



COUNCIL INFORMATION REPORT

August 23, 2024

City of Merced Officially Welcomes UC Merced

The City of Merced officially welcomed the UC Merced to the city. This integration marks a significant milestone for the university and the community.

UC Merced students, faculty, and staff can expect business as usual on campus, with the university maintaining its safety services. The transition to city services, including fire protection, is ongoing, with a focus on coordination between the city and the university.

As we approach the November 5, 2024, General Election, it's important to note that residents in the newly annexed area will be eligible to vote on national, state, and county issues. However, they won't be able to vote in city-specific contests this year due to timing constraints related to the annexation. The city is working on an ordinance to update council district boundaries and will provide more details soon.

Public transportation services, such as The Bus and Cat Tracks, will continue uninterrupted, ensuring smooth connectivity for all, including the UC Merced community.

Mayor Matthew Serratto shared his excitement about this new chapter, stating, "This isn't just about expanding city limits—it's about the shared future we're creating together. Your creativity, energy, and innovation are essential to Merced's spirit, and we look forward to all that we will achieve together."

To all UC Merced students, faculty, and staff, welcome to the City of Merced. We're excited to have you as part of our community and look forward to building a memorable future together.



Pictured: Mayor Serratto, Bobcat Rufus, and UC Merced chancellor Juan Sánchez Muñoz

Thank You Mary Camper

Mary Camper's eight years as a Planning Commissioner were marked by her dedication to our city's growth. Her efforts, particularly in downtown revitalization and housing projects, focused on balancing development with sustainability and ensuring the community's voice was central. Her term ended on August 7th, and on August 21st, the city celebrated her achievements, highlighting the positive impact she has had on our community.



Pictured: Interim Development Services Director, Kim Espinosa, Mary Camper, and Planning Commission Chair, Mike Harris

Engineering at Work

Congestion Mitigation and Air Quality (CMAQ) Improvement Projects

Nottingham Sidewalks - first day of construction includes Redstone Construction Inc. and Bay Line Cutting & Coring Inc. saw cutting the curb, gutter, and driveways.



Engineering at Work

Community Park 42: The pavement in the parking lot and driveway is nearing completion.



Orchard Lane Sewer Main Replacement: Crews are currently connecting the new sewer main to the manhole on Crist Avenue.



The Merced Yosemite Airport Terminal Replacement Project is progressing with the installation of interior stud framing and exterior UltraLight Glass-Mat sheathing panels.



Merced Yosemite Airport Terminal Replacement Project:
This week workers successfully lowered the Sand Oil Separator into place.



Event starts on:
WEDNESDAY
OCTOBER 2, 2024

611 W. 22nd,
Merced, CA 95340



JOIN OUR
**COMMUNITY
ACADEMY**



Learn more about your Police Department!

- Class Activities • 10 Week Program
- Interactive hands on exercises!

Merced Police Department is hosting its Community Academy. This 10-week class is hosted twice a year. The goal of the program is to educate the community about the MPD and build trust. The academy is free to anyone who lives or works in the Merced. Participants must be at least 18 years of age to enroll.

Sgt. Rinder
 (209)388-7765
rinderb@cityofmerced.org


LEARN ABOUT :

- Hiring Process
- Community Engagement
- Training Standards
- Field Operations
- Investigations and more!

SCHEDULE:


The classes are from 6 p.m. to 9 p.m. each Wednesday night starting Oct 2nd with a week off during the Thanksgiving week and a graduation ceremony on Dec 2024!

Merced Police Department Town Hall Meeting
 Join Lieutenant Haygood on August 27th from 6 to 8 PM at Rivera Elementary School.

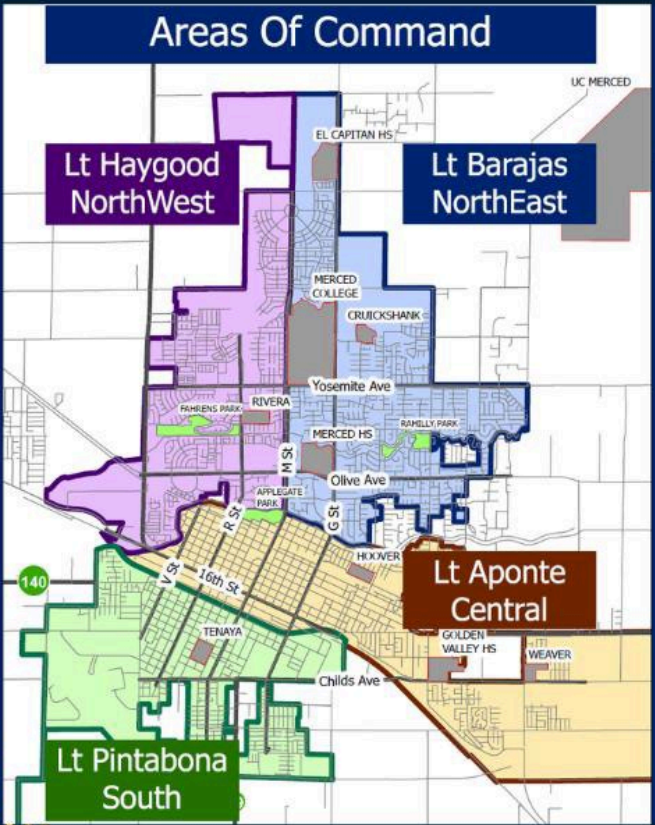


You are invited to our
**LAW ENFORCEMENT TOWN
 HALL MEETING**

MEET YOUR AREA COMMANDER



**HOSTED BY:
 LIEUTENANT HAYGOOD**




AUGUST 27TH, 2024

6:00PM- 8:00PM


Rivera Gym
 945 Buena Vista Dr,
 Merced, CA 95348

TOPICS OF DISCUSSION:

- Crime Statistics and trends in the area
- Community Policing Initiatives
- Use of Technology in Policing
- Community Feedback and Concerns




Open to the public!

