

CITY OF MERCED
SITE PLAN APPLICATION
RESOLUTION #519

DRAFT

Merced County Food Bank
APPLICANT

The construction of a “community garden” to be used strictly for educational purposes and to stock the Food Bank.
PROJECT

2000 West Olive Avenue
ADDRESS

2020 West Olive Avenue
PROJECT SITE

Merced, CA 95348
CITY/STATE/ZIP

058-220-025
APN

billg@mmcfb.org
PHONE/EMAIL

Residential (R1-6)/Industrial
ZONING

In accordance with Chapter 20.68 of the Merced City Zoning Ordinance, the Site Plan Review Committee reviewed and approved Site Plan Application #519 on May 25, 2023, submitted by William Gibbs, with the Merced County Food Bank, on behalf of Leonard Rich, for Lira LP, property owner, to allow an outdoor garden to be used strictly for instructional/educational purposes as an ancillary component to the Merced County Food Bank. The project is an approximately 1.28-acre vacant lot, generally located at the southeast corner (SEC) of State Highway 59 and West Olive Avenue, west of the Merced County Food Bank located at 2000 West Olive Avenue. The project site has an Industrial (IND) General Plan Designation and is zoned Residential (R1-6). Said property being more particularly described as Parcel 1 as shown on that Map entitled “Parcel Map for Santa Fe Land Improvement Co.,” recorded in Book 20, Page 21 of Merced County Records; also known as Assessor’s Parcel Number (APN) 058-220-025.

WHEREAS, the proposal is exempt from the California Environmental Quality Act (CEQA), and is in accordance with Section 15332 (Exhibit E); and,

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

- A) Per Table 20.08-1 Permitted Land Uses in the Residential Zoning Districts, community gardens require a conditional use permit within all residential zoning districts. The Director of Development Services has determined that, since this proposed garden is repurposing a vacant property and will only be used by the staff of the Merced County Food Bank and periodically for scheduled educational purposes, this request will not cause great impact to the

area and could be reviewed by the Site Plan Review Committee.

- B) The proposed garden will include four (4) 5-foot x 12-foot flower beds; seven (7) 4-foot x 6-foot garden beds; three (3) accessible garden beds; six (6) vertical garden beds at 5 feet tall; and three (3) picnic tables. The site will be surrounded by a cyclone fence at 7-feet tall per standards contained within Zoning Ordinance section 20.30 Walls and Fences (Condition #21).
- C) No covered structures are proposed, building permits are not required for the garden but will be required for any lighting (Condition #9).
- D) The garden will operate only while the Merced County Food Bank is open: Monday through Friday, from 8:30 a.m. to 3:00 p.m.
- E) The site of the Merced County Food Bank has a total of 25 parking stalls onsite. Staff has determined that since the main employees of the proposed garden will be the same from the Food Bank, parking can be shared for both uses. A cross-access and shared parking agreement shall be obtained and a copy provided to the City.
- F) 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.*

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 design and layout described under Finding B, and 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.*

There are no buildings proposed with this project. As described in Finding B, the project consists of gardening areas. Therefore, there is no architectural design. The proposed layout and design of the site is compatible with the area.

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.*

The subject site is a vacant lot, if landscaping is to be provided outside of the garden, 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 Municipal Code or State requirements.

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 #519, 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 as shown on Exhibit B (site plan), and Exhibit C (elevations).
3. Notwithstanding all other conditions, all construction and improvements shall be in strict accordance with Zoning, Building, and all other codes, ordinances, standards, and policies of the City of Merced.
4. 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. This may include adding a hydrant, as required by the Fire Department.

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. Applicant shall comply with all regulations found in Merced Municipal Code (MMC) Section 20.44.050 – Community Gardens.
8. Applicant shall coordinate with a certified access specialist to ensure the garden meets all accessibility requirements.
9. The applicant shall obtain building permits before constructing any structures, as required by the City Building Department.
10. If the garden will be open after sunset, the applicant shall provide lighting. Plans shall be submitted to the Building Department prior to installation and shall include an On-site Lighting Plan ensuring safety and security of the property showing parking and access areas if applicable. Plans to be reviewed by the Planning Department during the building permit process.

