

**City of Merced**  
**SITE PLAN REVIEW COMMITTEE**  
**Agenda**

*Assisted Listening Devices Available*  
*Please Contact the Recording Secretary*  
*(Available only for meetings held in the Council Chambers)*

CALL TO ORDER

Via Teleconference  
Thursday, April 14, 2022  
1:30 p.m.

1. ROLL CALL
2. MINUTES:           February 17, 2022

**S P E A K E R S**

If you wish to comment on any agenda items or on a subject that is not listed on the agenda, you may also submit your comments via email to the [planningweb@cityofmerced.org](mailto:planningweb@cityofmerced.org).

Please be brief and to the point - preferably 3 to 5 minutes.  
Max Time Limit prior to Agendized items: 15 minutes. Once the maximum has been reached, remaining speakers will be asked to wait until the end of the meeting to make their comments.

Please write your name and address on the sign-in sheet provided for the record.

Information/instruction on how the meeting will be run appear on the reverse side of this page.

**REVIEW/REPORTS:**

Permits, license, and other entitlements:

Applicant's Representative – 15 minutes (including rebuttal)  
Appellant's Representative – 15 minutes (including rebuttal)  
All other speakers will have 5 minutes each.

All other issues:

3 or less speakers: 5 minutes each  
Over 3 speakers: Maximum of 3 minutes each

*For further information on citizen participation and placing an item on the Site Plan Review Committee Agenda, please contact a Planning Staff representative at (209) 385-6858.*

# SITE PLAN REVIEW COMMITTEE AGENDA

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April 14, 2022

## **THE SITE PLAN REVIEW COMMITTEE**

The Site Plan Review Committee is comprised of three City Staff members: the Director of Development Services, the City Engineer, and the Chief Building Official. The Committee's primary duties are to review permits for uses such as principally permitted uses in Industrial zones; second units in R-1 zones, recycling facilities, wireless communications facilities, and temporary warehouse uses in C-C zones. (Municipal Code Sections 20.10, 20.24, 20.32, 20.34, 20.36, 20.42, 20.54, 20.58, 20.62, 20.74, and 20.92).

The Director of Development Services and his staff prepare the agenda, provides reports, etc. Other City staff members such as the Civil Engineer also serve as advisors to the Commission.

## **SITE PLAN REVIEW COMMITTEE MEETINGS**

The Committee is interested in your views and waits to hear them. The Agenda for the meeting is posted for public review by the City Clerk's Office at least 72 hours prior to the meeting.

### **Consent Items**

All matters listed as "CONSENT" are considered routine by the Site Plan Review Committee and will be adopted by one action of the Commission unless any citizen or Commission member has any question or wishes to make a statement or discuss an item. In that event, the Chairman will remove that item from the Consent Calendar and place it for separate consideration.

### **Consideration of Items**

Please note that public hearings are NOT required for Site Plan Review applications. If a member of the public wishes to speak on an item, he/she must request permission to speak on that item after the staff presentation.

The Committee will ask those who are for\* or against\*\* a proposal to speak at all meetings. The sequence of events is:

1. Staff report of facts and a recommendation.
2. Applicant's statement.
3. Opportunity for public input (if requested).

If you decide to speak, please start by giving your name and address, then tell the Committee Members your concern. We want your views; don't worry about how to say them. If several people have spoken, try not to be repetitious. If there are several in your area with concerns, why not appoint a spokesman. The Committee is particularly interested in the specific reasons you are for or against a proposal because their decision has to be based on specific reasons.

A Committee denial of a request or proposal is final unless appealed in writing to the Planning Commission within ten days. On many other items, the Committee may RECOMMEND ACTION to the Planning Commission. If your item is passed on to the Planning Commission, be sure to follow up by attending the Commission hearings and expressing your point of view.

You may also find that the Committee may not get to your item - set for 1:30 p.m. public hearing - until 2:00 p.m. for instance. We regret you having to wait. Experience has shown that setting items 1/2 - 1 hour apart is unwise, however. Sometimes matters are withdrawn or are resolved quickly leaving the Committee and public in a position of waiting for an appointed time to arrive.

## **GENERAL INFORMATION**

The Planning staff can assist you with other planning questions on matters such as conditional use permits, annexation to the city, land subdivision, downtown Merced projects, home occupation permits, zoning, population, and housing. (Phone 385-6858) 678 West 18th Street, Merced, CA 95340

## SITE PLAN REVIEW COMMITTEE AGENDA

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April 14, 2022

### 3. COMMUNICATIONS

At this time, any member of the audience may comment on any matter which is not listed on the agenda. If you wish to comment on any agenda items or on a subject that is not listed on the agenda, you may also submit your comments via email to the [planningweb@cityofmerced.org](mailto:planningweb@cityofmerced.org).

### 4. ITEMS

All matters listed as “**CONSENT**” are considered routine by the Site Plan Review Committee and will be adopted by one action of the Committee unless any citizen or Committee member has any question or wishes to make a statement or discuss an item. In that event, the Chairperson will remove that item from “**CONSENT**” and place it for separate consideration.

- 4.1 **Site Plan Application #492**, submitted by Surinder Kaur Virk, property owner. The applicant is requesting approval to construct an apartment complex (72 units) with associated amenities (pool, mailroom, manager’s office, etc.) at the southeast corner of Cardella Road and El Redondo Drive, within Residential Planned Development (RP-D) #57 with a General Plan designation of Village Residential (VR).

ACTION: Approve/Disapprove/Modify

1. Environmental Review #22-18 (CEQA Section 15162 Findings)
2. Site Plan Review Application #492

5. ADJOURNMENT (Traditionally no later than 2:00 p.m.)

CITY OF MERCED  
SITE PLAN REVIEW COMMITTEE  
RESOLUTION #492

DRAFT

Surinder Kaur Virk	Royal Woods Apartment Complex (72 units) with amenities.
APPLICANT	PROJECT
8499 Monte Cristo Avenue	SEC of Cardella Road and El Redondo Drive
ADDRESS	PROJECT SITE
Livingston/California/ 95334	206-010-010
CITY/STATE/ZIP	APN
(209) 648-8295	Residential Planned Development (RP-D) #57
PHONE	ZONING

In accordance with Chapter 20.68 of the Merced City Zoning Ordinance, the Site Plan Review Committee reviewed and approved Site Plan Application #492 on April 14, 2022, submitted by Surinder Kaur Virk, property owner. The applicant is requesting approval to construct an apartment complex (72 units) with associated amenities (pool, gym, manager’s office, storage room, etc.) at the southeast corner of Cardella Road and El Redondo Drive, within Residential Planned Development (RP-D) #57 with a General Plan designation of Village Residential (VR). Said property being more particularly described as a northern portion of Parcel 4 as shown on the Map entitled “Map of Barnell’s Merced Tract,” recorded in Volume 6, Page 14 of Merced County Records; also known as Assessor’s Parcel Number (APN) 206-010-010.

WHEREAS, the proposal is exempt from the California Environmental Quality Act (CEQA), and is in accordance with Section 15162 (a) (Exhibit G); and,

WHEREAS, the Merced City Site Plan Review Committee makes the following Findings and Conditions as shown below:

- A) The Project complies with the General Plan designation of Village Residential (VR) and the Zoning classification of Residential Planned Development (RP-D) #57.
- B) The subject site consists of one parcel approximately 10.42 acres to be resized to 3.6 acres, located at the southeast corner of Cardella Road and El Redondo Drive. A Tentative Subdivision Map application (TSM #1316) has been submitted to create the parcel for this project site and for a single-family home subdivision directly to the south (Royal Woods Subdivision with 113 units) scheduled for Planning Commission review on June 8, 2022.

- C) As shown on the Site Plan at Exhibit B, this proposal includes an apartment complex with 72 residential units within 8 buildings that are 2 stories tall along the perimeter of the parcel. The maximum height of the 2-story buildings would be approximately 29 feet at the roof ridge. The apartment complex consists of 2-bedroom/2 bathroom units only. Amenities include a manager's office, a gym, a storage shed, and a pool. The driving aisles would be 25-foot-wide (see Condition #19 regarding driving aisle width requirements).
- D) The perimeter of the subject site would be gated with a 6-foot-tall wrought iron fence (see Conditions #10 regarding Fire and Police Access). Vehicle access would be provided from driveways along Cardella Road and El Redondo Drive (see Condition #11 regarding vehicle stacking requirements).
- E) Per Chapter 3 of the General Plan – Land Use, the Village Residential designation may include housing projects at a density ranging between 7 and 30 dwelling units per acre (with an average of 10 dwelling units per acre for the entire designation). The proposed 72 residential dwelling units on 3.6 acres equals a density of 20 dwelling units per acre, which is within the allowed density for this designation.
- F) The site plan includes 124 onsite parking spaces. The parking requirement for multiple-family housing is based on the number of bedrooms and bathrooms for each unit as shown at Merced Municipal Code Table 20.38-1- Off-Street Parking Requirements for Multiple Family Dwellings/Condominiums. The residential units consist of 72 2-bedroom units with 2 bathrooms. The required parking for this proposal is 116 parking stalls. The site plan contains 124 parking stalls which exceeds the minimum parking requirements for this use.
- G) An Expanded Initial Study (#01-32) was conducted for the Fahrens Creek North Annexation and includes the subject site referenced in the report as a portion of "Area Z." The proposed density for this project is consistent with the proposed density for the Village Residential General Plan designation (VR) as studied under Expanded Initial Study #01-32, and described under Finding B. This project shall comply with all relevant conditions found within that initial study and as shown on the Mitigation Table at Exhibit E and the Master List of Mitigation Measures at Exhibit F.
- H) The applicant shall work with the Engineering Department to determine if the site qualifies to use the storm drain basin located southeast of the subject site at Assessor's Parcel Number 206-030-012. If determined appropriate by the Engineering Department, the developer shall provide all required calculations to the Engineering Department.
- I) Per Merced Municipal Code Section 20.68.050 – Site Plan Review Permit, the Site Plan Review Committee may approve an application for a Site Plan Review Permit only if all of the following findings can be made:

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

As shown under Finding A, the proposed project is consistent with the General Plan designation, and Zoning classification for this site.

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

With approval of the conditions found within this resolution, the proposal would comply with all applicable provisions of the Zoning Ordinance and Municipal Code.

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

With approval of the conditions found within this resolution, the building design and layout described under Findings C and F, and shown at Exhibits B, C, and D would not interfere with the use and enjoyment of existing and future neighboring properties and structures.

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

It is the opinion of the Site Plan Review Committee that this project is of high architectural quality and that the aesthetics of the proposed buildings and site plan are appealing and compatible with the surrounding neighborhood.

5. *Any proposed landscaping design, including color, location, size, texture, type, and coverage of plant materials, as well as provisions for irrigation, maintenance, and protection landscaping elements, will complement structures and provide an attractive environment.*

Detailed landscape plans shall be submitted during the building permit stage to ensure compliance with all applicable landscaping standards found under Merced Municipal Code Section 20.36 – Landscaping, and any other relevant Municipal Code or State requirements. All landscaping design and related elements will complement structures and provide an attractive environment.

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

The proposal meets City standards with approval of this permit and the conditions found within this resolution. The proposed project would not be

materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity of the proposed project.

NOW, THEREFORE, BE IT RESOLVED that the Merced City Site Plan Review Committee does approve Site Plan Application #492 subject to the following conditions:

- 1) The proposed project shall be constructed/designed in substantial compliance with Exhibit B (site plan), and Exhibit C (floor plans/elevations) - except as modified by the conditions.
- 2) All conditions contained in Site Plan Review #79-1 – Amended (“Standard Conditions for Site Plan Review Application”) shall apply.
- 3) All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply including, but not limited to, the California Building Code and Fire Codes.
- 4) The Project shall comply with all applicable conditions set forth in any associated ordinances and resolutions for the Annexation of Fahrens Creek North Annexation and Expanded Initial Study #01-32 previously approved for this site.
- 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 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 developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
- 8) Notwithstanding all other conditions, all construction and improvements shall be in strict accordance with Zoning, Building, and all other codes, ordinances, standards, policies of the City of Merced.
- 9) The perimeter fence shall be of a color that matches or complements the colors of the apartment complex. Details to be reviewed with Planning staff during the building permit stage.
- 10) The applicant shall work with the Police and Fire Departments to provide proper gate access equipment such as a Knox box and a click-to-enter system.
- 11) Vehicle stacking space for at least two vehicles shall be provided between gates and driveways to prevent traffic back-up onto City streets.
- 12) The premises shall remain clean and free of debris and graffiti at all times.
- 13) All landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately.
- 14) Parking lot and building lighting shall be shielded or oriented in a way that does not allow “spillover” onto adjacent lots in compliance with the California Energy Code requirements.
- 15) The parking lot layout shall comply with all applicable City Standards. Parking lot trees shall be provided at a ratio of one tree for every six parking spaces within this site. These trees shall be installed per the City’s Parking Lot Landscape Standards, shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City’s approved tree list).
- 16) Based on the proposed use and size of the building, the applicant shall provide short-term bicycle parking spaces equivalent to 10% of required parking spaces and long-term bicycle parking spaces equivalent to 1 bicycle rack for every 10 units. In addition, the bicycle parking spaces shall meet the City’s design standards for bicycle racks, including racks with covered shelters. Based on the required 116 parking spaces the applicant shall provide 12 short-term and 12 long-term bicycle parking spaces. Details to be worked out with Planning staff at the building permit stage.
- 17) The project site shall have two means of vehicle ingress and egress as shown on the site plan at Exhibit B.



- 18) The applicant shall work with the Fire Department to determine if each building shall have its own independent Fire Department Connection and Fire Control Room. Details to be reviewed and approved by the Fire Department during the Building Permit stage.
- 19) The driving aisle widths shall be determined by the Fire Department based on building height. The driving aisles may need to be at least 26-feet-wide to allow for Fire engine access and spacing for Fire action response. Details to be reviewed and approved by the Fire Department during the Building Permit stage.
- 20) Full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
- 21) All street frontage improvements within City right-of-way (curb, gutter, sidewalk, driveway approaches, landscape areas, etc.) shall be designed and constructed to meet City Standards and are subject to review by the City Engineer.
- 22) Frontage improvements shall be installed along the project site fronting Cardella Road and El Redondo Drive.
- 23) The developer may need to construct the portion of El Redondo Drive down to Monaco Drive to create vehicle access to the subject site (unless the site to the south is developed before this apartment complex). Details regarding road construction requirements and public improvements to be determined by the City Engineer during the Building Permit stage.
- 24) The developer shall be responsible for paying for 12.5% of the cost to install a traffic signal at the intersection of Cardella Road and El Redondo Drive. Details and final estimated cost shall be determined by the City Engineer.
- 25) The applicant shall provide a minimum 30 inches of coverage between the top of the sewer line and the surface of the street, or as otherwise required by the City Engineer.
- 26) The landscape plan shall comply Merced Municipal Code Section 20.36 – Landscaping, which also addresses the Water Efficient Landscape Ordinance under Merced Municipal Code Section 17.60. Landscaping shall also comply with all relevant State requirements regarding water efficiency.
- 27) All landscaping in the public right-of-way shall comply with State Water Resources Control Board Resolution No. 2015-0032 “To Adopt an Emergency Regulation for Statewide Urban Water Conservation” and the City’s Water Conservation Ordinance (Merced Municipal Code Section 15.42). Xeriscape or artificial turf shall be used in place of natural sod or other living ground cover. If turf is proposed to be installed in park-strips or on-site, high quality artificial turf (approved by the

- City Engineer and Development Services Director) shall be installed. All irrigation provided to street trees, parking lot trees, or other landscaping shall be provided with a drip irrigation or micro-spray system.
- 28) Compliance with the “corner vision triangle” provisions of MMC 20.30.030 is required.
  - 29) This Project is categorized as a “Regulated Project.” The Project shall comply with the criteria defined under the Post-Construction Standards Plan. All Post-Construction Treatment Control measures are subject to an Operations and Maintenance Plan and Agreement.
  - 30) Storm drainage design shall address all on-site run-off with a biofiltration system or approved California Stormwater Quality Association Best Management Practices before draining to any off-site basins or underground storage. The storm drain shall be designed to meet City Engineering Standards.
  - 31) The applicant shall dedicate street right-of-way and all necessary easements as needed for irrigation, utilities, drainage, landscaping, and open space.
  - 32) Any proposed on-site swales or post-construction storm treatment shall be addressed in the Post-Construction Standards Plan and identified in the Operations and Maintenance Agreement.
  - 33) Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received. The applicant shall begin forming the CFD prior to building permit issuance.
  - 34) The parking lot shall include full-width access and a complete ingress/egress circuit for City Fire and Refuse vehicles.
  - 35) Fire hydrants may need to be installed along the street frontage to provide fire protection to the area, as required by the Fire Department. The hydrants shall meet all City of Merced standards and shall comply with all requirements of the City of Merced Fire Department. Final location of the fire hydrants shall be determined by the Fire Department.
  - 36) The applicant shall work with the City’s Refuse Department to determine the best design, location, and angle for the refuse enclosures and to determine if a recycling container would be required for this use. Use of compactor shall also be considered to reduce the number of pick-up requests.
  - 37) A backflow prevention device shall be provided for all water services (i.e., domestic, irrigation, and fire) per Merced Municipal Code.
  - 38) The development is allowed one domestic and one irrigation water service line.

