

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, February 22, 2017

Vice-Chairperson Dylina called the meeting to order at 7:01 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Bill Baker, Travis Colby, Robert Dylina, Peter Padilla, and Kevin Smith

Commissioners Absent: Kurt Smoot (excused), (one vacancy)

Staff Present: Planning Manager Espinosa, Associate Planner Nelson, Planner Mendoza-Gonzalez, Chief Deputy City Attorney Fincher, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

M/S BAKER-PADILLA, and carried by unanimous voice vote (one absent, one vacancy), to approve the Agenda as submitted.

2. **MINUTES**

M/S SMITH-PADILLA, and carried by unanimous voice vote (one absent, one vacancy), to approve the Minutes of January 18, 2017, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Vacation #16-02, initiated by Robert Lattanzio on behalf of CVRC North, LLC, to abandon a 14-foot wide sidewalk easement along the western property line of 3172 M Street.

As a Consent item, there was no staff presentation. For further information, refer to Staff Report #17-04.

M/S COLBY-BAKER, and carried by the following vote, to find that the proposed Vacation (to abandon a 14-foot wide sidewalk easement along the western property line of 3172 M Street), is consistent with the *Merced Vision 2030 General Plan*.

AYES: Commissioners Baker, Colby, Padilla, Smith, and Vice Chairperson Dylina

NOES: None

ABSENT: Commissioner Smoot (one vacancy)

ABSTAIN: None

- 4.2 Conditional Use Permit #1217, initiated by Swaran Singh, on behalf of Cox Walker-Merced, A Partnership, property owner. This application involves a request to allow the sale of beer and wine for on-site consumption within a restaurant (Pizza Guys), located at 2800 G Street, within the Bear Creek Galleria. The subject site is generally located at the northeast corner of G Street and North Bear Creek Drive, within a Neighborhood Commercial (C-N) Zone.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #17-05.

Public testimony was opened at 7:12 p.m.

Speaker from the Audience in Favor:

SWARAN SINGH, applicant, Merced, CA

No one spoke in opposition to the project.

Public testimony was completed at 7:16 p.m.

M/S PADILLA-SMITH, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #17-01, and approve Conditional Use Permit #1217, subject to the Findings and thirteen (13) Conditions set forth in Staff Report #17-05 (RESOLUTION #3078):

AYES: Commissioners Baker, Colby, Padilla, and Smith

NOES: None

ABSENT: Commissioner Smoot (one vacancy)

ABSTAIN: Vice Chairperson Dylina

[Secretary's Note: Planning Manager ESPINOSA outlined to the Commission, and the Applicants of Items 4.3 and 4.4, the process of both items being presented at the same time. Each item was presented, one after the other, and the Public Testimony encompassed both items.]

- 4.3 Conditional Use Permit #1216, initiated by Tongtoua Yang on behalf of Kajla Mahinder Singh, property owner. This application involves a request to increase the number of card tables for the Merced Poker Room (from 4 to 12) and to allow their employees to participate in gaming activities. The subject site is generally located on the south side of 15th Street, approximately 225 feet west of Martin Luther King, Jr. Way (at 1459 Martin Luther King, Jr. Way, Suites, 4, 5, and 6), within a Thoroughfare Commercial (C-T) zone. (continued from January 18, 2017)

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #17-01-Addendum.

- 4.4 Conditional Use Permit #1218, initiated by Terry Vargas on behalf of Citrus Beginnings, LP, property owner. This application involves a request to increase the number of card tables for Poker Flats Casino (from 4 to 12), to operate 24 hours per day, and to allow games with unlimited bets and wagers. The

subject site is generally located on the east side of Martin Luther King, Jr. Way, approximately 100 feet north of Main Street (at 1714 and 1720 Martin Luther King, Jr. Way), within a Central Commercial (C-C) Zone.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #17-06.

Public testimony was opened at 8:14 p.m.

[Secretary's Note: Both Applicants spoke, one after another, before members of the public came up.]

JARHETT BLONIN, Sacramento, on behalf of Merced Poker Room
SAI SAECHAO, Merced, on behalf of Poker Flats Casino

Speakers from the Audience in Favor of Item 4.3:

DANIEL VALDOVINO, Merced
ART CURIEL, Merced
STEPHEN HERRERA, Merced

No one spoke in opposition to this item.

Speakers from the Audience in Favor of Item 4.4:

TAWNI VARGAS, Merced, Poker Flats Casino

No one spoke in opposition to this item.