11. Per the City Fire Department, site design shall include at least two (2) exits located at opposite sides of the fence.
12. Applicant shall ensure a fire extinguisher is on site within the garden.
13. On-site sale of garden products shall be prohibited outside of regular distribution at the Merced County Food Bank site.
14. The proposed garden shall be maintained free of weeds, trash, and debris.
15. The site shall be maintained free of graffiti. Any graffiti shall be removed immediately.
16. No animals, including bees and fish, shall be allowed to be housed in the community garden. Only produce, plants, or flowers shall be allowed to grow in the garden. Outdoor cultivation of cannabis plants is expressly prohibited per state regulations and MMC Section 20.44.170.
17. Only non-odorous fertilizers shall be utilized on the property. Odorous crops or plants shall be prohibited or mitigated as determined by the Director of Development Services.
18. The disking of soil is prohibited, unless conducted in a manner approved by the San Joaquin Valley Air Pollution Control District.
19. Aerial spraying of pesticides or herbicides is prohibited.
20. The operating hours of the garden shall coincide with the hours of operation of the Merced County Food Bank.
21. Provided fencing shall comply with MMC Section 20.30.020 and Table 20.30-1 Fence Height in Residential Zoning Districts.
22. All lighting on site, within the garden, shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots in compliance with the California Energy Code requirements.
23. No separate permanent signage shall be allowed for the garden, temporary signs shall be allowed as approved by the Planning Division after submitting a Temporary Sign Permit. All signing shall comply with the City's Sign Ordinance. Temporary freestanding or A-frame signs are not allowed.
24. Any new landscaping installed with this project shall comply with all applicable standards and requirements found in Merced Municipal Code Section 20.36 – Landscaping.
25. Any new landscaping with this project 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. 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.

26. Minor modifications to the site plan may be approved by the Director of Development Services, or if deemed necessary, be referred to the Site Plan Review Committee.
27. The applicant shall work with the Water Division and comply with their requirements to prevent water contamination of the City's water system.