- 39) Plans shall be drawn by a licensed California design professional, meeting current codes at the time of building permit application submittal. Building permit applications submitted after December 31, 2022, shall comply with 2022 California Building Codes.
- 40) The Project shall comply with the residential design standards for multi-family projects as outlined in Merced Municipal Code Chapter 20.46 (see Exhibit D) .
- 41) Minor modifications to the site plan or building heights may be reviewed and approved by the Director of Development Services or be referred to the Site Plan Review Committee for consideration, at the discretion of the Director of Development Services.
- 42) Fast growing trees shall be planted along the southern property line to provide screening between the subject site and the proposed residential subdivision to the south. Details of trees to be reviewed and approved at the Building Permit stage.

If there are any questions concerning these conditions and recommendations, please contact Francisco Mendoza-Gonzalez at (209) 385-6858.

4-14-2022

DATE

SIGNATURE

Associate Planner

TITLE

Exhibits

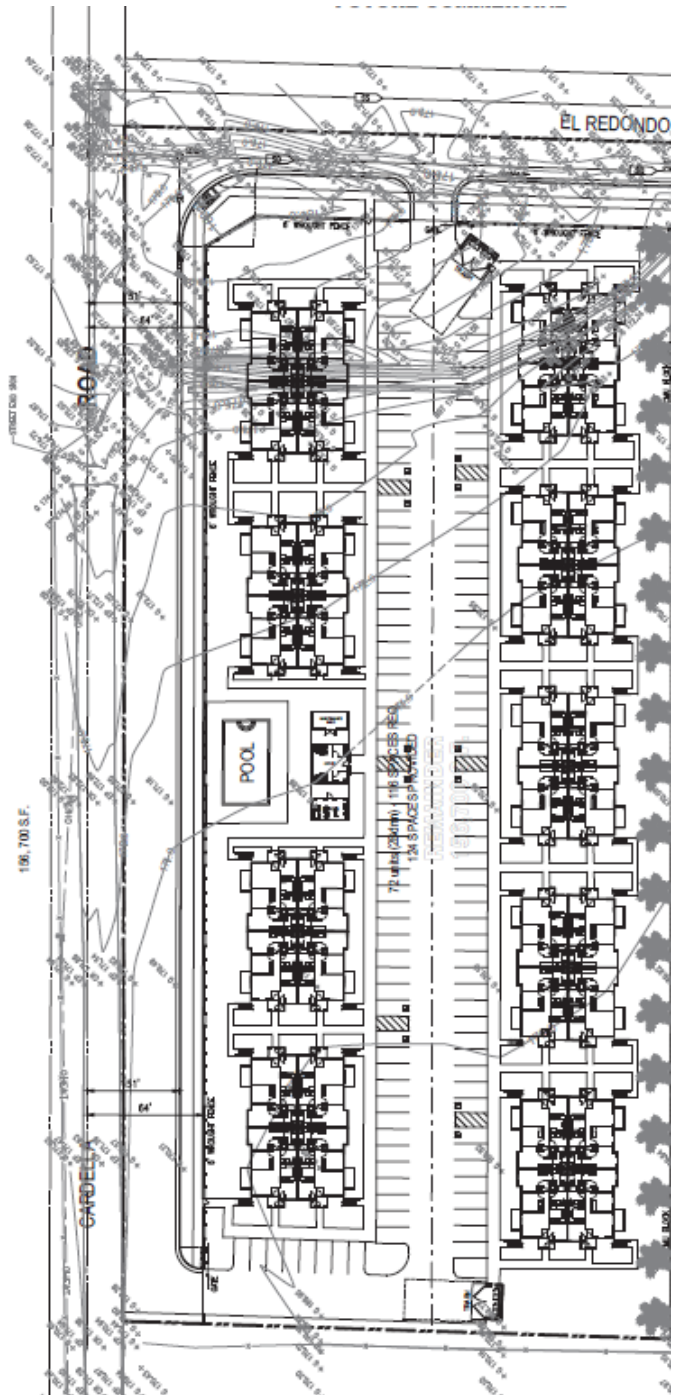
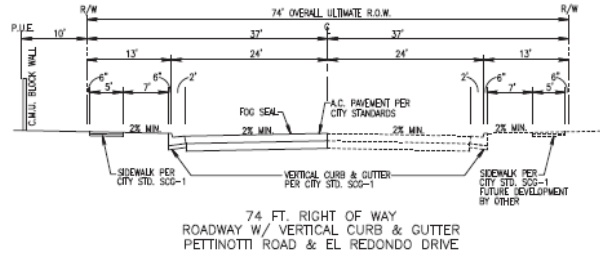
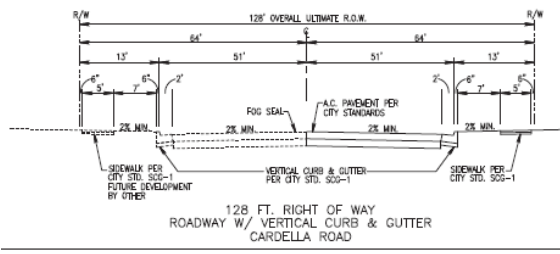
- A) Location Map
- B) Site Plan
- C) Floor Plans/Elevations
- D) Minimum Design Standards for Multifamily Homes
- E) Mitigation Monitoring Table
- F) Master List of Mitigation Measures
- G) CEQA 15162 Findings

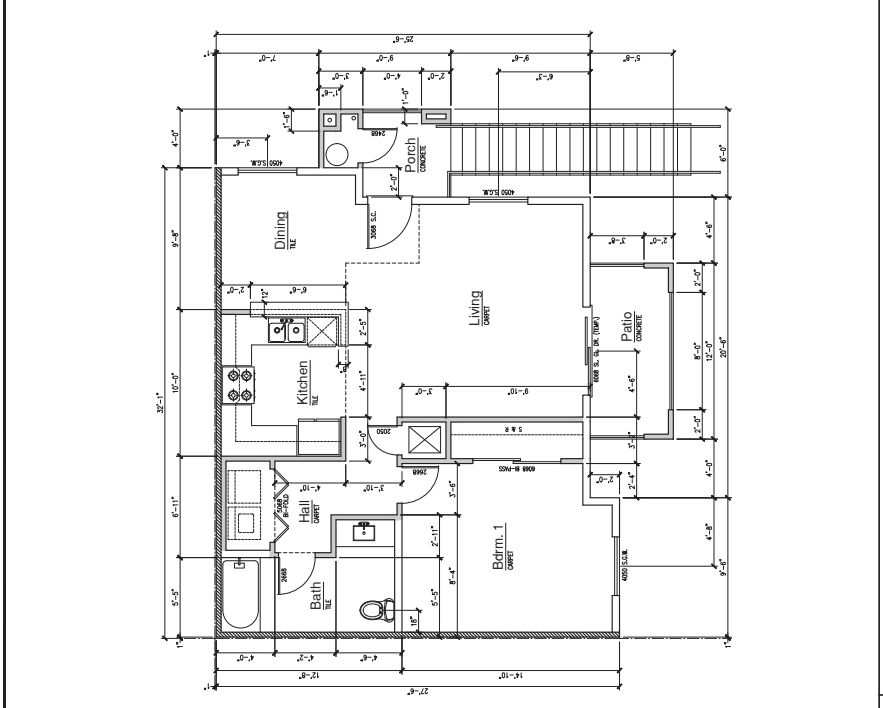
**W CARDELLA RD**

New Parcel for Apartments  
(approximately 3.6-acres)

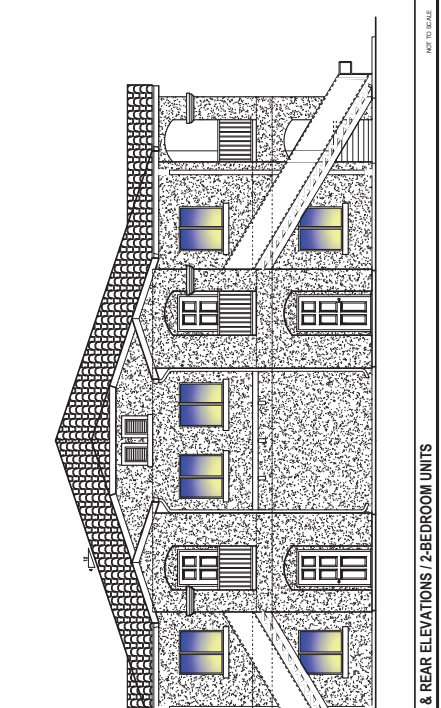
**EL REDONDO DR**

**W PETTINOTTI RD**

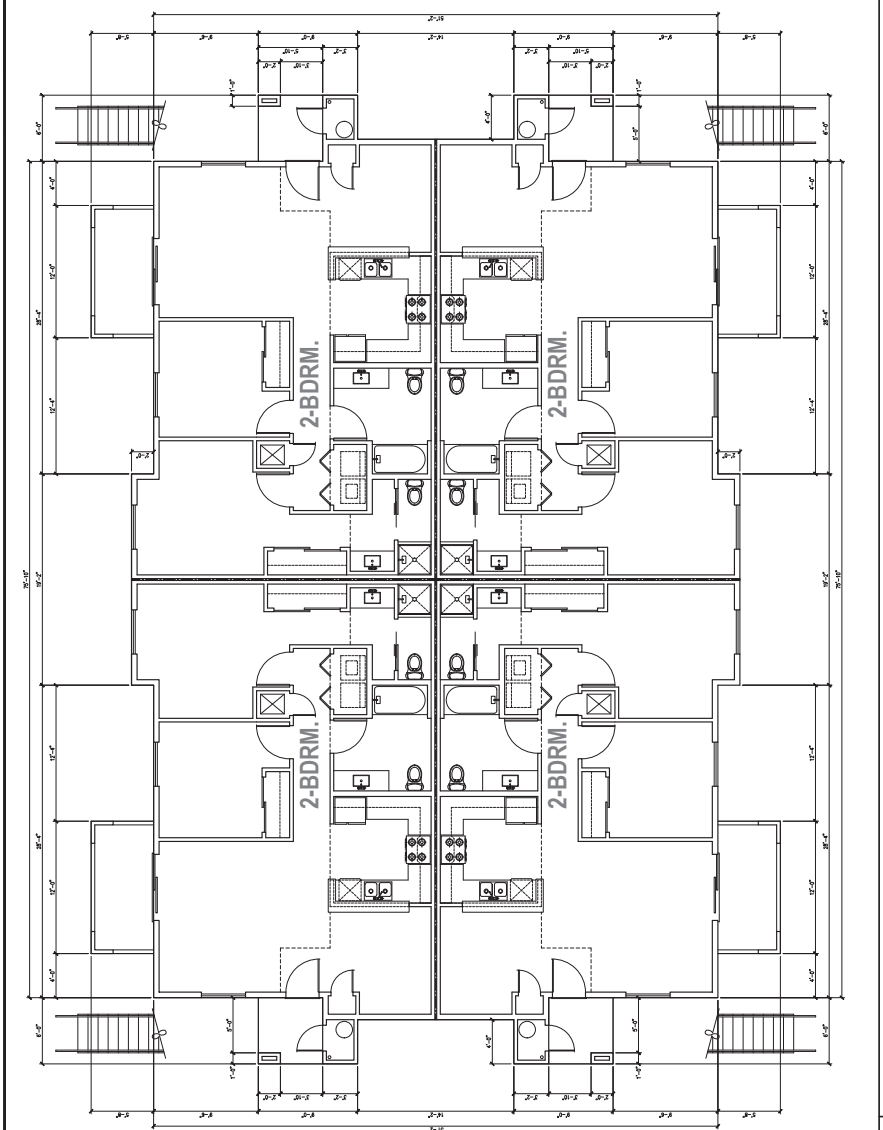




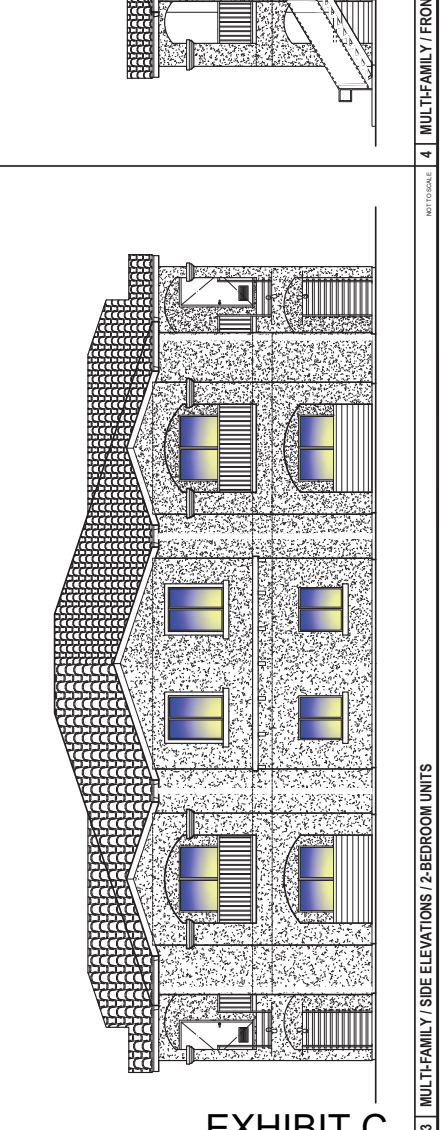
2-BEDROOM UNIT FLOOR PLAN



FRONT & REAR ELEVATIONS / 2-BEDROOM UNITS



MULTI-FAMILY / FLOOR PLAN / 2-BEDROOM UNITS



MULTI-FAMILY / SIDE ELEVATIONS / 2-BEDROOM UNITS

**EXHIBIT C**

### 20.46.030 General Design Standards for Multi-Family Dwellings

**A. Applicability.** The following standards shall apply to all multi-family residential development of 3 units or more in any zoning district.

**B. Exterior Treatment.**

1. Blank walls shall be treated with a variety of textures, use of projecting details that create shade/shadow and contrasting trim materials.
2. Any pipes, vents or tubes, etc., on the roof shall be painted or otherwise covered to match roof color or shall be screened.
3. Ground-mounted air conditioning units shall be screened from public view, using either landscaping or a combination of landscaping and screening comprised of the same materials as used on the buildings.