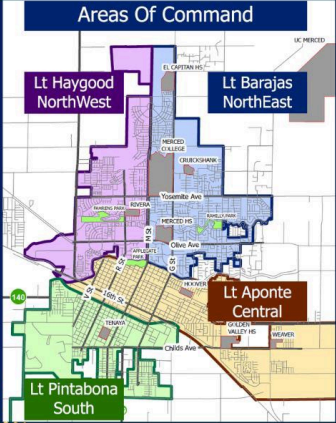


You are invited to our
**LAW ENFORCEMENT TOWN
 HALL MEETING**

MEET YOUR AREA COMMANDER



**HOSTED BY:
 LIEUTENANT BARAJAS**




SEPTEMBER 10TH, 2024

6:00PM- 8:00PM


Cruickshank Middle School
 601 Mercy Ave
 Merced, CA 95340

TOPICS OF DISCUSSION:

- Crime Statistics and trends in the area
- Community Policing Initiatives
- Use of Technology in Policing
- Community Feedback and Concerns




Open to the public!

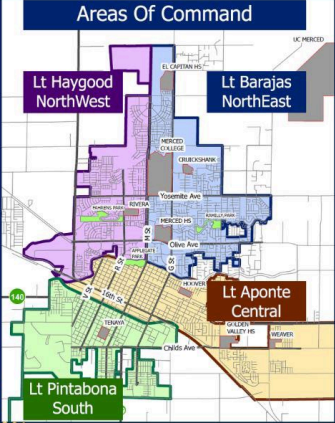


You are invited to our
**LAW ENFORCEMENT TOWN
 HALL MEETING**

MEET YOUR AREA COMMANDER



**HOSTED BY:
 LIEUTENANT APONTE**




SEPTEMBER 4TH, 2024

6:00PM- 8:00PM

Sam Pipes Room (First floor)
 678 W 8th St
 Merced, CA 95340

TOPICS OF DISCUSSION:

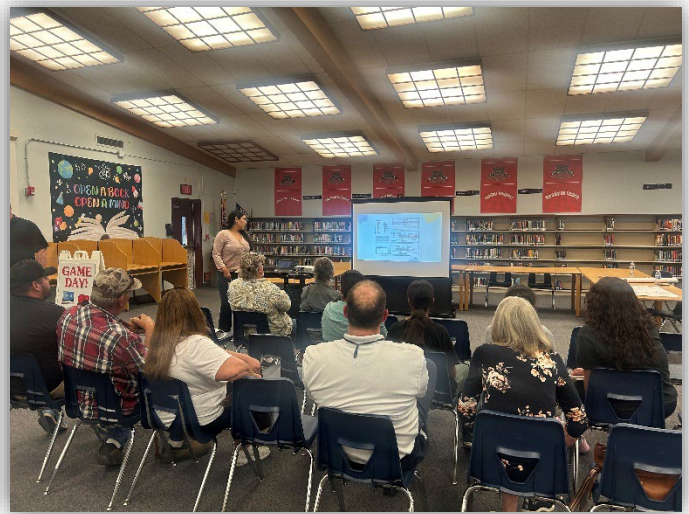
- Crime Statistics and trends in the area
- Community Policing Initiatives
- Use of Technology in Policing
- Community Feedback and Concerns



Open to the public!

Multi-Use Path Installation Project

The engineering team recently held a community outreach meeting to inform residents about the multi-use path project. The city will be installing a 15-foot-wide curb, multi-use path, and drainage swale along the existing City of Merced Right of Way. The path will extend along the north side of Childs Avenue, connecting Weaver Middle School to Golden Valley High School. Existing driveways will be replaced with new concrete ones.





4TH ANNUAL COPS FOR CRITTERS

CHIEF'S AWARD BEST DECORATED AWARD PEOPLE'S CHOICE AWARD

TRICK OR TREAT

DRESS UP AND COME HAVE FUN WITH YOUR FAMILY!

CAR SHOW

| | | |
|--------------------------|---|---|
| TIME: 10AM-2PM | REGISTRATION FEE \$30 PAY AT ENTRANCE | LOCATION: 611 W 22ND MERCED CA 95340 |
|--------------------------|---|---|

OCTOBER 26TH 2024



FOR MORE INFORMATION CONTACT:
ROSA ALCARAZ
AT ALCARAZR@CITYOFMERCED.ORG OR (209) 385-6297

Inspection Services Bi-weekly Report for August 5th, 2024, through August 18th, 2024

Single Family Dwelling (SFD) permits:

- SFD Permits Issued: **50**
- SFD Permits in Plan Review: **100**
- SFD Certificates of Occupancy: **12**

Multi-Family Dwelling (MFD) permits in review:

- Affordable housing located at 3015 Park Ave.: 57,812 SF 3 story new construction, including a 2,744 SF community building. The project will provide 65 1 bedroom, 1-bathroom units and a single 2-bedroom, 1 bathroom unit.
- Two 1,336 SF duplexes located at 103 and 107 R St.
- A 4,624 SF 4-plex located at 1125 H St.
- Emerald Village: 228 units in 18 buildings totaling 142,416 SF of living space, plus a 1,736 SF clubhouse located at 3622 N Hwy 59.
- A 2,680 SF 2 story 4-plex and a 4,020 SF 2 story 6-unit apartment both located at 40 & 30 W 13th St.
(No change since last report)

MFD permits issued:

- There were 0 multi-family dwelling permits issued during this period.
(No change since last report)

Commercial & Industrial permits issued:

- There were 0 new construction commercial permits issued during this period.
- There was 1 new tenant improvement permit issued during this period; for an interior accessible restroom at 2775 N Hwy 59.

Commercial & Industrial permits submitted:

- There were 0 new construction commercial permits submitted during this period.
- There was 1 new tenant improvement permit submitted during this period; to remove a wall and counter area at 550 W. Olive Ave.