Public testimony was closed at 8:48 p.m.

M/S PADILLA-BAKER, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-35, and approve Conditional Use Permit #1216, subject to the Findings and thirty-six (36) Conditions set forth in Staff Report #17-01 (RESOLUTION #3077), for four additional card tables:

AYES: Commissioners Baker, Colby, Padilla, and Vice Chairperson Dylina

NOES: Commissioner Smith

ABSENT: Commissioner Smoot (one vacancy)

ABSTAIN: None

M/S PADILLA-BAKER, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #17-02, and approve Conditional Use Permit #1218, subject to the Findings and thirty-four (34) Conditions set forth in Staff Report #17-06 (RESOLUTION #3079), for four additional card tables:

AYES: Commissioners Baker, Colby, Padilla, and Vice Chairperson Dylina

NOES: Commissioner Smith

ABSENT: Commissioner Smoot (one vacancy)

ABSTAIN: None

4.5 Election of Planning Commission Chairperson and Vice-Chairperson

Commissioner BAKER nominated Vice Chairperson DYLINA to be Chairperson. Vice Chairperson DYLINA accepted the nomination.

M/S BAKER-PADILLA, and carried by the following vote, to elect Vice Chairperson DYLINA as Chairperson:

AYES: Commissioners Baker, Colby, Smith, and Padilla

NOES: None

ABSENT: Commissioner Smoot (one vacancy)

ABSTAIN: Vice Chairperson Dylina

Commissioner SMITH nominated Commissioner BAKER to be Vice-Chairperson. Commissioner BAKER accepted the nomination.

M/S SMITH-DYLINA, and carried by the following vote, to elect Commissioner BAKER as Vice-Chairperson:

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February 22, 2017

AYES: Commissioners Colby, Padilla, Smith, and Vice
Chairperson Dylina

NOES: None

ABSENT: Commissioner Smoot (one vacancy)

ABSTAIN: Commissioner Baker

4.6 Cancellation of March 8, 2017, Planning Commission Meeting
due to lack of items.

M/S COLBY-SMITH, and carried by the following vote, to cancel the
Planning Commission meeting of March 8, 2017:

AYES: Commissioners Baker, Colby, Smith, Padilla, and Vice-
Chairperson Dylina

NOES: None

ABSENT: Commissioner Smoot (one vacancy)

ABSTAIN: None

6. **ADJOURNMENT**

There being no further business, Vice-Chairperson DYLINEA adjourned the
meeting at 8:25 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINEA, Vice-Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3077

WHEREAS, the Merced City Planning Commission at its regular meeting of February 22, 2017, held a public hearing and considered **Conditional Use Permit #1216**, initiated by Tongtoua Yang on behalf of Kajla Mahinder Singh, property owner. This application involves a request to increase the number of card tables for the Merced Poker Room (from 4 to 12) and to allow their employees to participate in gaming activities. The subject site is generally located on the south side of 15th Street, approximately 225 feet west of Martin Luther King, Jr. Way (at 1459 Martin Luther King, Jr. Way, Suites, 4, 5, and 6), within a Thoroughfare Commercial (C-T) zone; also known as Assessor's Parcel Number 031-241-029; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #17-01 - Addendum; 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 #16-35, and approve Conditional Use Permit #1216, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner PADILLA, seconded by Commissioner BAKER, and carried by the following vote:

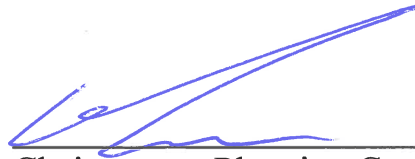
AYES: Commissioners Baker, Colby, Dylina, and Padilla
NOES: Commissioner Smith
ABSENT: Commissioner Smoot
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3077

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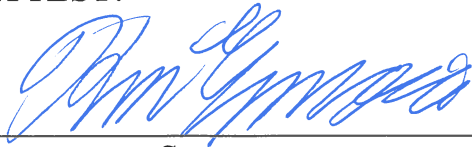
February 22, 2017

Adopted this 22nd day of February 2017



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #3077
Conditional Use Permit #1216