**C. Landscaping.** (Also refer to Chapter 20.36.)

1. An automatic irrigation system shall be provided to all planting areas within the project.



2. Landscaping other than turf shall be located a minimum of 3 feet from any fire hydrant to allow access.

**D. Parking.**

1. Parking areas shall be screened from public right-of-way by landscaping, which may include berms or fencing/screening.
2. Parking areas shall be landscaped with a minimum of 1 tree per every 6 spaces.
3. Parking areas shall be lit at night for security reasons, but the lighting shall not spill over onto adjacent properties.

**E. Trash Collection Area.**

1. No trash collection area shall be located within 10 feet (horizontal) of the outermost extent allowable for a roof projection on a residential structure.
2. Refuse collection areas shall be screened with the same and/or complementary materials and colors used on the main buildings.

**F. Apartment Unit.**

1. Each apartment unit shall have unique identification (i.e. numbers, letters, etc.) and all unit identification shall be in proper sequential order.
2. Unit identifications shall be 6 inches to 8 inches in height.
3. Unit identifications shall be treated so that it is clearly read from a street or access.
4. The project "mail directory" required by the postal service shall be located to be only accessible to the postal carrier, and not to the general public.



**G. Location.** Each dwelling shall face or have frontage upon a street or permanent means of access to a street by way of a public or private easement other than an alley. Such easements shall not be less than 10 feet in width.

**H. Safety and Defensible Space.**

1. Placement of windows and doors should facilitate neighborhood surveillance of their neighbor's entryways.
2. The number of apartments that enter their front door from the same hallway or courtyard should be limited to no more than 12 (or as otherwise approved by City staff) so that residents can learn to distinguish fellow neighbors from visitors and/or intruders.
3. Apartment common recreational areas should be easily viewed by residents within the units and shall be defined by a physical boundary.
4. Physical changes (such as picket fences, porches, decks, or landscape features) to mark and define areas near a dwelling as that unit's "territory" should be installed.
5. Keyed access gates and surveillance cameras should be installed to enter common areas.

**I. Private Outdoor Space.**

1. **Ground Floor Units.** Every dwelling unit which is on the ground floor should have a private outdoor usable space, if feasible, of a minimum size of 5 feet by 8 feet.
2. **Units Above Ground Floor.** Every dwelling unit which is above the ground floor should, if feasible, have a useable outdoor balcony space of a minimum size of 5 feet by 8 feet.



### 20.46.040 Specific Design Standards for Multi-Family Dwellings

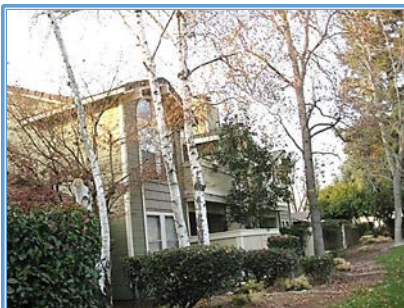
**A. All Multi-Family Dwelling in the Planned Development Zoning District and Multi-Family Dwellings with Five or More Units (or Three or More Units on Corner Lots) in Non-Planned Development Zoning Districts.** In addition to the standards in Section 20.46.040 above, such units shall comply with the following:

1. Building construction shall not exceed the plane established by 1:1 height and setback ratio from any exterior property line of a lot or parcel, for more than 50 percent of the allowable building area at any established distance from said exterior property line.
2. A minimum of 1 tree per 3 units is required, and foundation plantings with a minimum mean horizontal depth of 3 feet covering the equivalent of a minimum of 50 percent of the overall horizontal building frontage shall be required in the overall project area.



3. **Fences.**
  - a. Private balconies or patios shall be screened with solid or near-solid fencing/railings.
    - (1) Materials used shall be comparable quality and aesthetics to those used on the rest of the project.
    - (2) The color shall complement or match building trim.
  - b. Patio or Swimming Pool. Following standards exclude perimeter fencing.
    - (1) Fencing shall use the same materials, textures and colors as are used for the main building.
    - (2) Fencing shall not include chain link.
  - c. Chain link may be allowed for tennis courts if it uses vinyl-covered (or equivalent shading) chain link in complementary colors and masonry pilasters with complementary landscaping.

**4. Parking, Garage, and Carports.**



- a. Carports shall have fascia boards. Materials for the fascia board shall match building material(s) of main structures; both fascia boards and vertical members (supports, screening elements, etc.) shall be painted to match or complement building trim.

- b. A directory, with a list of all apartment unit identifications and a schematic or other locational device/site plan, shall be required in proximity to each parking lot entrance for use by emergency vehicles or visitors:
  - (1) Materials and color(s) of the directory will match/complement the building(s).
  - (2) City's approval is required for its placement and dimension, including orientation and lighting arrangements.

**5. Mechanical and Utility Equipment and Trash Collection Area.**

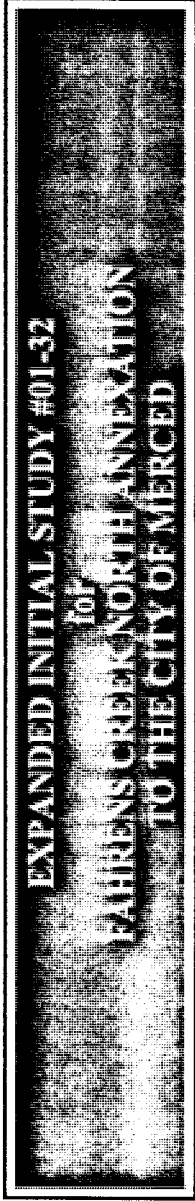


- a. No roof-mounted air-conditioning equipment shall be permitted.
- b. **Trash Collection Areas.**
  - (1) The perimeter of trash enclosures shall be planted with landscaping, such as shrubs or climbing evergreen vines, unless otherwise required by the City.
  - (2) Decorative gates shall enclose a trash area; walk-in access for tenants, other than the main gates to the trash area, shall be provided unless otherwise required by the City.
- c. Utility meters shall not be located within setback nor should they be visible from the public right-of-way, consistent with the following:
  - (1) A 3-foot clear space shall be provided in front of the meters;
  - (2) The meters shall be located near the front of the complex, but may be along the side of a unit;
  - (3) The meters may be screened with plants or materials as long as the utility company can still reach the meters to read them;
  - (4) Screening materials shall be the same as used on main buildings and shall be painted to match/complement building colors; and,
  - (5) The meters shall be located away from parking areas where they could be hit or backed into.

**B. Multi-Family Dwellings in the Planned Development Zoning District.** In addition to the standards in Section 20.46.030 and 20.46.040.A above, such units shall comply with the following: No composition roof materials shall be permitted except three-dimensional, architectural grade shingles.

**C. Multi-Family Dwellings with 3 to 5 Units in Non-Planned Development Zoning District.** In addition to the standards in Section 20.46.030 above, such units shall comply with the following: Roof-mounted air conditioning units are prohibited unless approved by the Site Plan Review Committee. If so approved, they shall be:

- 1. Mounted on the side of the building away from the public right-of-way, and,
- 2. Screened (to provide sufficient air circulation) with materials that will blend into the rest of the roof structure and block any view of the unit.



## Appendix B

### *Mitigation Monitoring Program*

#### **MITIGATION MONITORING CONTENTS**

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

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

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

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

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

- 1) The requirements of the adopted mitigation monitoring program for the Fahrens Creek NORTH Annexation shall run with the real property that is the subject of Annexation Application #00-31 to the City of Merced. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

#### **MITIGATION MONITORING PROCEDURES**

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

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required

to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

**GENERAL PLAN MITIGATION MEASURES**

As a second tier environmental document, the *Expanded Initial Study for the Fahrens Creek NORTH Annexation to the City of Merced* incorporates some mitigation measures adopted as part of the *Merced Vision 2015 General Plan Program Environmental Impact Report* (SCH# 95082050), as mitigation for potential impacts of the Project. Therefore, following the Fahrens Creek NORTH Annexation Mitigation Monitoring Checklist (starting on page A-15) is a list of these relevant General Plan mitigation measures along with the General Plan Mitigation Monitoring Checklists (Forms A and B) to be used to verify that the General Plan mitigation measures have been met.

**NONCOMPLIANCE COMPLAINTS**

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

**MONITORING MATRIX**

The following pages provide a series of tables identifying the mitigation measures proposed specifically for the Fahrens Creek NORTH Annexation. The columns within the tables are defined as follows:

- Mitigation Measure:** Summarizes the Mitigation Measure (referenced by number) identified in Expanded Initial Study #01-32.
- Timing:** Identifies at what point in time or phase of the project that the mitigation measure will be completed.
- Agency/Department Consultation:** This column references any public agency or City department with which coordination is required to satisfy the identified mitigation.
- Verification:** These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

## Fahrens Creek NORTH Annexation Mitigation Monitoring Checklist

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

Brief Project Description \_\_\_\_\_

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

	<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
A.	EARTH			
A-1	Grading and excavation shall be conducted according to City of Merced standards to reduce the effects of disruptions, displacement, compactions, and over-covering of soils.	<i>Building Permits</i>	<i>City Inspection Services, Engineering, &amp; Public Works</i>	
A-2	The Project applicants shall prepare grading plans for individual projects for review and approval by the City of Merced Inspection Services, Engineering, and Public Works Departments prior to approval of building permits. The grading plans shall include the nature and extent of work proposed, phasing, and minimize the effects of disruptions, displacement, compaction, and over-covering of soils.	<i>Building Permits</i>	<i>City Inspection Services, Engineering, &amp; Public Works</i>	
A-3	Prior to approval of any improvement or building plans, the City shall review plans for drainage and storm water run-off control systems and their component facilities, as required, to ensure that these systems are non-erosive in design.	<i>Tentative Map Building Permit</i>	<i>City Engineering &amp; Public Works</i>	
A-4	Upon completion of construction, subsequent Projects shall re-vegetate all exposed soil surfaces within 30 days, or as otherwise approved by the City, to minimize potential topsoil erosion. Reasonable alternatives to re-vegetation may be employed, especially during peak high temperature periods, subject to the approval of the City.	<i>Certificate of Occupancy</i>	<i>City Inspection Services</i>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
A-5 Projects under review shall be required to submit temporary erosion control plans for construction activities.	Building Permits	City Inspection Services	
A-6 Prior to the issuance of a building permit, the applicant shall design all structures according to the Uniform Building Code Seismic Section 3.	Building permits	City Inspection Services	
A-7 A soils report shall be prepared by a qualified soils or civil engineer, consistent with the provisions of the State Subdivision Map Act, prior to approval of a final subdivision map or building permit, if applicable as required by Merced Municipal Code.	Final Maps	City Engineering & Public Works	
A-8 Building plans shall be reviewed by a registered engineer specializing in geo-technical assessments to ensure that the soils can support the load.	Building Permits	City Inspection Services, Engineering, & Public Works	
B. AIR			
B-1 All active portions of construction sites, earthen access roads, and material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice a day with complete coverage, preferably in the late morning and after work is done for the day. Where feasible, reclaimed water shall be used.	Building Permits	City Inspection Services	
B-2 All clearing, grading, earth moving, or excavation activities shall cease during periods of winds greater than 20 miles per hour averaged over one hour.	Building Permits	City Inspection Services	
B-3 All material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.	Building Permits	City Inspection Services	
B-4 The area disturbed by clearing, earth moving, or excavation activities shall be minimized at all times. This can be accomplished by mowing instead of disking for weed control and seeding and watering inactive portions of the construction site until grass is evident, if construction time frames warrant.	Building Permits	City Inspection Services	
B-5 Construction site vehicle speeds shall be limited to 15 miles per hour.	Building Permits	City Inspection Services	
B-6 If used, petroleum-based dust palliatives shall meet the road oil requirements of the District's rule regarding Cutback Asphalt Paving Materials.	Building Permits	SJVUAPCD	
B-7 Streets adjacent to the Project site shall be swept as needed to remove silt and/or mud that may have accumulated from construction activities. The streets are required to be wet prior to or in conjunction with rotary sweeping.	Building Permits	City Inspection Services	
B-8 All internal combustion engine-driven equipment shall be properly maintained and well tuned according to the manufacturer's	Building Permits	City Inspection Services	

<b>Mitigation Measure</b>	<b>Timing</b>	<b>Agency or Department Consultation</b>	<b>City Verification (date and initials)</b>
<p>specifications.</p> <p>B-9 When reasonably available and economically feasible, diesel powered or electric equipment shall be utilized in lieu of gasoline powered engines.</p>	<p><i>Building Permits</i></p>	<p><i>City Inspection Services</i></p>	
<p>B-10 Construction activities shall minimize obstruction of through traffic lanes adjacent to the site and a flag person shall be retained to maintain safety adjacent to existing roadways.</p>	<p><i>Building Permits</i></p>	<p><i>City Inspection Services</i></p>	
<p>B-11 Prior to issuance of a grading permit, the project will be required to comply with District Regulation VIII. Specifically, the rules that apply to this project are: Rule 8010 (Administrative Requirements) and Rule 8020 (Construction, Demolition, Excavation, and Extraction Activities). Additional rules that may apply to this project depending on construction practices employed are: Rule 8030 (Handling and Storage of Bulk Materials), Rule 8060 (Paved and Unpaved Roads), and Rule 8070 (Parking, Shipping, Receiving, Transfer, Fueling, and Service Areas).</p>	<p><i>Building Permits</i></p>	<p><i>SJVUAPCD</i></p>	
<p>B-12 At the discretion of the Director of Development Services, subsequent projects within the Project boundaries may be required to submit an air quality analysis to the City prior to construction. Such studies shall outline any impacts associated with specific processes or activities to be present on-site.</p>	<p><i>Site Plan Approval</i></p>	<p><i>City Planning</i></p>	
<p>(B-13) (General Plan 1-d) Development construction activity shall implement appropriate dust (PM10) suppression techniques as required by the SJVRAPCD.</p>	<p><i>Building Permit/Construction</i></p>	<p><i>City Inspection Services</i></p>	
<p>C. WATER</p>			
<p>C-1 Prior to approval of a Final Map or subsequent development projects, the applicant shall demonstrate to the City that storm drainage facilities are adequate to meet Project demands and that improvements are consistent with the <i>Merced County Critical Area Flooding and Drainage Plan</i> and any updates.</p>	<p><i>Tentative Maps</i></p>	<p><i>City Engineering &amp; Public Works</i></p>	
<p>C-2 Prior to alteration or removal of the existing elevated YVRR roadbed in the eastern portion of the project area, the property owner shall demonstrate, through competent analysis acceptable to the City of Merced, what effect(s) removal of the roadbed will have on area flood waters delineated in the Special Flood Hazard Area identified on the east side of the roadbed, including impacts to other properties.</p>	<p><i>Tentative Maps</i> <i>Building Permits</i> <i>Conditional Use Permits/Site Plan Approvals</i></p>	<p><i>City Engineering &amp; Public Works</i></p>	