Commercial & Industrial Certificates of Occupancy (CofOs)

- There were 0 commercial, industrial, and multi-family apartment CofOs issued for this period.

City of Merced
MEMORANDUM

DATE: August 22, 2024
TO: City Council
FROM: Kim Espinosa, Director of Development Services
SUBJECT: Actions at the Planning Commission Meeting of August 21, 2024

At their meeting of August 21, 2024, the Planning Commission heard and approved Conditional Use Permit #1279 and Minor Use Permit #24-11, to develop two four-plex units at 1250 W. 9th Street and to allow the development of a commercial lot adjacent to or across from a Low Density Residential (R-1-6) Zone.

The Commission heard and recommended approval to City Council of Zoning Ordinance Amendment #24-01, which involves changes to the Merced Zoning Ordinance to amend Merced Municipal Code Section 20.44.170 (Regulation of Commercial Cannabis Activities-Commercial Cannabis Business Permit Required).

The Commission elected Mike Harris to continue as Chairperson and Anthony Gonzalez as the new Vice Chairperson.

The Commission cancelled the meeting of September 4, 2024, due to a lack of items.

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

Attachment

n:shared:Planning:PCMemos

CITY OF MERCED
Planning Commission

Resolution #4140

WHEREAS, the Merced City Planning Commission at its regular meeting of August 21, 2024, held a public hearing and considered **Conditional Use Permit #1279 and Minor Use Permit #24-11**, initiated by Darren Warren, on behalf of Jose Ramirez, property owner. The application involves a request to develop two four-plex units on a 15,000-square-foot lot at 1250 W. 9th Street. This lot would subsequently be split in two so that each lot has one four-plex. A Minor Use Permit is required to deviate from the City’s Specific Design Standards for Multi-Family Dwellings, and for interface review to allow the development of a commercial lot adjacent to or across from a Low Density Residential (R-1-6) Zone. The subject site is generally located on the south side of 9th Street, approximately 120 feet east of T Street. The site has a General Plan designation of Neighborhood Commercial (CN) and is zoned Neighborhood Commercial (C-N); also known as Assessor’s Parcel Number (APN) 032-121-005; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through K (Exhibit B) of Staff Report #24-768 and,

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

NOW THEREFORE, after reviewing the City’s Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #24-20, and approve Conditional Use Permit #1279 and Minor Use Permit #24-11, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

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

- AYES: Commissioners Thao, Greggains, Smith, Delgadillo, Gonzalez, and Chairperson Harris
- NOES: None
- ABSENT: None
- ABSTAIN: Commissioner Ochoa

PLANNING COMMISSION RESOLUTION #4140

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August 21, 2024

Adopted this 21th day of August 2024



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:


Secretary

Attachments:

Exhibit A - Conditions of Approval

Exhibit B - Findings

Conditions of Approval
Planning Commission Resolution #4140
Conditional Use Permit #1279
Minor Use Permit #24-11

1. The proposed project shall be constructed/designed in substantial compliance with the Site Plan and Elevations (Attachments C, and D of Planning Commission Staff Report #24-768), except as modified by the conditions.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
4. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, 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

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #4140

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.

5. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
6. All buildings shall be regularly maintained to keep the building finishes in good condition and aesthetically pleasing.
7. The applicant shall install short-term and long-term bike racks equivalent to 10% of required vehicle parking spaces (with a minimum of 2 spaces) as required under MMC Section 20.38.080 – Bicycle Parking.
8. The driving aisles shall 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.
9. Fire access shall be provided to the buildings within 150 feet of all portions of the buildings from where a fire engine may be stationed. Details to be finalized with the Fire Department during the Building Permit stage.
10. 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.
11. The applicant shall work with the City's Refuse Department to determine the proper location for trash enclosure(s) and if a recycling container will be required to comply with AB 341. The container(s) shall be enclosed within refuse enclosure(s) built to City Standards. Use of compactor shall also be considered to reduce the number of pick-up requests.
12. All parking lot and building lighting 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. Any lighting on the building shall be oriented to shine downward and not spill-over onto adjacent parcels.

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #4140

13. 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 or Planning Commission for consideration, at the discretion of the Director of Development Services.
14. The landscape plan shall comply with 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.
15. 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.
16. 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. 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).
17. If the property is to be gated, 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. Vehicle stacking space for at least two vehicles shall be provided between gates and driveways in order to avoid traffic back-up on City streets.
18. The design and color of a perimeter fence shall be reviewed and approved by the Planning Department during the building permit stage.
19. The proposed shall comply with the City’s design standards for Multi-Family dwellings (MMC 20.46.030 and 20.46.040). Exceptions from individual standards shall require a Minor Use Permit.

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #4140

20. No signage shall be placed with internal illumination that shines across 9th Street where residential units are located.
21. The parking spaces at the alleyway would need to be relocated as to not hinder access of the walkway.
22. A trash enclosure must be constructed on site.
23. A lot split or certificate of compliance shall be required to split the lot into two parcels. This would require each parcel to have independent utilities (sewer, water, power, etc.).
24. Shared access into the parking or common areas could require easements and/or cross-access agreements.
25. A slurry seal shall be installed for a portion of the alley directly south of the project site (from the project site frontage to T Street). Details to be reviewed and approved by the City Engineering during the building permit stage.
26. The developer shall reach-out to the Merced Irrigation District to determine if a storm drainage agreement is required for storm drainage discharge to MID facilities.

**Findings and Considerations
Planning Commission Resolution #4140
Conditional Use Permit #1279
Minor Use Permit #24-11**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Neighborhood Commercial (CN) and the Zoning classification of Neighborhood Commercial (C-N) with approval of a Conditional Use Permit. Multi Family Dwellings requires a conditional use permit per MMC 20.10.020 – Land Use Regulations for Commercial Zoning Districts.