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

May 25, 2023

DATE

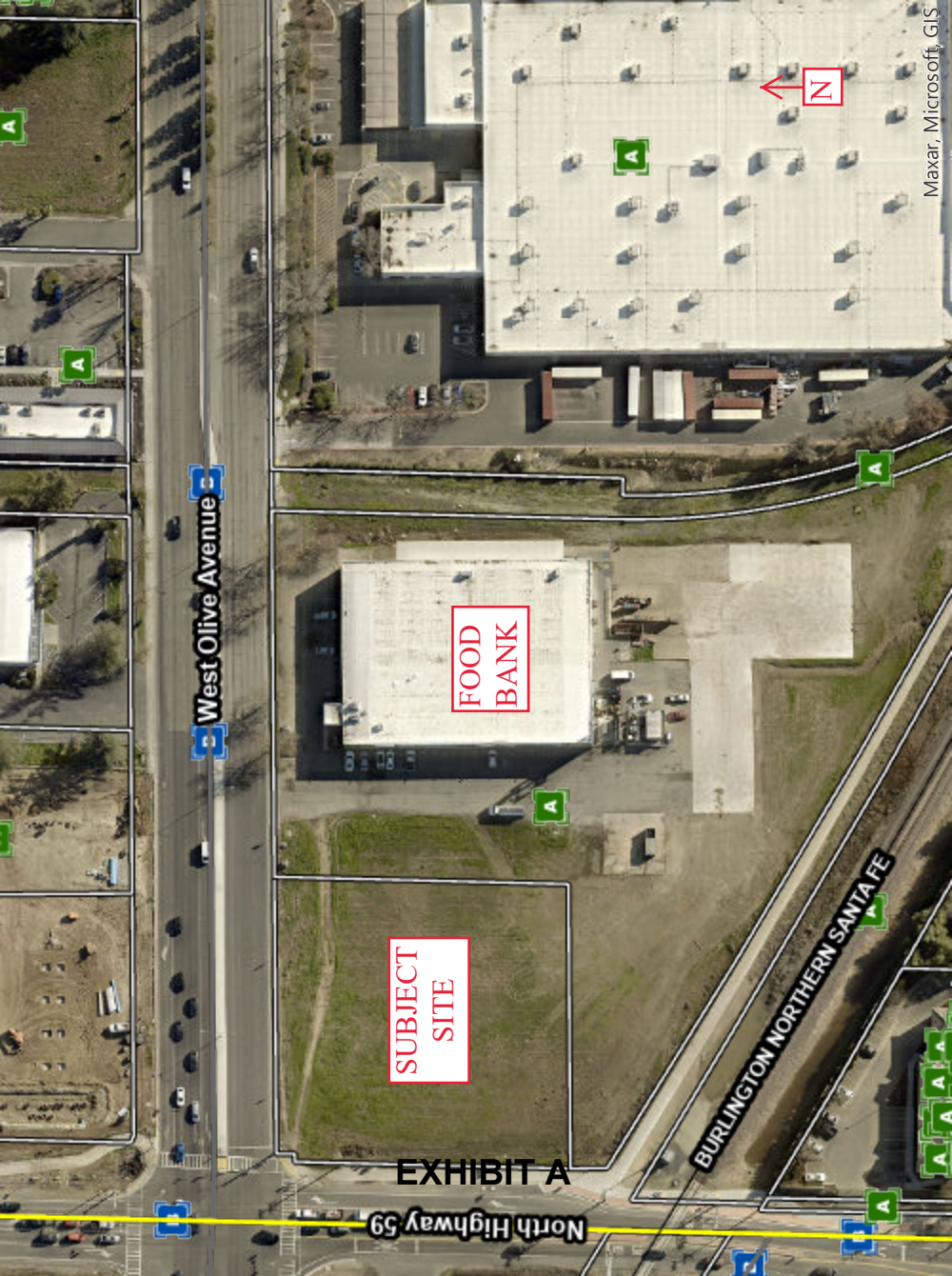
SIGNATURE

Development Services Technician II

TITLE

Exhibits

- A) Location Map
- B) Site Plan
- C) Categorical Exemption



West Olive Avenue

FOOD BANK

SUBJECT SITE

Burlington Northern Santa Fe

North Highway 59

EXHIBIT A

N

Merced County Educational Food Garden 1.00 Acre

W Olive Ave

State highway 59

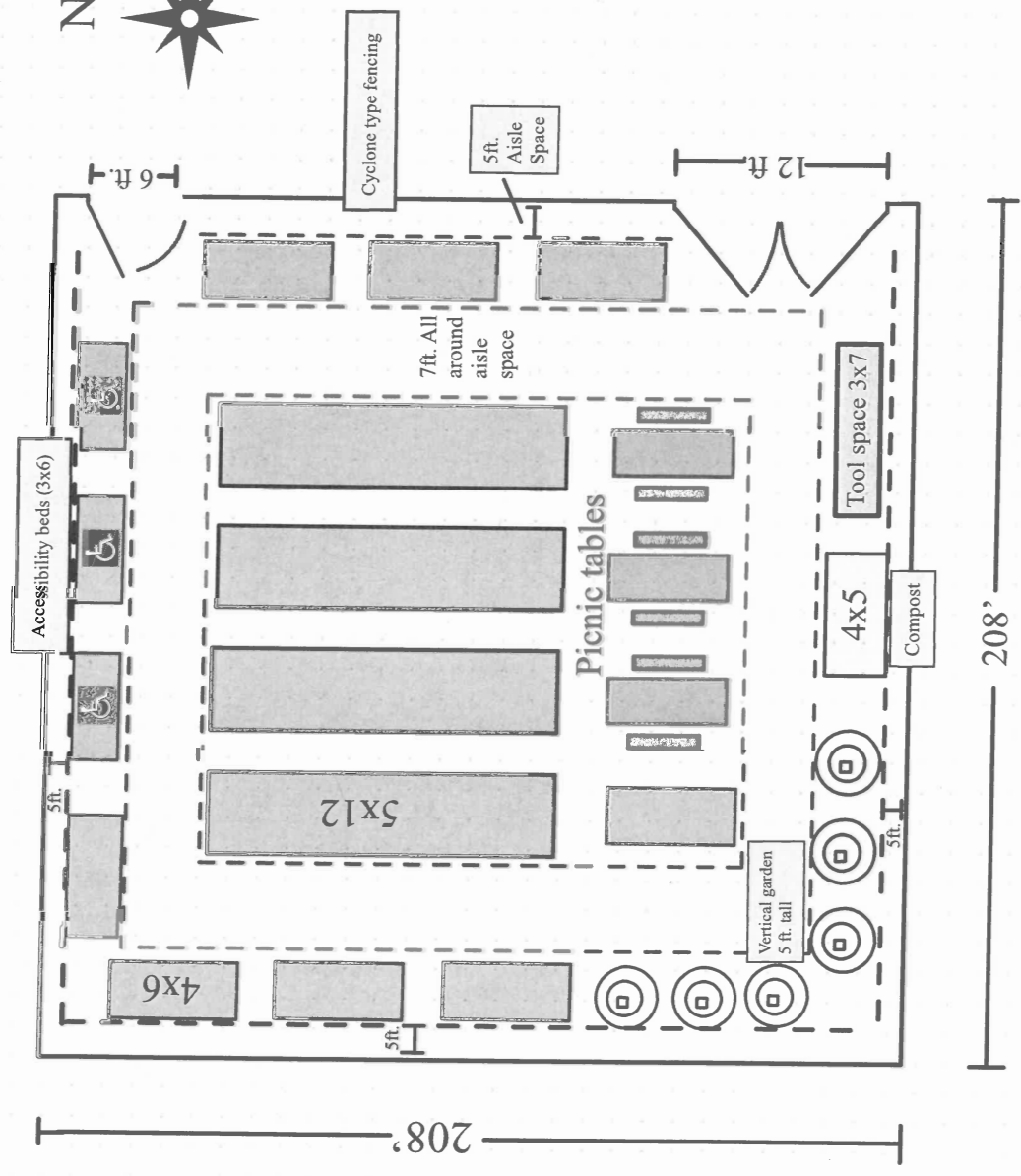


EXHIBIT B

NOTICE OF EXEMPTION

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 #519 (Environmental Review #23-13)

Project Applicant: William Gibbs on behalf of Lira, LP (Property Owners)

Project Location (Specific): 2020 W Olive Avenue **APN:** 058-220-025

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

Description of Nature, Purpose, and Beneficiaries of Project: to allow an outdoor garden to be used strictly for instructional/educational purposes as an ancillary component to the Merced County Food Bank with a General Plan designation of Industrial and a Residential (R1-6) zone.

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: William Gibbs on behalf of Lira, LP (Property Owners)

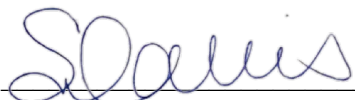
Exempt Status: (check one)

- 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: 15332
- 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 is considered an in-fill project. The project location is within the City limits on an approximately 1.28-acre parcel surrounded by urban uses. The site can be served by all required utilities and public services, and the project site has no value as habitat for endangered, rare or threated species. No significant effects resulting from traffic, noise, air quality, or water quality will result from the construction of the building. The project is consistent with the City of Merced General Plan and Zoning regulations.

Lead Agency: City of Merced

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

Signature:  **Date:** May 19, 2023

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