<b>Mitigation Measure</b>	<b>Timing</b>	<b>Agency or Department Consultation</b>	<b>City Verification (date and initials)</b>
C-3 Prior to approval of subsequent development projects, the applicants shall demonstrate to the City that temporary erosion control measures will be followed during construction.	Building Permits	City Inspection Services	
C-4 As individual projects are determined, the applicants shall provide detailed information to the City regarding projected water usage. The applicants shall provide all water system needs (including wells, water mains, etc.) for individual projects or pay equivalent fees to insure the construction of the necessary water infrastructure.	Building Permits/ Parcel Maps	City Engineering & Public Works	
C-5 Areas within 100-year flood plains will be required to comply with all pertinent provisions of the City's Flood Damage Prevention Ordinance (MMC 17.48) and all updates.	Building Permits	City Inspection Services & Engineering	
(C-6) (General Plan 2-a) When site-specific development proposals with direct discharge into the area's surface water system are submitted to the City for review and action, Best Management options should be evaluated to determine need and feasibility.	Subdivision maps/Parcel maps/ Building permits	Engineering	
(C-7) (General Plan 2-b) Water conservation policy of the City should be periodically reviewed to determine need, appropriateness, and feasibility of implementing conservation practices suggested in the Merced Water Supply Plan.	Subdivision maps/Parcel maps/ Conditional Use Permits	Engineering/Public Works/ City Planning	
E. ANIMAL LIFE			
E-1 Under the Planned Development (P-D) rezoning for the AREA X portion of the proposed annexation, the designation for the Official Site Utilization Plan (SUP) for the area will be A-1-20 or one house per 20 acre minimum size lot, generally consistent with the current County A-1 (agricultural) zoning. However, additional conditions shall be incorporated in the Official SUP to require a biological assessment by a qualified biologist registered to perform such assessments, for vernal wetlands and related sensitive-type areas, prior to any development approvals, including building permits, land leveling, road construction, lot splits, or any other physical or administrative changes or approvals within AREA X.	Land Leveling Permits/Road Construction  Tentative Subdivi- sion Maps/Lot Splits  Building Permits	City Planning  Engineering  City Inspection Services  CA Dept of Fish & Game	
E-2 For any kind of development-related activity taking place in proximity to those portions of the Fahrens Creek corridor located within AREA X, with regard to the Giant Garter Snake: a) provide environmental awareness training to contractors or others doing work in this area; b) restrict construction along the Creek to only the snake's active season (May 1 through September 30, unless further evaluation provided in above adjusts these dates); and c) have qualified biologist conduct pre-	Final Maps  Building Permits	City Planning  CA Dept of Fish & Game	



<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
construction surveys 24 hours in advance of construction activities.			
<b>F. NOISE</b>			
<p>F-1 A 6 foot or higher sound wall or earthen berm (or combination of both), or some other acceptable method for achieving comparable noise reduction, may need to be constructed to meet the City's outdoor noise level standards of DNL 60dB for new residential development adjacent to perimeter arterials (Cardella Road and "R" Street). Depending upon the DNLs and the acoustical shielding provided by the first row of buildings (if any), existing and new residential development located a greater distance from the perimeter arterials may require lower sound walls or a combination of sound attenuation measures. As an alternative to sound walls, new dwelling units may be oriented so that the outdoor use areas would be shielded by the building.</p> <p>As necessary detailed noise projections should be prepared to corroborate earlier noise studies/projections and actual height requirements for sound walls, prior to recordation of final maps for each phase of residential development falling within applicable noise zones.</p>	<p><i>Final Maps</i> <i>Building Permits</i></p>	<p><i>City Planning</i></p>	
<p>F-2 Project residential developments constructed within pertinent noise zones in proximity to Cardella Road and "R" Street would require sound-rated windows, as well as sound-rated exterior wall assemblies where necessary, or other acceptable methods of sound attenuation to achieve comparable noise reductions, to be consistent with the 45 dB interior noise level maximum.</p>	<p><i>Final Maps</i> <i>Building Permits</i></p>	<p><i>City Planning</i></p>	
<p>F-3 Trucks used for the development of Fahrens Creek NORTH will be required to use the City's designated truck routes, to be demonstrated by the project applicant through the submittal of a construction traffic plan to the City Engineer prior to the issuance of grading permits.</p>		<p><i>City Planning</i> <i>City Inspection Services</i></p>	
<p>F-4 All construction activity shall be conducted in accordance with City of Merced standards for times of operation.</p>	<p><i>Building Permits</i></p>	<p><i>City Inspection Services</i></p>	
<p>F-5 Grading and construction activity shall be limited to daylight hours (between 7 a.m. and 7 p.m.) in areas where noise sensitive receptors are located.</p>	<p><i>Building Permits</i></p>	<p><i>City Inspection Services</i></p>	
<p>F-6 In noise sensitive areas, construction equipment, compressors, and generators shall be fitted with heavy duty mufflers specifically designed to reduce noise impacts.</p>	<p><i>Building Permits</i></p>	<p><i>City Inspection Services</i></p>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
<p><b>G. LIGHT AND GLARE</b></p>			
<p>G-1 The applicants shall utilize lighting fixtures of minimal wattage necessary to provide adequate lighting for security, industrial operations, and circulation. Light spill shall be controlled by baffles, cut-off lenses, and fixture height necessary to minimize spill-over onto adjacent properties. Prior to building permit approvals, lighting plans shall be submitted for review by the City which specifies lighting type, location, and methods for minimizing spill.</p>	<p><i>Building Permits</i></p>	<p><i>City Planning</i></p>	
<p><b>M. TRANSPORTATION /CIRCULATION</b></p>			
<p>M-1 The Project shall pay all fees as required under the City's Public Facilities Impact Fees (Chapter 17.62 of the Merced Municipal Code).</p>	<p>Certificate of Occupancy</p>	<p>City Planning &amp; City Engineer</p>	
<p>M-2 The developer shall construct all collector, local, or cul-de-sac streets within the Project boundaries to their ultimate right-of-way with full frontage improvements as defined by the City of Merced Standard Designs for all Engineering Structures and the <i>Merced Vision 2015 General Plan</i> and any amendments thereto, including expanded landscape corridors along designated collector streets. This may include some contribution to the proposed Reverse Frontage Road North-South Collector to be located along the west boundary of AREA Z, based on projected level of usage or some other measurement of proportional share.</p>	<p>Tentative Maps/ Parcel Maps/ Site Plan Reviews</p>	<p>City Planning &amp; Engineering</p>	
<p>M-3 The developer shall dedicate half the required right-of-way for all arterial and higher order streets adjacent to the Project boundaries as defined in the <i>Merced Vision 2015 General Plan</i>. This includes both Cardella Road and "R" Street (each adjacent to AREA X), as well as Cardella Road adjacent to AREA Y. Consistent with Mitigation Measure 7.b of the Merced Vision 2015 General Plan EIR, where the extent of right-of-way dedication exceeds the City's development standards for a collector street (currently 74 feet for a collector street located entirely within the Project and 37 feet for a collector abutting the Project), then the developer is eligible for reimbursements in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional dedication.</p>	<p>Tentative Maps/Site Plan Reviews</p>	<p>City Planning &amp; Engineering</p>	
<p>M-4 The developer shall construct the "collector equivalent" (74 feet) portion of the right-of-way, along with full frontage improvements along the Project boundaries and at least one travel lane in each direction, for all arterial and higher order streets within the Project boundaries. Consistent with Mitigation Measure 7.b of the Merced Vision 2015 General Plan EIR, where the extent of street improvements exceeds one-half of a "collector equivalent" street for a project fronting only one side of the street, the project is eligible for reimbursement for the cost of improvements exceeding the one-half "collector equivalent" in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional improvements.</p>	<p>Tentative Maps/ Parcel Maps/ Site Plan Reviews</p>	<p>City Planning &amp; Engineering</p>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
<p>M-5 The owner of each adjacent corner within AREA Y shall be responsible for that portion of the cost of a traffic signal designated in the City of Merced Public Facilities Impact Fee structure, to City standards and the satisfaction of the City Engineer, at each quarter-mile/half-mile collector intersection with Cardella Road; the same circumstances apply for owners of each adjacent corner within AREA X as they relate to the intersection of Lehigh Drive (extended) with "R" Street, whenever warrants are met in the judgment of the City Engineer. In such a case, installation of an intersection traffic signal by one developer could even be required at any of these locations by the City Engineer prior to full build-out of adjacent properties, if warrants are met, subject to adopted reimbursement requirements. Security shall be determined at the time of first subdivision map or other discretionary action.</p>	<p>Tentative Maps/ Parcel Maps/ Site Plan Reviews</p>	<p>City Planning &amp; Engineering</p>	
<p>(M-6) (General Plan 7a) Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection level of service below "D." (Note: Studies are not anticipated, based upon current projections, but could be required in the event of future changes).</p>	<p>Tentative Maps/ Conditional Use Permit</p>	<p>Engineering</p>	
<p>(M-7) (General Plan 7b) The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service "D" on all road segments and intersections impacted by the development project.</p>	<p>Tentative Maps/ Conditional Use Permit</p>	<p>Engineering/Pla nning/ Finance</p>	
<p>N. PUBLIC SERVICES</p>			
<p><b>FIRE</b></p> <p>N-1 The applicants shall be required to provide a level of accessibility and range-land management (firebreaks and/or diskings) for fire suppression that is acceptable to the City of Merced.</p>	<p>Tentative Maps/ Parcel Maps Building Permit</p>	<p>City Planning &amp; Fire</p>	
<p><b>SCHOOLS</b></p> <p>N-2 Careful coordination is required between City, developer(s), and School District regarding phasing of infrastructure improvements within the general area, to achieve safe, adequate access for both school construction and operation.</p>	<p>Tentative Maps/ Parcel Maps Building Permits</p>	<p>Planning staff, City Engineer, and City School District</p>	
<p>N-3 Prior to the issuance of building permits, the applicant shall be responsible for the payment of school facility impact fees as adopted by the Merced City School District and Merced Union High School District.</p>	<p>Building Permits</p>	<p>City School District and MUHSD</p>	
<p>(N-4) (General Plan 8-c) Site designs will need to be reviewed to assure that development does not hinder efficient and cost-effective public services delivery.</p>	<p>Tentative Maps/ Parcel Maps/ Conditional Use Permits</p>	<p>Planning staff, City Engineer, Planning staff, City Engineer, and City School District</p>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
(N-5) (General Plan 8-d) Development projects will be required to pay public facilities impact fees as established by the City in accordance with the requirements of State law.	Building Permit	Planning Staff/ Finance	
T. CULTURAL RESOURCES			
T-1 If evidence of archaeological artifacts is discovered during construction, all operations within an area at and adjacent to the discovered site shall halt until a qualified archaeologist determines the extent of significance of the site.	Building Permits	City Inspection Services	
T-2 On-site preservation of a resource is the preferred alternative. Preserving a cultural deposit maintains the artifacts in context and may prevent inadvertent discovery of, or damage to, human burials. Preservation may be accomplished through a number of means such as capping or covering the site with a layer of soil, fencing the site area, and/or incorporation of the resource in a park area.	Building Permits	City Inspection Services	

**Copies of This Form Distributed To:**

City Council \_\_\_\_\_ City Manager \_\_\_\_\_ City Planner \_\_\_\_\_ Public Works Dir. \_\_\_\_\_ City Engineer \_\_\_\_\_ Fire Chief \_\_\_\_\_  
 Police Chief \_\_\_\_\_ Leisure Serv. Dir. \_\_\_\_\_ County of Merced (Dept. \_\_\_\_\_) Other (List \_\_\_\_\_)  
 Responsible Agency: (List \_\_\_\_\_)

**I hereby certify that I have inspected the project site and that the above information is true to the best of my knowledge.**

Name: (Print) \_\_\_\_\_ Representing: (Agency/Firm) \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# **APPENDIX C**

## ***Master List of Mitigation Measures***

**EXPANDED INITIAL STUDY #01-32**

**FAHRENS CREEK NORTH**

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### ***A. EARTH***

#### **PROJECT SPECIFIC MITIGATION MEASURES:**

- A-1 Grading and excavation shall be conducted according to City of Merced standards to reduce the effects of disruptions, displacement, compactions, and over-covering of soils.
- A-2 The Project applicants shall prepare grading plans for individual projects for review and approval by the City of Merced Inspection Services, Engineering, and Public Works Departments prior to approval of building permits. The grading plans shall include the nature and extent of work proposed, phasing, and minimize the effects of disruptions, displacement, compaction, and over-covering of soils.
- A-3 Prior to approval of any improvement or building plans, the City shall review plans for drainage and storm water run-off control systems and their component facilities, as required, to ensure that these systems are non-erosive in design.
- A-4 Upon completion of construction, subsequent Projects shall re-vegetate all exposed soil surfaces within 30 days, or as otherwise approved by the City, to minimize potential topsoil erosion. Reasonable alternatives to re-vegetation may be employed, especially during peak high temperature periods, subject to the approval of the City.
- A-5 Projects under review shall be required to submit temporary erosion control plans for construction activities.
- A-6 Prior to the issuance of a building permit, the applicant shall design all structures according to the Uniform Building Code Seismic Section 3.
- A-7 A soils report shall be prepared by a qualified soils or civil engineer, consistent with the provisions of the State Subdivision Map Act, prior to approval of a final subdivision map or building permit, if applicable as required by Merced Municipal Code.
- A-8 Building plans shall be reviewed by a registered engineer specializing in geo-technical assessments to ensure that the soils can support the load.

## ***B. AIR***

### **PROJECT SPECIFIC MITIGATION MEASURES:**

- B-1** All active portions of construction sites, earthen access roads, and material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice a day with complete coverage, preferably in the late morning and after work is done for the day. Where feasible, reclaimed water shall be used.
- B-2** All clearing, grading, earth moving, or excavation activities shall cease during periods of winds greater than 20 miles per hour averaged over one hour.
- B-3** All material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.
- B-4** The area disturbed by clearing, earth moving, or excavation activities shall be minimized at all times. This can be accomplished by mowing instead of disking for weed control and seeding and watering inactive portions of the construction site until grass is evident, if construction time frames warrant.
- B-5** Construction site vehicle speeds shall be limited to 15 miles per hour.
- B-6** If used, petroleum-based dust palliatives shall meet the road oil requirements of the District's rule regarding Cutback Asphalt Paving Materials.
- B-7** Streets adjacent to the Project site shall be swept as needed to remove silt and/or mud that may have accumulated from construction activities. The streets are required to be wet prior to or in conjunction with rotary sweeping.
- B-8** All internal combustion engine-driven equipment shall be properly maintained and well tuned according to the manufacturer's specifications.
- B-9** When reasonably available and economically feasible, diesel powered or electric equipment shall be utilized in lieu of gasoline powered engines.
- B-10** Construction activities shall minimize obstruction of through traffic lanes adjacent to the site and a flag person shall be retained to maintain safety adjacent to existing roadways.
- B-11** Prior to issuance of a grading permit, the project will be required to comply with District Regulation VIII. Specifically, the rules that apply to this project are: Rule 8010 (Administrative Requirements) and Rule 8020 (Construction, Demolition, Excavation, and Extraction Activities). Additional rules that may apply to this project depending on construction practices employed are: Rule 8030 (Handling and Storage of Bulk Materials), Rule 8060 (Paved and Unpaved Roads), and Rule 8070 (Parking, Shipping, Receiving, Transfer, Fueling, and Service Areas).

- B-12** At the discretion of the Director of Development Services, subsequent projects within the Project boundaries may be required to submit an air quality analysis to the City prior to construction. Such studies shall outline any impacts associated with specific processes or activities to be present on-site.

**APPLICABLE MITIGATION MEASURE OF THE GENERAL PLAN EIR:**

- (B-13)** (General Plan Mitigation Measure 1-d) Development construction activity shall implement appropriate dust (PM10) suppression techniques as required by the SJVRAPCD.

***C. WATER***

**PROJECT SPECIFIC MITIGATION MEASURES:**

- C-1** Prior to approval of a Final Map or subsequent development projects, the applicant shall demonstrate to the City that storm drainage facilities are adequate to meet Project demands and that improvements are consistent with the Merced County Critical Area Flooding and Drainage Plan and any updates.
- C-2** Prior to alteration or removal of the existing elevated YVRR roadbed in the eastern portion of the project area, the property owner shall demonstrate, through competent analysis acceptable to the City of Merced, what effect(s) removal of the roadbed will have on area flood waters delineated in the Special Flood Hazard Area identified on the east side of the roadbed, including impacts to other properties.
- C-3** Prior to approval of subsequent development projects, the applicants shall demonstrate to the City that temporary erosion control measures will be followed during construction.
- C-4** As individual projects are determined, the applicants shall provide detailed information to the City regarding projected water usage. The applicants shall provide all water system needs (including wells, water mains, etc.) for individual projects or pay equivalent fees to insure the construction of the necessary water infrastructure.
- C-5** Areas within 100-year flood plains will be required to comply with all pertinent provisions of the City's Flood Damage Prevention Ordinance (MMC 17.48) and all updates.

**APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR:**

- (C-6)** General Plan Mitigation Measure 2-a: When site-specific development proposals with direct discharge into the area's surface water system are submitted to the City for review and action, Best Management options should be evaluated to determine need and feasibility.
- (C-7)** General Plan Mitigation Measure 2-b: Water conservation policy of the City should be periodically reviewed to determine need,

appropriateness, and feasibility of implementing conservation practices suggested in the Merced Water Supply Plan.

### ***E. ANIMAL LIFE***

#### **APPLICABLE MITIGATION MEASURES OF THE SPECIAL-STATUS SPECIES ASSESSMENT:**

- E-1** Under the Planned Development (P-D) rezoning for the AREA X portion of the proposed annexation, the designation for the Official Site Utilization Plan (SUP) for the area will be A-1-20 or one house per 20 acre minimum size lot, generally consistent with the current County A-1 (agricultural) zoning. However, additional conditions shall be incorporated in the Official SUP to require a biological assessment by a qualified biologist registered to perform such assessments, for vernal wetlands and related sensitive-type areas, prior to any development approvals, including building permits, land leveling, road construction, lot splits, or any other physical or administrative changes or approvals within AREA X.
- E-2** For any kind of development-related activity taking place in proximity to those portions of the Fahrens Creek corridor located within AREA X, with regard to the Giant Garter Snake: a) provide environmental awareness training to contractors or others doing work in this area; b) restrict construction along the Creek to only the snake's active season (May 1 through September 30, unless further evaluation provided in E-1 above adjusts these dates); and c) have a qualified biologist conduct pre-construction surveys 24 hours in advance of construction activities.

### ***F. NOISE***

#### **PROJECT SPECIFIC MITIGATION MEASURES:**

- F-1** A 6 foot or higher sound wall or earthen berm (or combination of both), or some other acceptable method for achieving comparable noise reduction, may need to be constructed to meet the City's outdoor noise level standards of DNL 60dB for new residential development adjacent to perimeter arterials (Cardella Road and "R" Street). Depending upon the DNLs and the acoustical shielding provided by the first row of buildings (if any), existing and new residential development located a greater distance from the perimeter arterials may require lower sound walls or a combination of sound attenuation measures. As an alternative to sound walls, new dwelling units may be oriented so that the outdoor use areas would be shielded by the building.
- As necessary detailed noise projections should be prepared to corroborate earlier noise studies/projections and actual height



requirements for sound walls, prior to recordation of final maps for each phase of residential development falling within applicable noise zones.

- F-2 Project residential developments constructed within pertinent noise zones in proximity to Cardella Road and “R” Street would require sound-rated windows, as well as sound-rated exterior wall assemblies where necessary, or other acceptable methods of sound attenuation to achieve comparable noise reductions, to be consistent with the 45 dB interior noise level maximum.
- F-3 Trucks used for the development of Fahrens Creek North will be required to use the City’s designated truck routes, to be demonstrated by the project applicant through the submittal of a construction traffic plan to the City Engineer prior to the issuance of grading permits.
- F-4 All construction activity shall be conducted in accordance with City of Merced standards for times of operation.
- F-5 Grading and construction activity shall be limited to daylight hours (between 7 a.m. and 7 p.m.) in areas where noise sensitive receptors are located.
- F-6 In noise sensitive areas, construction equipment, compressors, and generators shall be fitted with heavy duty mufflers specifically designed to reduce noise impacts.

## ***G. LIGHT and GLARE***

### **PROJECT SPECIFIC MITIGATION MEASURE:**

- G-1 The applicants shall utilize lighting fixtures of minimal wattage necessary to provide adequate lighting for security, commercial/industrial operations, and circulation. Light spill shall be controlled by baffles, cut-off lenses, and fixture height necessary to minimize spill-over onto adjacent properties. Prior to building permit approvals, lighting plans shall be submitted for review by the City which specifies lighting type, location, and methods for minimizing spill.

## ***M. TRANSPORTATION/CIRCULATION***

### **PROJECT SPECIFIC MITIGATION MEASURES:**

- M-1 The Project shall pay all fees as required under the City’s Public Facilities Impact Fees (Chapter 17.62 of the Merced Municipal Code).

- M-2** The developer shall construct all collector, local, or cul-de-sac streets within the Project boundaries to their ultimate right-of-way with full frontage improvements as defined by the *City of Merced Standard Designs for all Engineering Structures* and the *Merced Vision 2015 General Plan* and any amendments thereto, including expanded landscape corridors along designated collector streets. It is anticipated that this could include some contribution to the proposed Reverse Frontage Road North-South Collector to be located along the west boundary of AREA Z, based upon projected level of usage or some other measurement of proportional share. The timing of construction of the improvements would be governed by the Subdivision Map Act and/or local ordinance.
- M-3** The developer shall dedicate half the required right-of-way for all arterial and higher order streets adjacent to the Project boundaries as defined in the *Merced Vision 2015 General Plan*. This includes both Cardella Road and “R” Street (each adjacent to AREA X) as well as Cardella Road portions adjacent to AREA Y. If appropriate portions of AREA Z were to annex in the future, this would include pertinent segments of Cardella Road.  
Consistent with Mitigation Measure 7.b of the *Merced Vision 2015 General Plan EIR*, where the extent of right-of-way dedication exceeds the City’s development standards for a collector street (currently 74 feet for a collector street located entirely within the Project and 37 feet for a collector abutting the Project), then the developer is eligible for reimbursements in accordance with the City’s Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project’s traffic impacts require additional dedication.
- M-4** The developer shall construct the “collector equivalent” (74 feet) portion of the right-of-way, along with full frontage improvements along the Project boundaries and at least one travel lane in each direction, for all arterial and higher order streets within the Project boundaries. Consistent with Mitigation Measure 7.b of the *Merced Vision 2015 General Plan EIR*, where the extent of street improvements exceeds one-half of a “collector equivalent” street for a project fronting only one side of the street, the project is eligible for reimbursement for the cost of improvements exceeding the one-half “collector equivalent” in accordance with the City’s Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project’s traffic impacts require additional improvements.

- M-5** The owner of each adjacent corner within AREA Y shall be responsible for that portion of the cost of a traffic signal designated in the City of Merced Public Facilities Impact Fee structure, to City standards and the satisfaction of the City Engineer, at each quarter-mile/half-mile collector intersection with Cardella Road; the same circumstances apply for owners of each adjacent corner within AREA X as they relate to the intersection of Lehigh Drive (extended) with "R" Street, whenever warrants are met in the judgment of the City Engineer. In such a case, installation of an intersection traffic signal by one developer could even be required at any of these locations by the City Engineer prior to full build-out of adjacent properties, if warrants are met, subject to adopted reimbursement requirements. Security shall be determined at the time of first subdivision map or other discretionary action.

**APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR:**

- (M-6)** General Plan Mitigation Measure 7a: Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection levels of service below "D." (Note: Studies are not anticipated, based upon current projections, but could be required in the event of future changes).
- (M-7)** General Plan Mitigation Measure 7b: The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service "D" on all road segments and intersections impacted by the development project.

***N. PUBLIC SERVICES***

**PROJECT SPECIFIC MITIGATION MEASURE:**

- N-1** The applicants shall be required to provide a level of accessibility and rangeland management (firebreaks and/or disking) for fire suppression that is acceptable to and approved by the City of Merced

**Site Specific Issues of a more significant nature than otherwise identified by Previous Environmental Review:**

- N-2** Careful coordination is required between City, developer(s), and School District regarding phasing of infrastructure improvements within the general area, to achieve safe, adequate access for both school construction and operation.
- N-3** Prior to the issuance of building permits, the applicant shall be responsible for the payment of school facility impact fees as adopted

by the Merced City School District and Merced Union High School District.

**APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR:**

- (N-4) **General Plan Mitigation Measure 8c:** Site designs will need to be reviewed to assure that development does not hinder efficient and cost-effective public services delivery.
- (N-5) **General Plan Mitigation Measure 8d:** Development projects will be required to pay public facilities impact fees as established by the City in accordance with the requirements of State law.

***T. CULTURAL RESOURCES***

**PROJECT SPECIFIC MITIGATION MEASURES:**

- T-1** If evidence of archaeological artifacts is discovered during construction, all operations within an area at and adjacent to the discovered site shall halt until a qualified archaeologist determines the extent of significance of the site.
- T-2** On-site preservation of a resource is the preferred alternative. Preserving a cultural deposit maintains the artifacts in context and may prevent inadvertent discovery of, or damage to, human burials. Preservation may be accomplished through a number of means such as capping or covering the site with a layer of soil, fencing the site area, and/or incorporation of the resource in a park area.

**The California Environmental Quality Act  
(CEQA) Section 15162 Findings:**

**Application: Site Plan Review #492 – Environmental Review#22-18**

**Assessor Parcel Number or Location:** Assessor’s Parcel Number (APN): 206-010-010

**Previous Initial Study/EIR Reference:** This site was previously reviewed through Initial Study #01-32, resulting in a Mitigated Negative Declaration. The current proposal to construct a gas station with a touchless carwash is consistent with the previous environmental review and the project remains in conformance with the City’s *Merced Vision 2030 General Plan*.

**Original Project Date:** Initial Study #01-32, resulting in a Mitigated Negative Declaration, adopted by the Merced City Council on December 2, 2002.

**Section A - Previous Studies**

1. Substantial changes are proposed in the project that will require major revisions of the previous project EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Comment/Finding:** The density proposed for the apartment complex is consistent with the previous environmental review. This site was identified in the previous environmental review as high density residential allowing between 7 and 30 dwelling units per acre. The proposed apartment complex of this scale is considered consistent with the Village Residential density, thus, the project remains consistent with the previous environmental review.

2. Substantial changes have occurred with respect to the circumstances under which the project is undertaken that will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Comment/Finding:** There have been no changes in the circumstances under which the project is undertaken that would require major revisions in the previous Mitigated Negative Declaration. There are no new significant environmental effects or substantial increases in the severity of previously identified environmental effects, and the area under consideration remains the same area previously evaluated.

3. New information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, has been revealed? (If “Yes” is checked, go to Section “B” below)

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Comment/Finding:** There is no new information of substantial importance that was not known and could not have been known with the reasonable diligence at the time the previous Mitigated Negative Declaration was adopted.

**Section B - New Information**

A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration. 

Yes	No
	X

B) Significant effects previously examined will be substantially more severe than shown in the previous EIR. 

Yes	No
	X

C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative. 

Yes	No
	X

D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative. 

Yes	No
	X

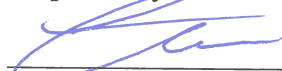
**Comment/Finding:** All previously identified mitigation measures will be enforced with this project including payment of Public Facility Impact Fees. Therefore, the resulting impacts are no greater than those previously analyzed and the previously imposed mitigation measures remain sufficient to address all impacts from this project.

**On the basis of this evaluation, in accordance with the requirements of Section 15162 of the CEQA Guidelines:**

- |   |  |
|---|--|
|   | 1. It is found that subsequent negative declaration will need to be prepared.  |
|   | 2. It is found that an addendum Negative Declaration will need to be prepared. |
|   | 3. That a subsequent EIR will need to be prepared.                             |
| X | 4. No further documentation is required.                                       |

Date: April 14, 2022

Prepared By:



Francisco Mendoza-Gonzalez,  
Associate Planner

**CITY OF MERCED**  
**Site Plan Review Committee**

**MINUTES**

Planning Conference Room  
(via Teleconference)  
February 17, 2022

Chairperson MCBRIDE called the meeting to order at 1:32 p.m.

1. **ROLL CALL**

Committee Members Present: Chief Building Official Frazier, City Engineer Beltran, Director of Development Services McBride

Committee Members Absent: None

Staff Present: Planning Manager Espinosa, Development Services Technician II/Recording Secretary Davis, Fire Inspector I Abeyta, Public Works Director Elwin, Deputy Public Works Director Angulo, Public Works Water Manager Baptista, Public Works Water Quality Control Technician Padilla, and Deputy City Attorney Madayag

2. **MINUTES**

M/S BELTRAN/FRAZIER, and carried by unanimous voice vote, to approve the Minutes of January 20, 2022, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

4.1 Site Plan Application #490, submitted by Thai Cuisine II, applicant on behalf Promenade Center Limited Partnership, property owner, to allow the expansion of the existing outdoor patio area, previously approved, to service the bar and restaurant. The proposed property is

located at 779 East Yosemite Avenue (Suites F and G), within Planned Development (P-D) #48, with a General Plan designation of Neighborhood Commercial (CN).

Development Services Technician II, DAVIS reviewed the application. Refer to Draft Site Plan Resolution #490 for further information.

Michelle ESQUIBIAS, a representative for the property management company, was in attendance with the applicant, Bobby BOUABOUNMY, and made themselves available for questions from the Committee.

Ms. ESQUIBIAS asked the Committee questions about standards of the Americans with Disabilities Act (ADA).

Chief Building Official FRAZIER and City Engineer BELTRAN confirmed the proper distance needed for path of pedestrian travel along the sidewalk.

Director of Development Services McBRIDE confirmed the hours of operation of the patio with the Applicant and requested a modification to Condition #25 to allow outdoor seating using tables from inside the restaurant.

Fire Inspector ABEYTA requested a modification to Condition #24 to include the approval of a storage location for required propane tanks.

M/S FRAZIER - BELTRAN, and carried by the following vote, to approve Site Plan Application #490, subject to the Findings and twenty-seven (27) Conditions set forth in Draft Resolution #490, with the modifications to Conditions #24 and #25 as follows:

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

- “24) The four proposed above-ground-mobile heaters, and any other outdoor heating units, shall need to be listed and approved by the Fire Department. including approval for storage of the propane tanks.



25) ~~This request does not include approval for outdoor seating. Outdoor seating could subsequently be approved by the Director of Development Services. Additional parking may be required if there is a net gain of seats for the restaurant. This request includes approval for outdoor seating, subject to the approval of the layout for moving tables and chairs from inside the restaurant to the patio area at the building permit stage.~~ This request includes approval for outdoor seating, subject to the approval of the layout for moving tables and chairs from inside the restaurant to the patio area at the building permit stage.”

AYES: Committee Members Frazier, Beltran, and Chairperson McBride

NOES: None

ABSENT: None

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

There was no discussion regarding the calendar of meetings/events.

6. **ADJOURNMENT**

There being no further business, Chairperson MCBRIDE adjourned the meeting at 2:01 p.m.

Respectfully submitted,

Kim Espinosa, Secretary  
Merced City Site Plan Review Committee

APPROVED:

Scott McBride, Chairperson/  
Director of Development Services  
Merced City Site Plan Review Committee

CITY OF MERCED  
 SITE PLAN REVIEW APPLICATION  
 RESOLUTION #490

Thai Cuisine II	Expansion of fenced outdoor patio with alcohol service for a restaurant (Thai Cuisine II).
APPLICANT	PROJECT
779 E. Yosemite Avenue, Suites F and G	779 E. Yosemite Avenue, Suites F and G
ADDRESS	PROJECT SITE
Merced, CA 95348	231-180-005
CITY/STATE/ZIP	APN
(209) 631-2555	Planned Development (P-D) #48/CN
PHONE	ZONING

In accordance with Chapter 20.68 of the Merced City Zoning Ordinance, the Merced City Site Plan Review Committee considered and approved Site Plan Review Application #490 on February 17, 2022, submitted by Thai Cuisine II, applicant on behalf of Promenade Center Limited Partnership, property owner, to allow the expansion of the existing outdoor patio area, previously approved, to service the bar and restaurant. The proposed property is located at 779 East Yosemite Avenue (Suites F and G), within Planned Development (P-D) #48, with a General Plan designation of Neighborhood Commercial (CN). Said property being more particularly described as Parcel E, as shown on that certain map entitled “Parcel Map for Pearson Scott, LLC,” recorded August 29, 2005, in Volume 100, Page 24 of Parcel Maps, Merced County Records; also known as Assessor’s Parcel Number (APN) 231-180-005.