For the C-N Zone, the Zoning Ordinance allows a residential density of 12.1 to 24 units per acre. The proposed 8 units on 0.34 acres would have a density of 24 units per acre, which is within the allowed range for this zone.

Policy L 1.2.a Encourage Higher-Density Residential Developments within Walking distance of a Commercial Center

The proposed housing project is surrounded by commercial buildings to the east and west, which creates a walkable environment.

Policy L-3.2 Encourage Infill Development and a Compact Urban Form

The undeveloped 0.34 acre parcel has remained vacant for many decades. The subject site is surrounded by existing infrastructure such as roads, sewer, water, and power which allows development to occur within an urbanized site that prevents further sprawl and extension of infrastructure.

Public Improvements/City Services

- B) Any damaged or missing public improvements shall be repaired if the permit value of the project exceeds \$100,000.00. The need for repairs or replacement of any missing improvements would be evaluated at the building permit stage by the City's Engineering Department (Condition #5).

Site Plan

- C) The subject site consists of a rectangular lot that is approximately 150 feet long, and 50 feet wide. The existing 0.34-acre lot is undeveloped. Vehicle access would be available through an alley located immediately south of the project site that can be accessed via T Street and S Street. The alley would give vehicle access to the parking lot (11 spaces) located towards the southern portion of the project site. A pedestrian walking path would connect the parking lot to the 8 residential units located on the eastern and western portions of the parcel. The 8 residential units would be located within 2 separate single-story buildings with identical floor plans. Each unit would consist of approximately 962 square feet with 2 bedrooms and 1 bathroom.

Building Elevations

- D) As shown on Attachment D, the proposed four-plex units would be approximately 16 feet tall which would meet the allowed maximum height of 35 feet for development of a commercial lot adjacent to or across from a residential zone. The exterior of the buildings has a modern design with light gray colored exterior walls and dark roofing. The exterior wall finish with consist of stucco with board and batten accent panels on the sides of the structure.

To meet the conditions within the resolution, there is the possibility that the fourplexes would have to be 2-story structures instead of a single-story structure. If so, the proposal would need to be reviewed by the Director of Development Services and the design would need to be consistent with design and colors shown on the proposed elevations at Attachment D.

Floor Plan

- E) The proposal includes two four-plex buildings for a total of eight residential units. The proposed floor plan includes two 3,850-square-foot buildings composed of four units each with an approximate size of 962 square feet per unit. Each unit would include two bedrooms, one bathroom, a kitchen, and a family and dining area.

Parking

- F) Pursuant to Section 20.38.030 of the Merced City Municipal Code (MMC), the proposed shall provide 1.75 spaces per unit of two bedrooms for multi-family dwellings/condominiums of 30 units or less. The proposed 8 units (each 2 bedrooms/1bathroom) would require 14 parking spaces. The proposed site plan includes 14 parking spaces which satisfies the parking requirements.

Traffic/Circulation

- G) The project site is in southcentral Merced, approximately one mile from downtown, 0.75 miles from State Route 59, and about 1,730 feet south of State Route 99. The project site is bounded by local roads, with the nearest north-south arterial road being R Street, and the nearest east-west bound arterial being Childs Avenue. R Street is considered a Major Arterial Road and designed to carry large volumes of traffic traveling throughout the community. R Street also provides access to both Highway 59 and Highway 99, that connect Merced with other regional communities throughout the State.

The subject 0.34-acre site can be permitted for up to 12 units with approval of a conditional use permit. The proposed 8 units would generate a relatively minimal increase in vehicle traffic. According to Trip Generation (ITE Report), the average daily trips per unit is 6.59. At 8 units, that would total 52.72 trips per day. The Engineering Department believes that the existing street network could adequately serve this proposal.

The increase in density would result in less vehicle miles traveled (VMT) to surrounding uses, such as Tenaya Middle School, Margaret Sheehy Elementary, McNamara Park, and Golden Valley Health Centers.

Neighborhood Impact/Interface Review

- H) The subject site is located in the southern portion of Merced and is surrounded by a variety of commercial and residential uses. The immediate surroundings of the subject site, include a food market to the west, restaurant and laundromat to the east, single family residences to the north, and a church and multifamily residences to the south.

Per MMC Section 20.32 a Minor Use Permit is required for interface review. Interface review is triggered by the development of a commercially zoned lot across the street from a Low-Density Residential Zone (R-1-6). The proposal includes conditions that help this development be compatible with the single-family homes across 9th Street, which includes prohibiting future signage from having internal illumination that shines across 9th Street (Condition #20).

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

Conditional Use and Minor Use Permit Findings

- I) In order for the Planning Commission to approve or deny a conditional use and minor use permit, they must consider the following criteria and make findings to support or deny each criteria per MMC 20.68.020 (E) – Findings for Approval.

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

As shown under Finding A, the proposed project complies with the General Plan designation of Neighborhood Commercial (CN) and the zoning classification of Neighborhood Commercial (C-N) with approval of this conditional use permit and minor use permit.

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

As shown under Finding B – Site Plan, and Finding C – Building Elevations, staff believes that the location, size, design, and operating characteristics of the proposal would be compatible with existing and future land uses in the vicinity.

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

Staff does not anticipate that this proposal would be detrimental to the public health, safety, and welfare of the City. As mentioned above, the project is compatible with adjacent uses and is consistent with development standards for its zone.

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

The proposed four-plexes are properly located within the City and adequately served by existing or planned services and infrastructure such as street access, sewer connections, water connections, and other utilities.

Multi-Family Residential Design Standards

- J) The development shall comply with MMC Section 20.46.030 – General Design Standards for Multi-Family Dwellings and MMC Section 20.46.040 – Specific Standards for Multi-Family Dwellings as shown at Attachment F. Exceptions from individual standards may be granted through a subsequent minor use permit.

Environmental Clearance

- K) Planning staff conducted an environmental review (Environmental Review #24-20) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (no further environmental review is required) is being recommended (Attachment G of Staff Report #24-768).

