and caring member of the local community.”

Ownership

- D) Merced Distribution, LLC. has one owner with 5% or more interest in the proposed business. Wil Crummer is the sole owner, and he has performed a Live Scan check and has successfully passed a background check to the satisfaction of the Chief of Police.

Modification to Operations

- J) City staff recognizes that the details of operating a business, particularly one in a developing sector such as cannabis and cannabis-based products, requires continual updating of business practices, methodologies, and tools, the modification of which may require alterations to the configuration of the equipment, setup, or layout of the facility. In order to allow for these changes while maintaining the safety of all parties involved, modifications to the permit in the course of cultivation, manufacturing, distribution, and processing of cannabis and cannabis-based products may be requested by the applicants by submitting a request for Minor Modification, in accordance with MMC 20.44.170(L)(7), “Modifications to Commercial Cannabis Business Permit (All Types)” (Condition #17).

Environmental Clearance

- K) The project proposes to utilize an existing building, on a site comprised of three properties totaling approximately 49.6 acres. Planning staff has conducted an environmental review (Environmental Review #21-16) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (no further environmental review is required) is being recommended (Attachment J of Staff Report #21-565).

#15 address requirements for gated access, including providing enough stacking room for at least two vehicles beyond the public street.

Pedestrian access will be provided from two locations on Devonwood Drive. Pedestrian pathways are provided throughout the site to provide safe routes through the site to all pedestrian access gates and all open space and recreation areas. Additionally, two pedestrian gates are located at the rear of the site to provide access to the bike path. Condition #27 requires all walking paths, bicycle and vehicle parking areas are required to provide lighting to ensure a safe environment.

The site is located adjacent to the BNSF railroad track. As part of the mitigation required for the Highland Park subdivision, to address noise impacts from the railroad, an approximately 20-foot-tall sound wall was constructed adjacent to the railroad tracks. This wall adequately reduced the exterior noise levels at the ground floor to be within the normally acceptable level (65 to 70 db DNL). Further, the interior noise levels for ground floor units was reduced to 45 db DNL as required by the General Plan Noise Element. In order to achieve the 45 db DNL for units above the ground floor, constructed methods and materials must be used to reduce the noise level to 45 db DNL. Some of these methods would include specifically rated glass for windows, acoustic baffles, solid-core doors, and insulation. As per Condition #32, the developer shall provide documentation at the time of building permit review to show that the proposed construction methods would reduce the interior noise level to 45 db DNL.

Parking

- G) Merced Zoning Ordinance Table 20.38-1 sets forth the parking requirements for a multi-family development based on the number of units, bedrooms, and bathrooms. Based on this table, the project would be required to provide 261 parking spaces. Additionally, the project would be required to provide bicycle parking in compliance with Merced Zoning Ordinance Table 20-38-4 (Condition #18).

As described in Finding C above, the project site is located within approximately 160 feet of a transit stop. As such, under Section 20.38.060 (E), the project is eligible for a 5% reduction in parking. This would reduce the parking requirement by 13 spaces, reducing the parking requirement to 248 parking spaces. The proposed project provides 249 parking spaces. Condition #19 grants the reduction allowed under Section 20.38.060. Of the 249 parking spaces, a maximum of 25% of those spaces may be compact

EXHIBIT B
OF PLANNING COMMISSION RESOLUTION #4059

#15 address requirements for gated access, including providing enough stacking room for at least two vehicles beyond the public street.

Pedestrian access will be provided from two locations on Devonwood Drive. Pedestrian pathways are provided throughout the site to provide safe routes through the site to all pedestrian access gates and all open space and recreation areas. Additionally, two pedestrian gates are located at the rear of the site to provide access to the bike path. Condition #27 requires all walking paths, bicycle and vehicle parking areas are required to provide lighting to ensure a safe environment.

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EXHIBIT B
OF PLANNING COMMISSION RESOLUTION #4059



BICYCLE AND PEDESTRIAN ADVISORY COMMISSION

ABOUT THIS COMMISSION



Roles

Advises on matters relating to improving conditions for bicyclist, pedestrian activity, and other modes of transportation within the City



Duties

Advising the City Council on the design of capital improvement projects, changes and updates to the Active Transportation and Safe-Routes-to-School Plan



Meeting

Regular meetings are held on the fourth Tuesday of every even numbered month at 4:00 PM

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BUILDING AND HOUSING BOARD OF APPEALS

ABOUT THIS BOARD



Roles

Registered or licensed professionals in the trade design, engineering, construction, or inspection of buildings



Duties

Hears and decides appeals or orders, decision, determinations made by the Chief Building Officer



Meeting

Meetings are held on the first Thursday of each month at 3:00 PM

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CITIZENS OVERSIGHT - MEASURE C COMMITTEE

ABOUT THIS BOARD



Roles

Review projected revenues created by voted approved one-half cent sales tax



Duties

Recommends proposed expenditures to the City Council



Meeting

Meetings are held on the second Tuesday in February, May, August, and November at 6:00 PM

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PERSONNEL BOARD

ABOUT THIS BOARD



Roles

Hears appeals of any suspensions, demotion or dismissal of any person in the classified service



Duties

Makes recommendations to the City Council on adoptions, amendments, or repeals of civil service rules and regulations



Meeting

Meetings are held on the second Monday of each month at 4:00 PM

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PLANNING COMMISSION

ABOUT THIS COMMISSION



Roles

Studies land subdivisions, planning, and zoning matters



Duties

Recommends to the City Council the adoption, amendment, or repeal of the City's Master Plan for the physical development of the City



Meeting

Meetings are held monthly on the first and third Wednesday at 7PM

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RECREATION AND PARKS COMMISSION

ABOUT THIS COMMISSION



Roles

Consider the annual budget for recreation and parks, assist in planning of a recreation program



Duties

Advisory capacity to the City Council in all matters pertaining to recreation and parks



Meeting

Meetings are held on the fourth Monday of each month at 5:30 PM

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REGIONAL AIRPORT AUTHORITY

ABOUT THIS BOARD



Roles

Oversees all airport matters including lease agreements and land use determination



Duties

Makes recommendations to the City Council on airport related matters



Meeting

Meetings are held on the third Thursday of each month at 7:00 PM

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