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) - Attachment B of Staff Report #17-01 - Addendum, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“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 #3056 for Conditional Use Permit Application #1205 previously approved for this project, except as modified by these conditions.
5. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
6. 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 (with counsel selected by the City), 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. This approval is for the addition of four card tables in addition to the four that were previously approved by Conditional Use Permit (CUP) #1205. No more than 8 card tables shall be allowed within this cardroom.
9. The City allows a total of sixteen card tables. Eight tables are approved for this location. The Poker Flats Cardroom at 1715 Martin Luther King, Jr. Way currently has four tables, but has submitted an application for the addition of eight more tables. Given the approval of an additional four tables for the Merced Poker Room, if the remaining four are not approved for the Poker Flats Card Room or if approved, the additional tables are not added within one year of the date of approval as required by Merced Municipal Code Section 9.08.020 (F), the owner of the Merced Poker Room may request the additional four tables through a Conditional Use Permit process.
10. This approval rescinds Condition #20 of Planning Commission Resolution #3056 for Conditional Use Permit #1205, and allows employees to participate in controlled games in compliance with any applicable state or local regulations.
11. If food and/or beverages are going to be served, a grease interceptor is required. If sufficient capacity is available in the grease interceptor installed with this building, this use may connect to the existing interceptor.
12. This site is not approved for a nightclub or bar. No dancing or music (other than background music for the cardroom) is allowed.
13. Maximum occupancy signs shall be posted as required by the California Building and Fire Codes.
14. In compliance with the conditions of approval for CUP #1205, if beer and wine are to be served for on-site consumption, the owner must obtain the appropriate license from the California Department of Alcoholic

Beverages and approval from the City Council of a Finding of Public Convenience or Necessity.

15. All participants in the card games shall play with their own money.
16. The business owner shall obtain all necessary permits and approvals required by the State of California to hold tournaments at this location. The number of tables used for any tournament shall not exceed the maximum allowed under this Conditional Use Permit. All other uses of temporary tables shall be prohibited.
17. The maximum number of tables allowed for this card room is limited to the number allowed under this Conditional Use Permit and is limited to 8 tables.
18. The business owner shall obtain all necessary permits and approvals from the Merced City Fire Department. The business owner shall contact the Merced City Fire Department to obtain all necessary approvals.
19. The Merced Poker Room shall not operate at this location until it has vacated the existing location (1445 Martin Luther King, Jr. Way). Under no circumstances shall the Merced Poker Room operate at both locations.
20. No food shall be prepared on the premises without prior approval of the City's Inspection Services and Fire Departments and the Merced County Health Department. Prior to food being prepared on the premises, a commercial kitchen shall be installed.
21. If the Merced Poker Room is closed at this location for six months or more, this Conditional Use Permit shall expire and will no longer be valid.
22. If the Merced Poker Room moves to another permitted location within the City of Merced, this approval shall no longer be valid and shall terminate upon vacation of the premises by the Merced Poker Room.
23. The card room is approved to operate 24 hours per day.
24. The City reserves the right to periodically review the area for potential problems. If problems including, but not limited to, excessive harassment, malicious property damage, lewd and/or disorderly conduct, arise as a result of the cardroom, this conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.

25. “No Loitering” signs shall be placed on the exterior of the building to deter non-patrons from gathering near the building.
26. Sufficient lighting shall be provided throughout the site to provide a safe environment for patrons of the cardroom.
27. The premises shall remain clean and free of debris at all times.
28. No one under the age of 21 shall be allowed to participate in card playing activities.
29. No owner or employee shall extend credit to card players.
30. The Merced Police Department reserves the right to conduct inspections of the cardroom during normal business hours to monitor compliance with all conditions of approval and state regulations.
31. The applicant shall install interior and exterior video surveillance cameras that continuously record both the inside and outside activities 24 hours a day, 7 days a week (locations to be worked out with the Police Department). Any video related to criminal investigations must be accessible immediately for viewing by the Merced Police Department or any other law enforcement agency. A recorded copy of surveillance video, requested in connection with a criminal investigation, must be reasonably accessible and available within 24 hours when requested by law enforcement. The business owner is responsible for maintaining the video surveillance equipment in an operable manner at all times.
32. Smoking is not allowed within 25 feet of the entrance to the building and the owner shall designate an exterior area that is available for smoking that is at least 25 feet from all business entrances. Receptacles acceptable for the disposal of smoldering remnants and discarded debris associated with smoking tobacco products (such as ashes and cigarette butts) shall be made available within this smoking area. The business owner shall be responsible for ensuring all applicable laws are enforced and adhered to and that signage is posted advising patrons of those rules.
33. A minimum of one security guard shall be provided in the cardroom area during business hours. The Police Department reserves the right to request additional security guards if any problems arise. All security guards shall be hired from a company that has been approved by the Merced City Council and properly licensed through the City of Merced. All security guards are subject to approval of the Merced Police Department.