CITY OF MERCED
Planning Commission

Resolution #4139

WHEREAS, the Merced City Planning Commission at its regular meeting of August 21, 2024, held a public hearing and considered **Zoning Ordinance Amendment #24-01**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.44.170 (Regulation of Commercial Cannabis Activities – Commercial Cannabis Business Permit Required) clarifying the process to amend or provide supplemental application materials, clarifying the responsibility of the applicant relative to meeting the requirements of the Selection Criteria, clarifying the process to correct potential scoring errors, clarifying the Qualified Commercial Cannabis Business Application List timelines and clarifying the process if there is a failure for a business to meet the clarified timeline and various other amendments; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through D of Staff Report #24-808 (Exhibit A); and,

NOW THEREFORE, after reviewing the City’s Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #24-21, and approval of Zoning Ordinance Amendment #24-01, as outlined in Exhibit B and subject to the Findings set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioners Thao, Greggains, Smith, Delgadillo, Ochoa, Gonzalez, and Chairperson Harris

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4139

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August 21, 2024

Adopted this 21st day of August 2024



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Exhibits:

Exhibit A –Findings/Considerations

Exhibit B—Draft Ordinance

Findings and Considerations
Planning Commission Resolution #4139
Zoning Ordinance Amendment #24-01

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed zoning ordinance amendment would make changes to the City's Merced Municipal Code (MMC) Section 20.44.170 (Commercial Cannabis Businesses), per the directive of the City Council. General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning Ordinance as needed.

Proposed Changes to Zoning Ordinance

- B) The ordinance changes are contained in the Draft Ordinance at Exhibit B of Planning Commission Resolution #4139 (Attachment A of Planning Commission Staff Report #24-808) and presented in redline form at Attachment B of Planning Commission Staff Report #24-808. In general, the changes can be summarized as follows:
- 1) Section 20.44.170(L)(1)(e) would add new text in the section allowing the applicant, after notification of a discrepancy, to amend or supplement the Merit-Based Selection Criteria information as well as other information currently outlined in the Ordinance within 10 days of notification.
 - 2) Section 20.44.170(L)(1)(f)(vii) would add a section clarifying the applicant's responsibility to include and clearly label the Selection Criteria in the application and any information that addresses the most recently adopted Merit-Based Scoring system Selection Criteria.
 - 3) Section 20.44.170(L)(1)(g)(iv) would add text allowing the Director of Development Services within 10 days of the rankings being released, the option to correct any errors in the calculation of the average score.
 - 4) Section 20.44.170(L)(1)(g)(iv)(a) would add text clarifying that the qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on August 19, 2022, shall be subject

to the timelines established in this code.

- 5) Section 20.44.170(L)(1)(1)(g)(iv)(c) would add text allowing the List mentioned above to be active until the last available Commercial Cannabis Business Retail Permit becomes operational and opens for business.
- 6) Section 20.44.170(L)(1)(1)(g)(iv)(d) would add a section clarifying the process should a Commercial Cannabis Business Retail Permit fail to become operational and open for business.

Time Frames

- C) If recommended for approval by the Planning Commission on August 21, 2024, the Ordinance revisions would be scheduled for a City Council public hearing on September 16, 2024. A second reading and adoption would follow on October 7, 2024, with the Ordinance being effective 30 days later on or about November 6, 2024.

Environmental Clearance

- D) Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a *Categorical Exemption* is being recommended (see Attachment D of Staff Report #24-808).

Excerpts from MMC 20.44.170 (Commercial Cannabis Business Permits) (starting on page 168T)

L. Commercial Cannabis Business Permit Selection Process

1. Selection Process for Dispensaries/Retail Sales (Limited Number of Permits Available)

- a. The Commercial Cannabis Business Permit selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed for completeness by the Director of Development Services or designee.
- b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.

Limited # Available

c. The City of Merced has established a ~~merit-based~~merit-based scoring system to objectively award permits as described in the application documents in Phase 2 to be used in the event that there are more applications than there are Commercial Cannabis Business Permits for a specific license type, such as for retail dispensaries.

d. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the 'Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales' and shall be notified in writing that they are a 'Qualified Commercial Cannabis Business Applicant- Dispensaries/Retail Sales'. The qualified applicants will be entered into the Phase 2 review process.

- e. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have 10 calendar

days from receipt of notice to correct the deficiency or to amend or supplement the information that addresses the Merit-Based Selection Criteria (to be done solely at the applicant's discretion as City staff will not be responsible for pointing out any deficiencies in the materials that address the Merit-Based Selection Criteria). Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the Director of Development Services decision.

f. **Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 1 - Initial Review.**

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the 'Qualified Applicant List for Dispensaries/Retail Sales' and entered into the Phase 2 review process. These requirements include but are not limited to:



- i. All Application documents required in the City's Phase 1 application package;
- ii. Application was submitted during the application period;
- iii. Application forms are filled out completely;
- iv. Business Owner(s)/Applicant(s) referenced on the application provide a Live Scan that was conducted within 14 days prior to submitting the application;
- v. Phase 1 application fee is paid; and,
- vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.
- vi-vii. It is the applicant's responsibility to include and to clearly label (with the specific section number and letter of the selection criteria) in the application any information that addresses the Merit-Based Scoring System Selection Criteria most recently adopted by City Council Resolution. City staff will not evaluate this information or point out any deficiencies in this area of the application in this initial completeness phase.

g. **Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection - Phase 2 - Final Review and Scoring.**

Phase 2 requirements include, but are not limited to:

- i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:
 - a) Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;
 - b) Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or
 - c) Any material misrepresentation made by the applicant in the application for a Commercial Cannabis Business Permit.

In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within (10) ten days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the Chief of Police shall be final and there shall be no further right to appeal said decision.

- ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.

- iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the following:



- a) The use is permitted in the Zoning District;
- b) The location of the cannabis business meets the distance requirements from sensitive uses;
- c) All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;
- d) No zoning violations exist on the property;
- e) A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning

Department for the property location the commercial cannabis business will occupy; and,

- f) The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.

- iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and the aforementioned information, will convene a Selection Panel composed of the City Manager, Chief of Police, and the Director of Development Services, or their designees. The Selection Panel will review all application documents required in the City's Phase 1 application package plus an additional background check of all owners conducted to the satisfaction of the Chief of Police, and individually score each application in accordance with the [merit-based merit-based](#) scoring system established by Resolution of the City Council. A complete description of the [merit-based merit-based](#) system and all merit based considerations shall be included with the application forms. An average score for each applicant based upon the [merit-based merit-based](#) scoring of the Selection Panel shall be calculated and the applications shall be ranked from highest to lowest in accordance with the average score. [The Director of Development Services may correct any clerical or mathematical errors in the calculation of the average score and the rankings within 10 days of the rankings being released or the rankings being re-released upon the availability of a permit.](#) The applications, in order of ranking, shall then be placed on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail Sales in the order of ranking. The Selection Panel will recommend the highest ranked applicant(s) on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail to the Planning Commission for the issuance of a Commercial Cannabis Business Permit – Dispensaries/Retail Sales. The number of applicants recommended to the Planning Commission by the Selection Panel shall be the same number of Commercial Cannabis Business Permits – Dispensaries/Retail Sales then available. Any element of an application that provided a successful applicant with points on the merit-based scoring system is subject to review and inspection by the City, which may include self-certification by the licensed business, on-site inspection, or other methods of enforcement.



a) The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on September 20, 2018, shall have no further force and effect after September 20, ~~2019~~2019, and the City shall have no further obligations to applicants on said list. The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on August 19, 2022, shall be subject to the timelines established in MMC 20.44 170 (L)(1)(g)(iv)(c).

b) Should a Commercial Cannabis Business Permit-Dispensaries/Retail become available after September 20, 2019, whether by creation of a new permit or by vacancy of an existing permit, then a new application period shall be opened as provided in Section 20.44.170(L)(I).

c) The Qualified Commercial Cannabis Business Application List-Dispensaries/Retail shall be valid for a period not to exceed one year from the date the last available Commercial Cannabis Business Permit- Dispensaries/Retail ~~is~~ issued by the Planning Commission or issued by the City Council on appeal becomes operational and opens for business to the public. The City shall have no further obligations to applicants on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail after one year has elapsed since the last available Commercial Cannabis Business Permit became operational~~was issued~~.

e)d) If a business with an approved retail permit fails to become operational within the time required by (MMC 20.44 170 (L)(1)(g)(iv)(c)), and after confirmation by the Development Services Director of the previously-determined average scores and rankings of the remaining applicants by the Selection Panel, the top-ranked business on the Qualified Commercial Cannabis Business Application List-Dispensaries/Retail will be considered for the available permit by the Planning Commission. The considered business must undergo updated Phase 2 screening prior to public hearings.

**h. Commercial Cannabis Business Permit-Dispensaries/Retail Sales Selection
- Phase 2 – Planning Commission**

The Planning Commission will review the Commercial Cannabis Business Permit-Dispensaries/Retail Sales application(s) recommended by the Selection Panel as provided herein, and all other relevant information, and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit- Dispensaries/Retail Sales, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit- Dispensaries/Retails Sales shall be issued otherwise.



2. Selection Process for All Other Commercial Cannabis Business Permits (No Limits On the Number of Permits Available)



- a. The Commercial Cannabis Business Permit-All Other Cannabis Businesses selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed for completeness by the Director of Development Services or designee.
- b. A pre-application conference with the Director of Development Services is strongly encouraged. A pre-application conference can be scheduled by calling 209-385-6858 during regular City of Merced business hours.
- c. The initial application period shall be 21 calendar days from the date the applications are released. Should the 21st day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the Director of Development Services or designee shall stop accepting applications and review all applications received as described in Phase 1. The Director of Development Services or designee will evaluate the applications received and determine the eligibility of each application. Each application that is complete and in compliance with the application requirements in Phase 1 shall be placed on the 'Qualified Commercial Cannabis Business Application List-All Other Cannabis Businesses' and shall be notified in writing that they are a 'Qualified

Commercial Cannabis Business Applicant-All Other Cannabis Businesses'. The qualified applicants will be entered into the Phase 2 review process. The Director of Development Services shall maintain the 'Qualified Application List for All Other Cannabis Businesses'.

- d. If any of the items listed in the application process are not met, the Director of Development Services shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have 10 calendar



days from receipt of notice to correct the deficiency. Should the 10th day fall on a day when City Hall is closed, the correction period shall be extended to the next open day at 4:00 p.m. If the deficiency is not corrected within 10 calendar days, the Director of Development Services may deny the permit and notify the applicant of this

determination in writing within 10 calendar days following the Director of Development Services decision. A new application, with new fees, would then be required for any subsequent consideration of that same or similar proposal at the same location.

- e. **Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 1 - Initial Review**

The Director of Development Services or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements and be placed on the 'Qualified Applicant List for All Other Cannabis Businesses' and entered into the Phase 2 review process. These requirements include, but are not limited to:

- i. All Application documents required in the City's Phase 1 application package;
- ii. Application was submitted during the application period;
- iii. Application forms are filled out completely;
- iv. Business Owner(s) | Applicant(s) referenced on the application provides a Live Scan that was conducted within 14 days prior to submitting the application;
- v. Phase 1 application fee is paid; and,
- vi. A signed statement that the proposed location of the commercial cannabis business on the application meets the zoning criteria established in this ordinance including, but not limited to, any and all sensitive use separation criteria required by this ordinance.