WHEREAS, the proposal is exempt from the California Environmental Quality Act (CEQA), and is in accordance with Section 15301 (a) (Exhibit E); and,

WHEREAS, the Merced City Site Plan Review Committee makes the following Findings:

- A) There are no changes proposed for the interior of the building.
- B) The subject site has approval to serve beer, wine, and distilled spirits with food (Type 47 Alcoholic Beverage Control License), per the Conditional Use Permit #1086, shown at Exhibit D.
- C) The applicant is requesting approval to install a fenced outdoor patio that would extend approximately 17 feet beyond the storefront and extend along the elevation of the Lucky Lotus and Thai Cuisine II. The metal fence will maintain the previously approved 3-foot-height and include an access gate that aligns directly with the building access door to Suite F and an additional opening to accommodate for the Thai Cuisine II restaurant access (Exhibits A and B).

- D) The applicant is requesting approval to allow alcohol consumption outdoors within the fenced patio area.
- E) The applicant is proposing to only use the patio after 9:00 pm to alleviate overcrowding from the parking lot that may occur during the day.
- F) This request does not allow the restaurant or outdoor patio area to operate as a bar or nightclub. These uses would require conditional use permit approval from the Planning Commission.
- G) The patio will be used for standing room only. Additional parking will not be required because the applicant is not proposing to provide seats within the patio area or add seats inside the restaurant (see Condition #25).
- H) Establishments at the following addresses, within the Promenade Shopping Center, hold approvals for on-site alcohol consumption: 731 E. Yosemite Ave., Ste. D., 775 E. Yosemite Ave., Ste. H, 779 Yosemite Ave., Ste. D, and 779 E. Yosemite Ave., Ste. F and G. Three establishments have received approvals for the serving of alcohol within their outdoor patio areas.
- I) Per Merced Municipal Code Section 20.68.050 – Site Plan Review Permit, the Site Plan Review Committee may approve an application for a Site Plan Review Permit only if all the following findings can be made:

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

The proposed property is zoned Planned Development (P-D) #48 with a Neighborhood Commercial (CN) designation. With the approval of the conditions within this resolution, and previous approvals for this location, the proposed project is consistent with this Zoning district and General Plan designation.

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

With approval of the conditions found within this resolution, the proposed project would comply with all applicable provisions of the Zoning Ordinance and Municipal Code.

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

With approval of the conditions found within this resolution, the building design and layout shown at Exhibit B, would not interfere with the enjoyment of existing and future neighboring properties and structures.

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

The proposed design would be consistent with the surrounding buildings and structures within the previously approved Promenade Shopping Center.

5. *Any proposed landscaping design, including color, location, size, texture, type, and coverage of plan materials, as well as provisions for irrigation, maintenance, and protection landscaping elements, will complement structures and provide an attractive environment.*

The applicant is not proposing any new landscaping with this development. The existing parking lot trees with the shopping center remain in compliance.

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

The proposal meets City standards with approval of this permit and the conditions found within this resolution. The proposed project would not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity of the proposed project.

NOW, THEREFORE, BE IT RESOLVED that the Merced City Site Plan Review Committee does approve Site Plan Review Application #490, subject to the following conditions:

- 1) All conditions contained in Site Plan Approval Resolution #79-1 (“Standard Conditions of Site Plan Approval”) shall apply.
- 2) The proposed project shall be constructed/designed as shown on Exhibit A (location map) and Exhibit B (site plan).
- 3) The applicant shall comply with the conditions set forth in Site Plan Review #437, Planning Commission Resolution #2685 for Conditional Use Permit #1033 previously approved for the *Promenade* Shopping Center and Planning Commission Resolution #2864 for Conditional Use Permit #1086 previously approved for this business.
- 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 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 plans shall be submitted for permit by a Design Professional, with work to be done by a Licensed Contractor.
- 8) The outdoor patio shall be enclosed by a minimum 3-foot-tall fence. The fence shall separate the patio area from the remainder of the shopping center. No alcoholic drinks shall be allowed outside the fenced area.
- 9) Signs shall be posted on the fence stating "No Alcohol Allowed Outside This Area." The signs shall be a maximum of 1-square-foot and shall be posted on each side of the outdoor patio area in an area visible to customers.
- 10) The metal fence shall be painted a color that matches or compliments the existing building. Fencing color samples shall be submitted to the Planning Department for approval prior to installation.
- 11) If a gate is installed, it shall not be locked during business hours. Entrance into the outdoor patio shall be kept open at all times during hours of operation. During the building permit stage, the applicant shall work with the Building and Fire Departments to determine if panic hardware will be required based on occupant load. Enough space shall be maintained outside the patio area to allow for pedestrian passage in the space between the curb and the patio fence.
- 12) No temporary signs shall be attached to the metal fence. All temporary signs shall be approved and a "Temporary Sign Permit" shall be obtained prior to installation.
- 13) An employee shall monitor the outdoor patio area at all times when alcohol is being served.

- 14) The business shall comply with all applicable rules of the California Department of Alcohol Beverage Control (ABC).
- 15) The business shall comply with all applicable requirements from the Merced County Health Department.
- 16) The City reserves the right to periodically review the area for potential problems. Should excessive calls for service or violation of these conditions of approval occur, the City may consider revocation of the Site Plan Review approval following the procedures spelled out in the Merced Municipal Code.
- 16) If new signage is installed, it shall comply with the North Merced Sign Ordinance and the Master Sign Program for the Promenade Shopping Center.
- 17) All existing landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately.
- 18) The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
- 19) Alcohol sales in the outdoor patio shall end by 10:00 p.m. or earlier.
- 20) Exterior doors shall not be propped open during business operations. If sufficient complaints are received regarding noise from music or other activities, the restaurant shall provide a means for suppressing the noise coming from the building. The means and method used to suppress noise shall be approved by the Building Department prior to installation.
- 21) Any music played over outdoor speakers in the patio area shall be kept to a minimum so as not to travel outside the immediate area around the restaurant.
- 22) Sufficient lighting shall be provided throughout the outdoor patio area. A lighting plan shall be included with the building permit application for the patio.
- 23) Receptacles for the disposal of smoldering remnants and discarded debris associated with smoking tobacco products (such as ashes and cigarette butts) shall be made available in the patio. The receptacles shall be included in the plans for the patio.
- 24) The four proposed above-ground-mobile heaters, and any other outdoor heating units, shall need to be listed and approved by the Fire Department, including approval for storage of the propane tanks.
- 25) This request includes approval for outdoor seating, subject to the approval of the layout for moving tables and chairs from inside the restaurant to the patio area at the building permit stage.
- 26) The existing Knox Box shall be relocated outside the fenced patio area so that it is accessible to emergency responders. The new location of the Knox Box shall be reviewed and approved by the Fire Department during the building permit stage.

- 27) Four feet of width shall be maintained for ADA clearance and access around the fenced area at all times.

If there are any questions concerning these conditions and recommendations, please contact Stephani Davis at (209) 385-6858.

February 17, 2022

DATE



SIGNATURE

Development Services Technician II

TITLE

Exhibits:

- A) Location Map
- B) Site Plan
- C) Site Plan Resolution #437 (including Planning Commission Resolution #2864 for CUP #1086 at Exhibit E)
- D) Notice of Categorical Exemption



ORIOLE CT

PAULSON RD

YOSEMITE AVE

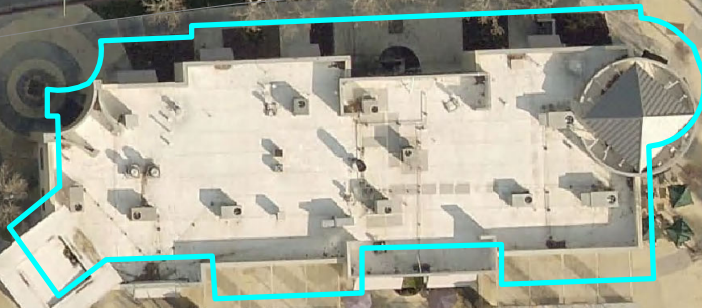


EXHIBIT A



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## Lucky Lotus

779 East Yosemite Ave, Suit F  
Merced, CA 95340  
(209) 631 - 2555

# Patio Extension Proposal

## OVERVIEW

Lucky Lotus would like to extend its outdoor patio seating & fencing to maximize the unused space wrapping around the front of the Thai Cuisine II. Funding for the project would be covered completely by Lucky Lotus. The extension would include secured above ground patio fencing compliant with the promenades ordinances along with the addition of standing-only table arrangements. The extension will be restricted to use only after 9pm to prevent overcrowding of the plaza parking lot during the day. The large tree pot located outside the premises will not have to be moved or altered. The addition would add to the communal experience that the promenade already encourages along with providing a safe dining alternative during the current pandemic and possibly future pandemics.

## GOALS

1. To extend the patio fencing an additional 28ft-9inch x 12ft-2inches along the frontside of Thai Cuisine II and continuing another 11ft x 9ft-10inches following the crease in the building's architecture to the edge of Thai Cuisine II.
2. To enrich the promenades outdoor ambiance with alternative safe dining opportunities.
3. To better prepare for the next "outdoor only" restrictions that are placed during state lockdowns.

## SPECIFICATIONS

We'll use above ground secured fencing compliant with the promenades regulations for defining the space of the patio. The fencing will begin at the current Lucky Lotus fencing and extend 8ft-2 inches along the frontside of Thai Cuisine II, have a 7ft width gap matching the width of the Thai Cuisine II double door entrance, and recontinue another 13ft and 7 inches to the corner of the currently placed flower pot. The fencing will then follow the edge of the flower pot, undisturbing its structure, and continue parallel another 11ft to the edge of Thai Cuisine II's building. There will then be two 3ft-5inch fences perpendicularly placed with a 3ft separation acting as a second entrance into the patio.

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Regarding the distance from the patio fence to the pavement curb, there will be a 8ft and 7 inch distance kept to allow people passing the outside of the patio plenty of walkspace.

Outdoor tabling will be standing-only tables placed inside the patio with 4 above-ground-mobile-heaters also present. To reiterate, the patio will not be used till after 9pm to help prevent overcrowding of the parking lot during the day.

### **Time Frame**

Beginning at earliest convenience following approval of expansion.

## Visual diagrams

Diagram 1

Floor plan including the Thai Cuisine II and Lucky Lotus's current building structure with the addition of our revised patio plan implemented. The outdoor patio will not be utilized until after 9pm to prevent overcrowding of the promenade parking lot during the day. It will have standing-only tables placed within its limits along with the addition of 4 above-ground-heaters.

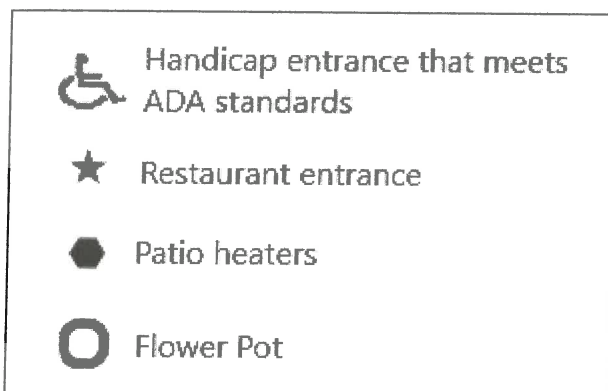
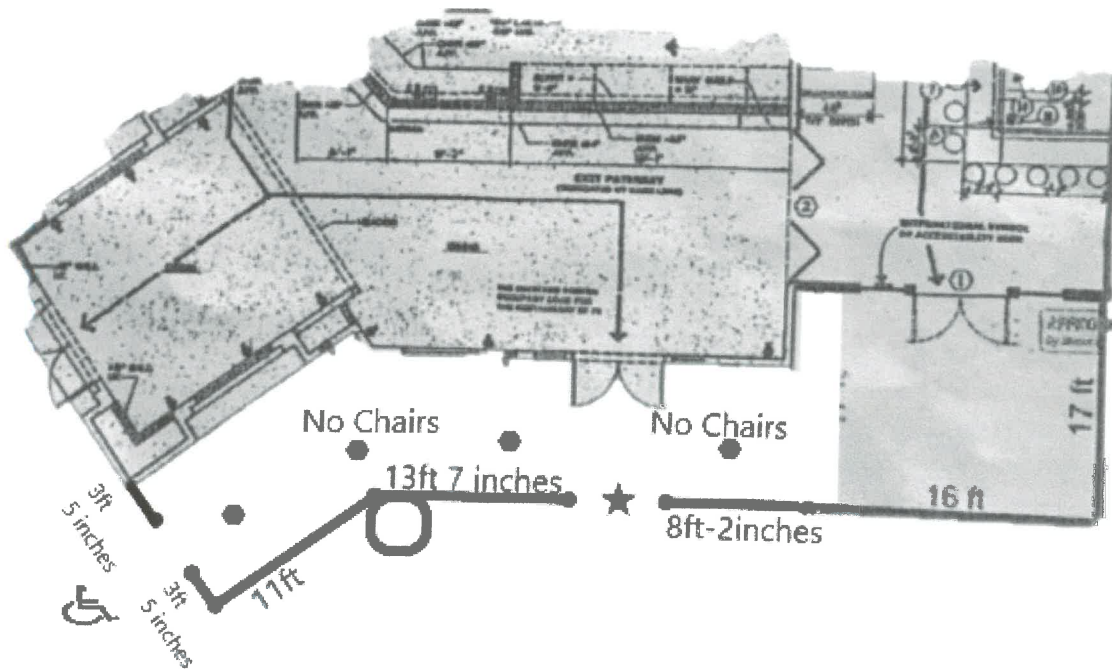


Diagram 2

Ground View of patio fencing outline.

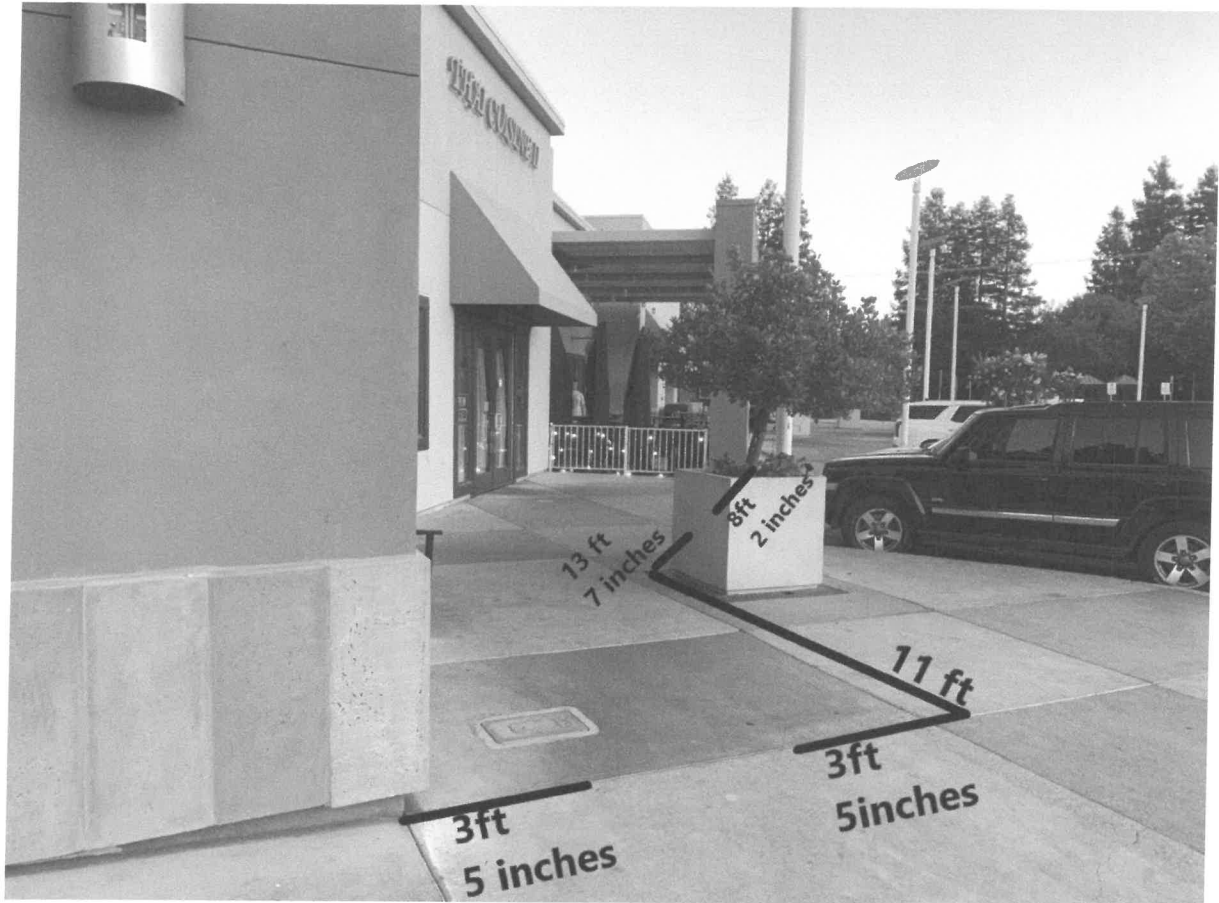


Diagram 3

Drone view showing the outline and measurements of the fencing. Two accessible entrances, both being larger than 32 inches width to meet ADA standards for wheelchair access.