34. Beer and wine only may be sold for on-site consumption in the cardroom. The business shall also provide a variety of non-alcoholic beverages for sale to patrons.
35. The business must have food available to patrons during the hours of operation, which may include having food brought in from nearby restaurants if food cannot be prepared on-site. Details to be worked out with staff.
36. In accordance with state law, no alcoholic beverages shall be sold between 2:00 a.m. and 6:00 a.m. of the same day.

n:shared:planning:PC Resolutions: CUP #1216 Exhibit A

CITY OF MERCED
Planning Commission

Resolution #3078

WHEREAS, the Merced City Planning Commission at its regular meeting of February 22, 2017, held a public hearing and considered **Conditional Use Permit #1217**, initiated by Swaran Singh, on behalf of Cox Walker-Merced, A Partnership, property owner. This application involves a request to allow the sale of beer and wine for on-site consumption within a restaurant (Pizza Guys), located at 2800 G Street, within the Bear Creek Galleria. The subject site is generally located at the northeast corner of G Street and North Bear Creek Drive, within a Neighborhood Commercial (C-N) Zone; also known as Assessor's Parcel Number 007-171-013; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through E of Staff Report #17-05; 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 #17-01, and approve Conditional Use Permit #1217, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner PADILLA, seconded by Commissioner SMITH, and carried by the following vote:

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

PLANNING COMMISSION RESOLUTION # 3078

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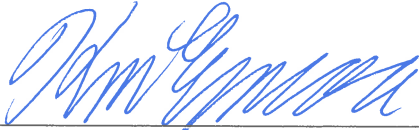
February 22, 2017

Adopted this 22nd day of February 2017



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

n:\shared\planning\PC Resolutions: CUP#1217 Pizza Guys (2800 G Street)

Conditions of Approval
Planning Commission Resolution # 3078
Conditional Use Permit #1217

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) - Attachments B of Staff Report #17-05.
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. 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. Alcoholic beverages shall not be allowed outside the building. A future outdoor seating area with alcohol service may be allowed with approval from both the Site Plan Review Committee and Alcoholic Beverage Control.
8. The restaurant shall meet all applicable Merced County Health Department requirements.
9. The restaurant shall meet all applicable Alcoholic Beverage Control requirements.
10. This approval is for alcohol sales as an ancillary use to the primary restaurant only.
11. Request to operate as a nightclub, bar, or similar use shall require an additional review and approval from the Planning Commission (as required in the Zoning Ordinance).
12. 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 Conditional Use Permit (CUP) after a public hearing and following the procedures spelled out in the Merced Municipal Code.
13. Alcohol sales shall cease at 11:00 p.m. regardless of the business hours for the restaurant.

n:\shared\planning\PC Resolutions\ CUP #1217 Exhibit A

CITY OF MERCED
Planning Commission

Resolution #3079

WHEREAS, the Merced City Planning Commission at its regular meeting of February 22, 2017, held a public hearing and considered **Conditional Use Permit #1218**, initiated by Terry Vargas on behalf of Citrus Beginnings, LP, property owner. This application involves a request to increase the number of card tables for Poker Flats Casino (from 4 to 12), to operate 24 hours per day, and to allow games with unlimited bets and wagers. The subject site is generally located on the east side of Martin Luther King, Jr. Way, approximately 100 feet north of Main Street (at 1714 and 1720 Martin Luther King, Jr. Way), within a Central Commercial (C-C) Zone; also known as Assessor's Parcel Number 031-153-014; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #17-06; 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 #17-02, and approve Conditional Use Permit #1218, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner PADILLA, seconded by Commissioner BAKER, and carried by the following vote:

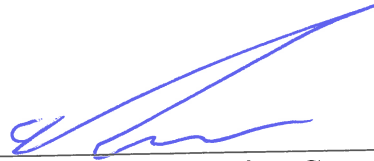
AYES: Commissioners Baker, Colby, Dylina, and Padilla
NOES: Commissioner Smith
ABSENT: Commissioner Smoot
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3079

Page 2

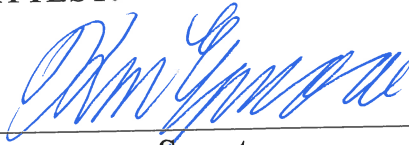
February 22, 2017

Adopted this 22nd day of February 2017



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 3079
Conditional Use Permit #1218