- f. **Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 2 - Final Review**

Phase 2 requirements include, but are not limited to:

- i. Phase 2 application fee is paid and a comprehensive background check of any person or entity holding an ownership interest of 5% or more, is completed to the satisfaction of the Chief of Police. Upon completion of the comprehensive background check, the Chief of Police shall have the discretion to disqualify an applicant if any of the following are discovered:
 - a) Any civil judgment(s) against any owner for torts involving dishonesty, including, but not limited to, fraud, embezzlement, theft, and breach of fiduciary duties;
 - b) Any outstanding liens and/or judgments against any owner for unpaid state, federal, or local taxes; or
 - c) Any material misrepresentation by the applicant in the application for a Commercial Cannabis Business Permit.



In the event an applicant is disqualified by the Chief of Police as provided herein, the applicant shall be given written notice of the disqualification within ten (10) days of such decision. Thereafter, the application will be removed from the Phase 2 process. The decision of the Chief of Police shall be final and there shall be no further right to appeal said decision.

- ii. The Building Official or designee has inspected all structures in which the use is located to determine that all applicable standards and requirements are met. If a building permit is required for site improvements, Permit issuance will be deferred until a certificate of occupancy or other building permit approval is issued. Additionally, the Building Official has determined that there are no notices of nuisance or other code compliance issues recorded or on the property.
- iii. The Zoning Administrator or designee has issued a Provisional Zoning Clearance documenting compliance with the following:
 - a) The use is permitted in the Zoning District;
 - b) The use meets the distance requirements from sensitive uses;
 - c) All land use permits, if any, have been approved and all conditions of approval have been met or are in good standing;
 - d) No zoning violations exist on the property;

- e) A planning and/or building permit with a receipt proving payment for processing from the City of Merced Planning Department for the property location the commercial cannabis business will occupy; and,
 - f) The Provisional Zoning Clearance shall be subject to final approval by the Planning Commission.
- iv. The Director of Development Services or designee, after reviewing the applications approved in Phase 1 and reviewing the foregoing information will make a recommendation to the Planning Commission to approve or reject the application for the Commercial Cannabis Business Permit for All Other Cannabis Businesses.
- g. **Commercial Cannabis Business Permit-All Other Cannabis Businesses Selection - Phase 2 – Planning Commission**

The Planning Commission will review the Commercial Cannabis Business applications for All Other Cannabis Businesses recommended by the Director of Development Services and all other relevant information and determine if a CCBP should be granted, granted with conditions, denied, or modified. Prior to issuing a Commercial Cannabis Business Permit for All Other Cannabis Businesses, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through Sections 20.70.040. No Commercial Cannabis Business Permit shall be issued otherwise.



3. Minor Modifications to Pending Application for Commercial Cannabis Business Permit (All Types).

- a. Applicants may make a written request to the Director of Development Services for a minor modification to a Commercial Cannabis Business Permit application at any point in the application process.
- b. The Director of Development Services shall have the discretion to approve minor modifications to the application. Minor modifications to an application include, but are not limited to, the following:

- i. A change to the name of the proposed business and/or entity;



- ii. A change in the organizational structure of a proposed business;

- iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the costs for investigation, and must meet the requirements of Section 20.44.170(E)(1)(e);

- iv. A change in building elevations, floor plans, or site plans;

- v. A change in operational procedures or security plans or procedures;

- vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.

- c. The Director of Development Services will review any proposed modifications to the application and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

4. Appeal of Approval or Denial of Commercial Cannabis Business Permit (All Types)

The Planning Commission will review the Commercial Cannabis Business applications and all other relevant information, and determine if a CCBP should be granted, as provided in Sections 20.44.170(L)(1)(h) and 20.44.170(L)(2)(g) herein. If the Planning Commission determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. Any decision of the Planning Commission may be appealed to the City Council.

- a. A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.
- b. When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(4)(d).
- c. Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
- d. Any interested person may appear and be heard regarding the appeal.
- e. A matter being heard on appeal may be continued for good cause.
- f. The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant deny, modify, or hold in abeyance per MMC 20.44.170(L)(4)(g) the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.
- g. If the City Council wishes to consider a change in location for a retail cannabis dispensary permit under appeal based on its location only, the City Council may agree to hold the appeal in abeyance while the permit applicant is given an opportunity to submit an application within 120 days to the Director of Development Services at no additional cost for a retail cannabis permit at a new location which meets all the requirements of the City's ordinance, including the distance from sensitive uses, and would be eligible for at least the same amount of Merit-Based non-discretionary points based on location per MMC 20.44.170(L)(1)(g)(4) per the determination of the Director of Development Services. If no application for the change in location is submitted within 120 days, the appeal shall be returned to the City Council for further action within 30 days. If an application for change in location is submitted, the Director of Development Services shall schedule a public hearing before the Planning Commission to be held within 60 days of the application submittal regarding the change in location only for the Planning Commission to make a recommendation to the City Council on whether the change in location should be approved. Within 60 days of the Planning Commission hearing on this matter, the change in location and the appeal that has been held in abeyance shall be scheduled and heard at a



public hearing before the City Council. At the conclusion of the hearing, the City Council shall make its own determination to grant or deny the appeal, and to approve or deny the permit and/or the change in location. The City shall provide all public notices and conduct all public hearings as described in the City of Merced Municipal Code Section 20.70.010 through 20.70.040.

5. Commercial Cannabis Business Permit Annual Renewal (All Types)

- a. Applications for the renewal of a permit shall be filed with the Director of Development Services at least sixty (60) calendar days before the expiration of the current permit. Any permittee allowing their permit to lapse or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.

b.a. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the



Director of Development Services who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this Section. An applicant shall be required to update the information contained in their original permit application and provide any new and/or additional information as may be reasonably required by the Director of Development

Services in order to determine whether said permit should be renewed. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review, will review all Commercial Cannabis Business renewal applications and all other relevant information, and determine if a renewal CCBP should be granted.

e.b. The Director of Development Services or designee may deny the annual renewal of a Commercial Cannabis Business Permit if the permittee or the permittee's agent or employee has committed any one of the following acts:

- i. Any act which would be considered a ground for denial of the permit in the first instance;
- ii. Violates any other provision of this section or any City of Merced or State law, statute, rule or regulation relating to the business's permitted activity;
- iii. Engages in or permits misconduct substantially related to the qualifications, functions, or duties of the permittee;
- iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public;

- v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business;
- vi. Violates or fails to comply with the terms and conditions of the permit;
or,
- vii. Fails to pay all applicable City, State, or Federal taxes and fees.