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#### Diagram 4

The type of patio heaters used will be above-ground-mobile-heaters that are aesthetically appealing to the eye. The plan is to create a welcoming atmosphere that complements the promenade plaza's decor that can easily be put away at closing.



CITY OF MERCED  
 SITE PLAN REVIEW APPLICATION  
 RESOLUTION #437

Thai Cuisine II	Fenced outdoor patio with alcohol service for a restaurant (Thai Cuisine II).
APPLICANT	PROJECT
779 E. Yosemite Avenue, Suites G and F	779 E. Yosemite Avenue, Suites G and F
ADDRESS	PROJECT SITE
Merced, CA 95348	231-180-005
CITY/STATE/ZIP	APN
(209) 631-2555	Planned Development (P-D) #48
PHONE	ZONING

In accordance with Chapter 20.68 of the Merced City Zoning Ordinance, the Merced City Site Plan Review Committee considered and approved Site Plan Review Application #437 on May 16, 2019, submitted by Thai Cuisine II, applicant for Promenade Center Limited Partnership, property owner, to allow the installation of a fenced outdoor patio with alcohol service for a restaurant located at 779 East Yosemite Avenue (Suites G and F), within Planned Development (P-D) #48, with a General Plan designation of Neighborhood Commercial (CN). Said property being more particularly described as Parcel E, as shown on that certain map entitled “Parcel Map for Pearson Scott, LLC,” recorded August 29, 2005, in Volume 100, Page 24 of Parcel Maps, Merced County Records; also known as Assessor’s Parcel Number (APN) 231-180-005.

WHEREAS, the proposal is exempt from the California Environmental Quality Act (CEQA), and is in accordance with Section 15301 (a) (Exhibit F); and,

WHEREAS, the Merced City Site Plan Review Committee makes the following Findings:

- A) The proposal complies with the General Plan designation of Neighborhood Commercial (CN) and the Zoning classification of Planned Development (P-D) #48.
- B) The subject site has a conditional use permit to serve beer, wine, and distilled spirits with food (Type 47 Alcoholic Beverage Control License), per the conditions shown at Exhibit E.
- C) The applicant is requesting approval to install a fenced outdoor patio that would be 17 feet long by 16 feet wide. The metal fence would be 3-feet-tall and include an access gate that aligns directly with the building access door to Suite F (Exhibits B, C, and D).

- D) The applicant is requesting approval to allow alcohol consumption outdoors within the fenced patio area.
- E) This request does not allow the restaurant to operate as a bar or nightclub. These uses would require conditional use permit approval from the Planning Commission.
- F) The patio will be used for standing room only. Additional parking will not be required because the applicant is not proposing to provide seats within the patio area or add seats inside the restaurant (see Condition #25).
- G) There are currently several restaurants within the Promenade Shopping Center that have City approval to serve alcohol, including Agaves Mexican Grill, Turmeric Cuisine, Strings, and Wingstop. Most of these restaurants have approval to serve alcohol within their respective outdoor patios.

NOW, THEREFORE, BE IT RESOLVED that the Merced City Site Plan Review Committee does approve Site Plan Review Application #437, subject to the following conditions:

- 1) All conditions contained in Site Plan Approval Resolution #79-1 (“Standard Conditions of Site Plan Approval”) shall apply.
- 2) The proposed project shall be constructed/designed as shown on Exhibit B (site plan), Exhibit C (patio area), and Exhibit D (fence materials).
- 3) The applicant shall comply with the conditions set forth in Planning Commission Resolution #2864 for Conditional Use Permit #1086 previously approved for this business.
- 4) All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
- 5) The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of



the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

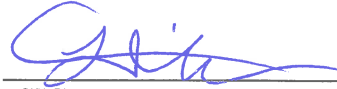
- 6) The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
- 7) The outdoor patio shall be enclosed by a minimum 3-foot-tall fence. The fence shall delineate the patio from the remainder of the shopping center. No alcoholic drinks shall be allowed outside the fenced area.
- 8) Signs shall be posted on the fence stating "No Alcohol Allowed Outside This Area." The signs shall be a maximum of 1-square-foot and shall be posted on each side of the outdoor patio area in an area visible to customers.
- 9) The metal fence shall be painted a color that matches or compliments the existing building. Fencing color samples shall be submitted to the Planning Department for approval prior to installation.
- 10) The exit gate shall not be locked when the building is occupied. Entrance into the outdoor patio shall be kept open at all times during hours of operation. The applicant shall install panic hardware on the exit gate. The width of the exit gate shall be the same size as Exit 1 shown at Exhibit B.
- 11) No temporary signs shall be attached to the metal fence. All temporary signs shall be approved and a "Temporary Sign Permit" shall be obtained prior to installation.
- 12) An employee shall monitor the outdoor patio area at all times when alcohol is being served.
- 13) The business shall comply with all applicable rules of the California Department of Alcohol Beverage Control (ABC).
- 14) The business shall comply with all applicable requirements from the Merced County Health Department.
- 15) The City reserves the right to periodically review the area for potential problems. Should excessive calls for service or violation of these conditions of approval occur, the City may consider revocation of the Site Plan Review following the procedures spelled out in the Merced Municipal Code.
- 16) If new signage is installed, it shall comply with the North Merced Sign Ordinance and the Master Sign Program for the Promenade Shopping Center.
- 17) All existing landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately.

- 18) The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
- 19) Alcohol sales in the outdoor patio shall end by 10:00 p.m. or earlier.
- 20) Exterior doors shall not be propped open during business operations. If sufficient complaints are received regarding noise from music or other activities, the restaurant shall provide a means for suppressing the noise coming from the building. The means and method used to suppress noise shall be approved by the Building Department prior to installation.
- 21) Any music played over outdoor speakers in the patio area shall be kept to a minimum so as not to travel outside the immediate area around the restaurant.
- 22) Sufficient lighting shall be provided throughout the outdoor patio area. A lighting plan shall be included with the building permit application for the patio.
- 23) Receptacles for the disposal of smoldering remnants and discarded debris associated with smoking tobacco products (such as ashes and cigarette butts) shall be made available in the patio. The receptacles shall be included in the plans for the patio.
- 24) Any outdoor heating units shall need to be listed and approved by the Fire Department.
- 25) This request does not include approval for outdoor seating. Outdoor seating could subsequently be approved by the Director of Development Services. Additional parking may be required if there is a net gain of seats for the restaurant.
- 26) The existing knox box shall be relocated outside the fenced patio area so that it is accessible to emergency responders. The new location of the knox box shall be reviewed and approved by the Fire Department during the building permit stage.
- 27) The developer/applicant shall construct and operate the project in strict compliance with approved Covenants, Conditions, and Restrictions.

If there are any questions concerning these conditions and recommendations, please contact Francisco Mendoza-Gonzalez at (209) 385-6858.

May 16, 2019

DATE



SIGNATURE

Associate Planner

TITLE

Exhibits:

- A) Location Map
- B) Site Plan
- C) Patio Area
- D) Material Example
- E) Resolution #2864 and Minutes for CUP #1086
- F) Notice of Categorical Exemption

Low Density Residential

SPARROW

PAULSON

CARDINAL

Subject Site  
(Thai Cuisine II)

St.Patrick's Church

Low Density Residential

Restaurants

ORIOLE

Starbucks

YOSEMITE

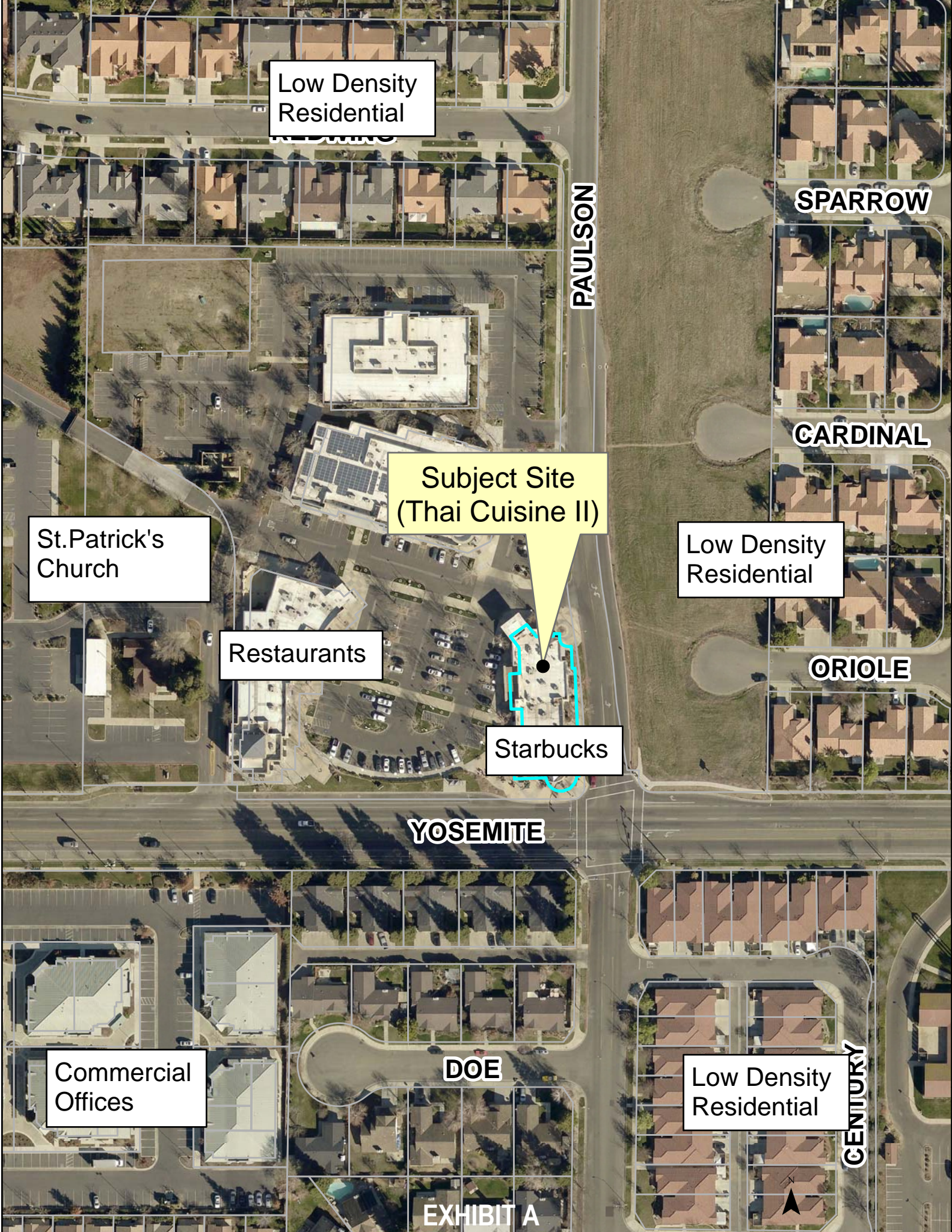
Commercial Offices

DOE

Low Density Residential

CENTURY

EXHIBIT A



**REVISED FLOOR PLAN NOTES**

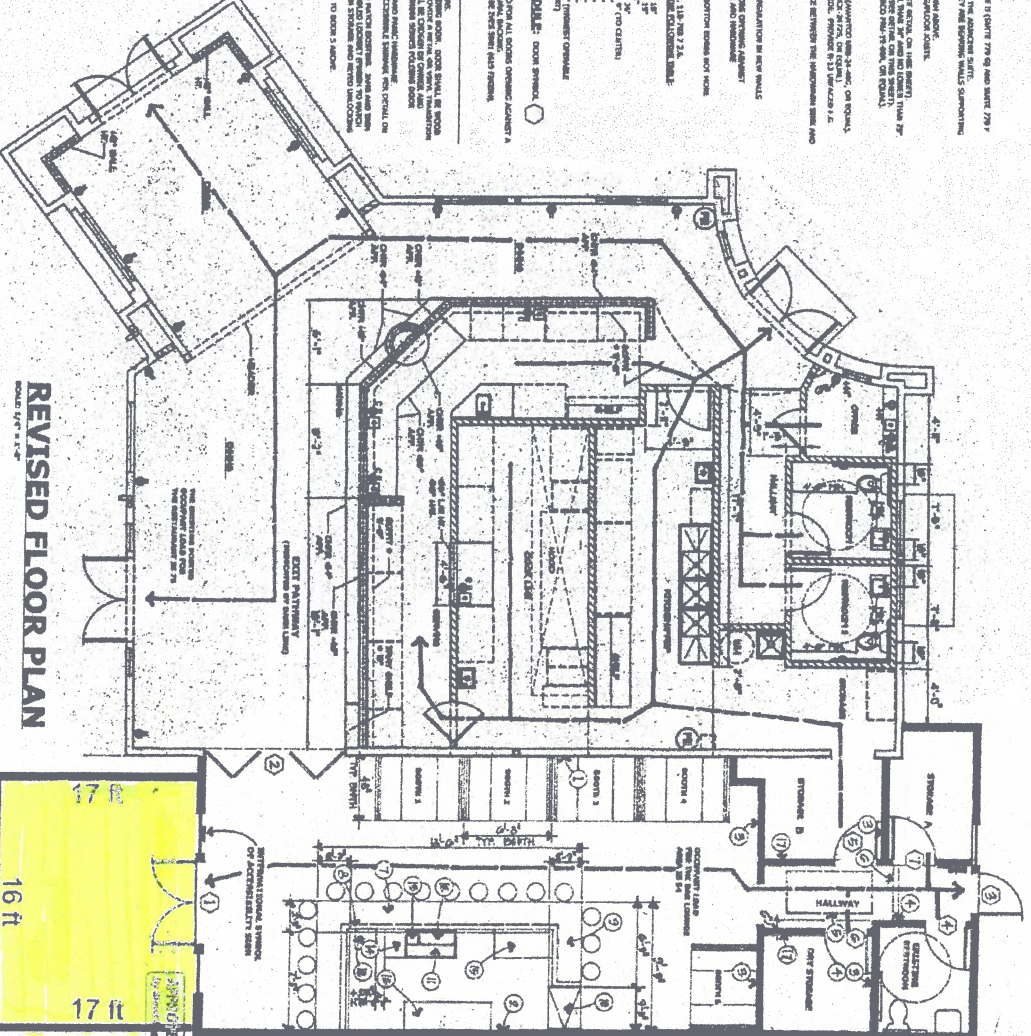
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**DOOR AND WINDOW SCHEDULE**