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) - Attachment B of Staff Report #17-06, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“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 #2968 for Conditional Use Permit Application #1146 previously approved for this project, except as modified by these conditions.
5. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
6. 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 (with counsel selected by the City), 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. This approval is for the addition of four card tables in addition to the four that were previously approved by Conditional Use Permit (CUP) #1146. No more than 8 card tables shall be allowed within this cardroom.
9. The City allows a total of sixteen card tables. Eight tables are approved for this location. The Merced Poker Room at 1459 Martin Luther King, Jr. Way currently has four tables, but has submitted an application for the addition of eight more tables. Given the approval of an additional four tables for the Poker Flats Casino, if the remaining four are not approved for the Merced Poker Room or if approved, the additional tables are not added within one year of the date of approval as required by Merced Municipal Code Section 9.08.020 (F), the owner of the Poker Flats Casino may request the additional four tables through a Conditional Use Permit process.
10. This approval rescinds Condition #13 of Planning Commission Resolution #2968 for Conditional Use Permit #1146, and allows business operations 24 hours per day in compliance with any applicable state or local regulations.
11. Encroachment Permits shall be required for all signage and structures extending over the public right-of-way.
12. This site is not approved for a nightclub or bar. No dancing or music (other than background music for the cardroom) is allowed.
13. Future request to serve alcohol shall require approval from the Planning Commission and compliance with the Merced County Health Department and the Alcoholic Beverage Control.
14. Maximum occupancy signs shall be posted as required by the California Building and Fire Codes.
15. No food shall be prepared on the premises without prior approval of the City's Inspection Services and Fire Departments and the Merced County

EXHIBIT A

OF PLANNING COMMISSION RESOLUTION #3079

Health Department. Prior to food being prepared on the premises, a commercial kitchen shall be installed.

16. All participants in the card games shall play with their own money.
17. The City reserves the right to periodically review the area for potential problems. If problems including, but not limited to, excessive harassment, malicious property damage, lewd and/or disorderly conduct, arise as a result of the cardroom, this conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.
18. If Poker Flats Casino moves to another permitted location within the City of Merced, this approval shall no longer be valid and shall terminate upon vacation of the premises by the Poker Flats Casino.
19. Alcoholic beverages shall not be allowed in the cardroom area or on the premises.
20. The applicant shall install interior and exterior video surveillance cameras that continuously record both the inside and outside activities 24 hours a day, 7 days a week (locations to be worked out with the Police Department). Any video related to criminal investigations must be accessible immediately for viewing by the Merced Police Department or any other law enforcement agency. A recorded copy of surveillance video, requested in connection with a criminal investigation, must be reasonably accessible and available within 24 hours when requested by law enforcement. The business owner is responsible for maintaining the video surveillance equipment in an operable manner at all times.
21. Smoking is not allowed within 25 feet of the entrance to the building.
22. A minimum of one security guard shall be provided in the cardroom area during business hours. The Police Department reserves the right to request additional security guards if any problems arise. All security guards shall be hired from a company that has been approved by the Merced City Council and properly licensed through the City of Merced. All security guards are subject to approval of the Merced Police Department.
23. The business owner shall obtain all necessary permits and approvals required by the State of California to hold tournaments at this location. The number of tables used for any tournament shall not exceed

the maximum allowed under this Conditional Use Permit. All other uses of temporary tables shall be prohibited.

24. The maximum number of tables allowed for this card room is limited to the number allowed under this Conditional Use Permit and is limited to 8 tables.
25. The applicant shall be required to have a business license inspection and “operational permit” by the Fire Department. A building permit by licensed professional (engineer or architect) is required in accordance with the California Building Codes for interior changes, including demolition of the wall between the tenant spaces, bathroom remodels, and modifications to the entrances/exits.
26. “No Loitering” signs shall be placed around the perimeter of the property to deter non-patrons.
27. Sufficient lighting shall be provided throughout the site to provide a safe environment for patrons of the cardroom.
28. The premises shall remain clean and free of debris at all times.
29. No one under the age of 21 shall be allowed to participate in card playing activities.
30. No one shall be allowed to participate in card playing activities while obviously intoxicated.
31. Landscape/sprinkler plans are required to bring the landscaping up to City standards and in line with the previous beautification project of Martin Luther King, Jr. Way.
32. No owner or employee shall extend credit to card players.
33. The Merced Police Department reserves the right to conduct inspections of the cardroom during normal business hours to monitor compliance with all conditions of approval and State regulations.
34. All signage and architectural features to the building are subject to review by staff or by referral to the Planning Commission.

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