6. Appeal of Denial of Commercial Cannabis Business Permit Renewal (All Types)

- a. The Development Services Director, in consultation with the Selection Panel if they were involved in the original review, will review all Commercial



Cannabis Business renewal applications and all other relevant information, and determine if a renewal CCBP should be granted. If the Development Services Director determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have fourteen (14) calendar days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended permit application, the Development Services Director will approve or deny the permit by providing written notice to the applicant.

- b. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.
- i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(6)(b)(v).
 - ii. Notice of the hearing shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
 - iii. Any interested person may appear and be heard regarding the appeal.
 - iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de nova review.

- v. A matter being heard on appeal may be continued for good cause.
- vi. The decision of the Planning Commission may be appealed to the City Council.
 - a) A written appeal shall be filed within five (5) business days (excluding official City holidays) following a Planning Commission decision.
 - b) When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(6)(b)(vi)(e).
 - c) Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
 - d) Any interested person may appear and be heard regarding the appeal.
 - e) A matter being heard on appeal may be continued for good cause.
 - f) The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.



7. Modifications to Commercial Cannabis Business Permit (All Types)

- a. A Commercial Cannabis Permit holder may make a written request to the Director of Development Services for modification of an existing permit at any time.
- b. The Director of Development Services shall have the discretion to approve minor modifications to the permit. Minor modifications to an application include, but are not limited to, the following:

- i. A change to the name of the proposed business and/or entity;
- ii. A change in the organizational structure of a proposed business;
- iii. A change of owner or ownership interest, provided that any change in ownership affecting a financial interest of 5% or more shall require a new and separate background investigation, payment of fees for the

costs for investigation in accordance with 20.44.170(O)(7), and must meet the requirements of Section 20.44.170(E)(1)(e). Any business approved after November 3, 2021, that is awarded points on the merit-based selection criteria for local ownership shall not be approved for any request for minor modification that proposes to reduce local ownership below the minimum threshold for which points were awarded in the first place; those businesses awarded prior to November 3, 2021 are exempt from these requirements;

- iv. A change in building elevations, floor plans, or site plans;
 - v. A change in operational procedures or security plans or procedures;
 - vi. Modifications to the parcel upon which the proposed Commercial Cannabis Business will be located, provided that the modifications do not otherwise render the parcel nonconforming to the underlying zoning district standards.
- c. Any change to the location of a Commercial Cannabis Business after issuance of a Commercial Cannabis Business Permit may require a new application with payment of associated fees, at the discretion of the Director of Development Services. Any change to the location of a Commercial Cannabis Business shall be subject to approval by the Planning Commission. Prior to approval of a change in location of a Commercial Cannabis Business, the Planning Commission will provide all public notices and conduct a public hearing as described in the City of Merced Municipal Code Section 20.70.010 through 20.70.040.
- d. The Director of Development Services will review any requests for modifications to the permit and shall provide a written determination within thirty (30) days from the day the written request is received by the City. The decision of the Director of Development Services shall be final and there shall be no further right to appeal.

8. Revocation of Commercial Cannabis Business Permit (All Types)

- a. The Director of Development Services or designee may suspend or revoke a Commercial Cannabis Business Permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:
- i. Any act which would be considered a ground for denial of the permit in the first instance.



- ii. Violates any other provision of this section or any City of Merced or State law, statute, rule or regulation relating to the business's permitted activity.
 - iii. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee.
 - iv. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.
 - v. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business.
 - vi. Violates or fails to comply with the terms and conditions of the permit.
 - vii. Fails to pay all applicable City, State, or Federal taxes and fees.
- b. Prior to suspension or revocation of the applicable permit, the Director of Development Services shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least ten (10) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.
- c. Any decision of the Development Services Director may be appealed to the Planning Commission. An appeal shall be filed within five (5) business days (excluding official city holidays) following a decision by the Director of Development Services.
- i. When an appeal has been filed, the matter shall be scheduled for a public hearing before the Planning Commission. The public hearing should be heard within ninety (90) days of receiving the appeal unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(8)(c)(v).
 - ii. Notice of the hearing shall be provided to the applicant at least (ten) 10 calendar days prior to the public hearing.
 - iii. Any interested person may appear and be heard regarding the appeal.
 - iv. The Planning Commission's review of the appeal shall be limited to review of the Development Services Director decision and shall not be a de novo review.
 - v. A matter being heard on appeal may be continued for good cause.
 - vi. The decision of the Planning Commission may be appealed to the City Council.



- a) A written appeal shall be filed within five (5) business days (excluding official city holidays) following a Planning Commission decision.
- b) When an appeal has been filed, the matter shall be scheduled for a public hearing before the City Council. The public hearing should be heard within ninety (90) calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued pursuant to 20.44.170(L)(8)(c)(vi)(e).
- c) Notice of the hearing of the appeal shall be provided to the applicant at least ten (10) calendar days prior to the public hearing.
- d) Any interested person may appear and be heard regarding the appeal.
- e) A matter being heard on appeal may be continued for good cause.
- f) The City Council's review shall be a de novo review. At the conclusion of the hearing, the City Council will make its own determination to grant or deny the permit. The decision of the City Council shall be the City's final decision in this regard and shall be dispositive of the matter subject to judicial review under the provisions of California Code of Civil Procedure Sections 1094.5 and 1094.6.