1. DOOR AND WINDOW SCHEDULE
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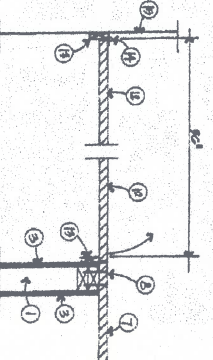
NO.	DESCRIPTION	QTY	UNIT
1	DOOR	1	EA
2	WINDOW	1	EA
3	DOOR	1	EA
4	WINDOW	1	EA
5	DOOR	1	EA
6	WINDOW	1	EA
7	DOOR	1	EA
8	WINDOW	1	EA
9	DOOR	1	EA
10	WINDOW	1	EA
11	DOOR	1	EA
12	WINDOW	1	EA
13	DOOR	1	EA
14	WINDOW	1	EA
15	DOOR	1	EA
16	WINDOW	1	EA
17	DOOR	1	EA
18	WINDOW	1	EA
19	DOOR	1	EA
20	WINDOW	1	EA

**REVISED FLOOR PLAN**



**INTERIOR FINISHES**

NO.	DESCRIPTION	QTY	UNIT
1	WALL	1	EA
2	FLOOR	1	EA
3	CEILING	1	EA
4	WALL	1	EA
5	FLOOR	1	EA
6	CEILING	1	EA
7	WALL	1	EA
8	FLOOR	1	EA
9	CEILING	1	EA
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23	FLOOR	1	EA
24	CEILING	1	EA
25	WALL	1	EA
26	FLOOR	1	EA
27	CEILING	1	EA
28	WALL	1	EA
29	FLOOR	1	EA
30	CEILING	1	EA



**THAI CUISINE II EXPANSION SUITES G AND F IN BUILDING E AT THE PROMENADE COMPLEX 779 YOSEMITE AVENUE MERCED, CALIFORNIA**

**MORGAN ARCHITECTS**  
2825 SAN JUAN COURT  
MERCED, CALIFORNIA 95340  
PHONE/FAX (209) 383-3060

**3**

**EXHIBIT B**



3 ft tall

16 ft wide

779 F

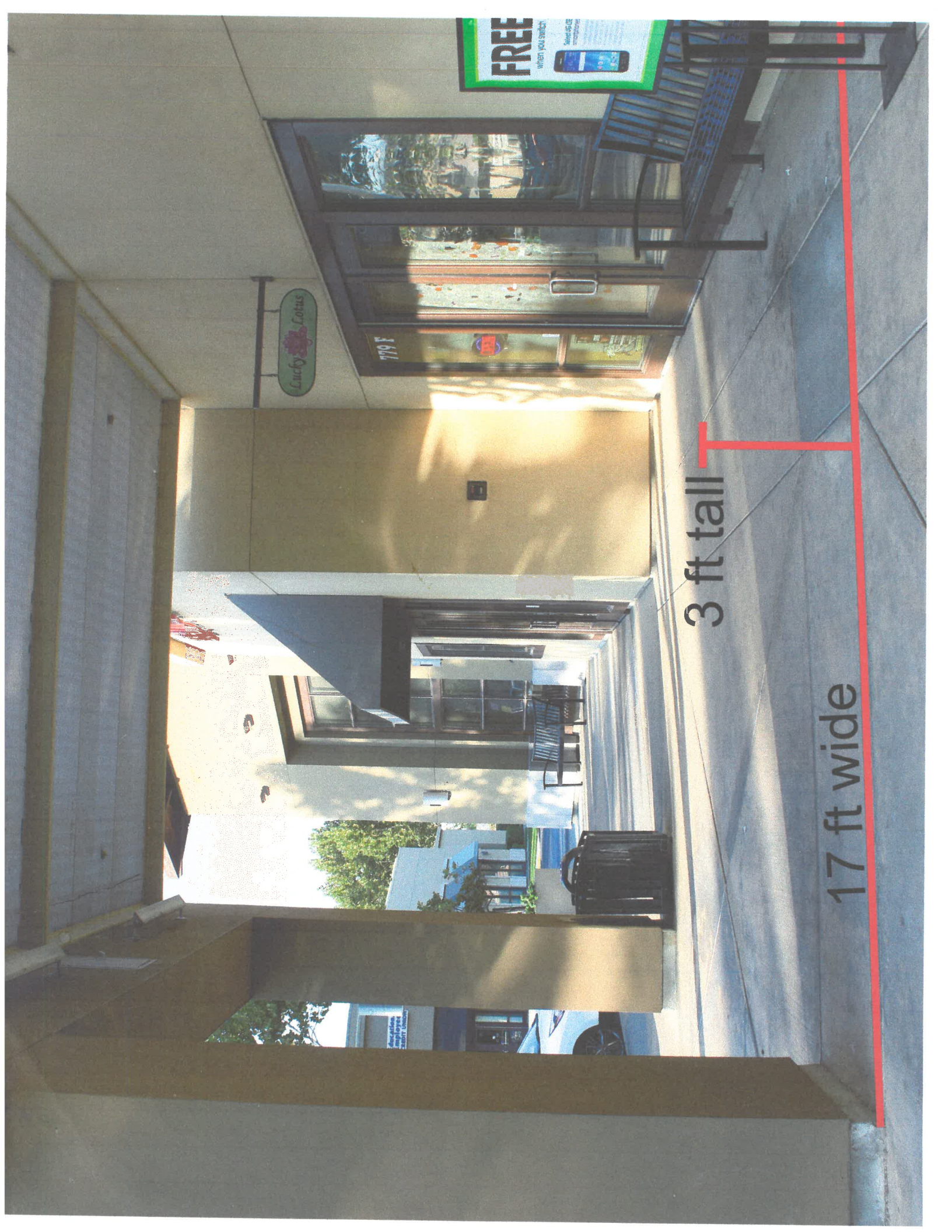
OPEN

Store Hours

EXHIBIT C

3 ft tall

17 ft wide



Lucky Lotus

779 F

FREE  
when you enroll  
Select up to  
\$1000  
\$1000

3 ft tall

17 ft wide



FINAL DAY: SPRING BLACK FRIDAY SALE + FREE PARCEL SHIPPING WITH MYLOWE'S. SHOP NOW >



Open until 10PM!  
Merced Lowe's ✓

Prices, promotions, styles, and availability may vary. Our local stores do not honor online pricing. Prices and availability of products and services are subject to change without notice. Errors will be corrected where discovered, and Lowe's reserves the right to revoke any stated offer and to correct any errors, inaccuracies or omissions including after an order has been submitted.

Item # 94481 Model # 58281333

(Actual: 2.88-ft x 7.97-ft)  
Monroe Navajo White Steel  
Decorative Metal Fence Panel

15 Ratings



100%

Recommend  
this  
product



Community  
Q&A  
View Now




In-use/lifestyle images - accessories not included  
- image shown may not be to scale

\$54.98

- Sleek 2-rail design
- Galvanized for additional rust resistance
- Durable Navajo white powder-coated finish

Manufacturer Color/Finish

 Navajo White

Feedback



FREE Store  
Pickup

- ✓ 15 available  
today at  
Merced Lowe's!



Delivery

- ✓ Delivery  
available

Aisle GC03 , Bay 3

EXHIBIT D

**CITY OF MERCED  
Planning Commission**

Amended by PC on  
4/6/2016. See pg. 4.

**Resolution #2864**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of March 8, 2006, held a public hearing and considered **Conditional Use Permit #1086**, initiated by Angela Peng, applicant for Promenade Center, Limited Partnership, property owners. This application involves a request to allow on-site sale of beer and wine within the Asian Express Restaurant, located at 779 E. Yosemite Avenue, Suite G, within the Promenade Shopping Center in Planned Development (P-D) #48 with a Neighborhood Commercial (C-N) designation; also known as Assessor's Parcel No. 231-040-009; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through D of Staff Report #06-22; and,

**WHEREAS**, 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 #06-10 and approve Conditional Use Permit #1086, subject to the following conditions:

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (floor plan) - Attachments C and D of Staff Report #06-22.
2. All conditions contained in Resolution #1249 ("Standard Conditional Use Permit Conditions") 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. The Project shall comply with the conditions set forth in Resolution #2685 for Conditional Use Permit #1033 previously approved for the *Promenade Shopping Center*.

PLANNING COMMISSION RESOLUTION #2864

Page 2 of 4

March 8, 2006/April 6, 2016

5. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
6. The developer/applicant shall indemnify, protect, defend, 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 such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
7. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
8. The City reserves the right to periodically review the area for potential problems. Should excessive calls for service or violation of these conditions of approval occur, the City may consider revocation

PLANNING COMMISSION RESOLUTION #2864

Page 3 of 4

March 8, 2006 / April 6, 2016

of the Conditional Use Permit (CUP) after a public hearing and following the procedures spelled out in the Merced Municipal Code.

9. Separate sign permits are required and shall comply with the North Merced Sign Ordinance and the Master Sign Program for the Promenade Shopping Center.

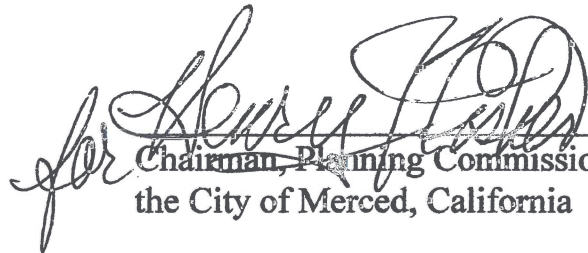
Upon motion by Commissioner Burr, seconded by Commissioner Ward, and carried by the following vote:

AYES: Commissioners Fisher, Acheson, Burr, Conte, Ward, and  
Chairman Shankland

NOES: Commissioner Arney

ABSENT: None

Adopted this 8<sup>th</sup> day of March, 2006

  
Chairman, Planning Commission of  
the City of Merced, California

ATTEST:

  
Secretary

PLANNING COMMISSION RESOLUTION #2864

Page 4 of 4

March 8, 2006/April 6, 2016

**April 6, 2016:** At their regularly scheduled meeting of April 6, 2016, the Merced City Planning Commission considered Modification to Conditional Use Permit#1086 and Environmental Review #16-06.

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through E of Staff Report #16-07; and,

**NOW THEREFORE**, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #16-06, and approve a Modification of Conditional Use Permit #1086 with the addition of Conditions #10 and #11 as follows:

10. Alcohol sales shall cease at 11:00 p.m. regardless of the business hours for the restaurant.
11. In addition to beer and wine, the restaurant shall now be allowed to sell liquor if they meet all applicable Alcoholic Beverage Control (ABC) requirements.

Upon motion by Commissioner Dylina, seconded by Chairperson Colby, and carried by the following vote:

AYES: Commissioners Baker, Dylina, Smoot, and Chairperson Colby  
NOES: Commissioner Smith  
ABSENT: Commissioners McLeod and Padilla  
ABSTAIN: None

**Planning Commission Minutes Excerpt**  
**April 6, 2016**

- 4.1 Modification to Conditional Use Permit #1086, initiated by Van Sinvongsa, applicant for Promenade Center, Limited Partnership, property owners. This application involves a request to modify an existing beer and wine ABC License to include the sale of liquor for Thai Cuisine II, located at 779 E. Yosemite Avenue, Suite G, within the Promenade Shopping Center in Planned Development (P-D) #48 with a Neighborhood Commercial (CN) designation.

Planning Manager ESPINOSA reviewed the report on this item and noted the addition of Conditions #10 and #11. For further information, refer to Staff Report #16-07.

There was no one present wishing to speak regarding this item; therefore, public testimony was opened and closed at 7:09 p.m.

M/S DYLINA-COLBY, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-06, and approve a Modification of Conditional Use Permit #1086, subject to the Findings set forth in Staff Report 16-07, the nine (9) Conditions set forth in Staff Report # 06-22, and Conditions #10 and #11 set forth in Staff Report #16-07 (RESOLUTION #2864):

(Note: New language underlined, deleted language ~~strikethrough~~)

AYES: Commissioners Baker, Dylina, Smoot, and Chairperson Colby  
NOES: Commissioner Smith  
ABSENT: Commissioners McLeod and Padilla  
ABSTAIN: None

**NOTICE OF EXEMPTION**

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To: \_\_\_\_\_ Office of Planning and Research  
P.O. Box 3044  
Sacramento, CA 95812-3044

From: **(Public Agency)**  
City of Merced  
678 West 18th St.  
Merced, CA 95340

X  County Clerk  
County of Merced  
2222 M Street  
Merced, CA 95340

**Project Title:** SP #437 (Environmental Review #19-11)

**Project Applicant:** Thai Cuisine II for Promenade Center Limited Partnership (property owner)

**Project Location (Specific):** 779 E. Yosemite Ave., Suites G and F **APN:** 231-180-005

**Project Location - City:** Merced **Project Location - County:** Merced

**Description of Nature, Purpose, and Beneficiaries of Project:** Installation of outdoor patio with alcohol service

**Name of Public Agency Approving Project:** City of Merced

**Name of Person or Agency Carrying Out Project:** Thai Cuisine II for Promenade Center Limited Partnership (property owner)

**Exempt Status:** (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State Type and Section Number: 15301 (a)
- Statutory Exemptions. State Code Number: \_\_\_\_\_.
- General Rule (Sec. 15061 (b)(3))

**Reasons why Project is Exempt:** As defined under the above referenced Section, the proposed project consists of minor interior/exterior alterations, such as installing an outdoor patio with alcohol service, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

**Lead Agency:** City of Merced

**Contact Person:** Francisco Mendoza-Gonzalez **Area Code/Telephone:** (209) 385-6858

**Signature:**  **Date:** 5-9-2019 **Title:** Planner

Signed by Lead Agency **Date Received for Filing at OPR:** \_\_\_\_\_  
(If applicable)

Authority Cited: Sections 21083 and 21110. Public Resources Code  
Reference: Sections 21108, 21152, and 21152.1. Public Resources Code

**NOTICE OF EXEMPTION**

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**To:** \_\_\_\_\_ Office of Planning and Research  
P.O. Box 3044  
Sacramento, CA 95812-3044  
Merced, CA 95340

**From: (Public Agency)**  
City of Merced  
678 West 18th St.

X  County Clerk  
County of Merced  
2222 M Street  
Merced, CA 95340

**Project Title: Site Plan Review #490 (Environmental Review #22-01)**

**Project Applicant:** Thai Cuisine II behalf of Promenade Center Limited Partnership(property owner)

**Project Location (Specific):** 779 E. Yosemite Ave, Ste F and G **APN:** 231-180-005

**Project Location - City:** Merced

**Project Location - County:** Merced

**Description of Nature, Purpose, and Beneficiaries of Project:** Expansion of existing fenced outdoor patio with alcohol service for a restaurant

**Name of Public Agency Approving Project:** City of Merced

**Name of Person or Agency Carrying Out Project:** Thai Cuisine II behalf of Promenade Center Limited Partnership(property owner)

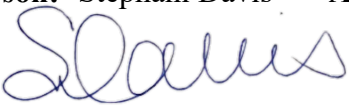
**Exempt Status:** (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- X  Categorical Exemption. State Type and Section Number:  15301 (a)
- Statutory Exemptions. State Code Number: \_\_\_\_\_.
- General Rule (Sec. 15061 (b)(3))

**Reasons why Project is Exempt:** As defined under the above referenced Section, the proposed project consists of minor interior/exterior alterations, such as installing an outdoor patio with alcohol service, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

**Lead Agency:** City of Merced

**Contact Person:** Stephani Davis **Area Code/Telephone:** (209) 385-6858

**Signature:**  **Date:** February 11, 2022

**Title:** Development Services Technician II

X  Signed by Lead Agency **Date Received for Filing at OPR:**  n/a   
(If applicable)

Authority Cited: Sections 21083 and 21110. Public Resources Code  
Reference: Sections 21108, 21152, and 21152.1. Public Resources Code