

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #17-06

AGENDA ITEM: 4.4

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: Feb. 22, 2017

PREPARED BY: Francisco Mendoza-Gonzalez,
Planner

SUBJECT: **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. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #17-02 (Categorical Exemption)
- 2) Conditional Use Permit #1218

SUMMARY

Poker Flats Casino is requesting approval for additional card tables (from 4 to 12), to operate 24 hours per day, and to have games with unlimited bets and wagers. This application does not include a request to serve food or alcohol. Poker Flats Casino is located in Downtown Merced at 1714 and 1720 Martin Luther King, Jr. Way, near the northeast corner of Main Street and Martin Luther King, Jr. Way, within a Central Commercial (C-C) Zone (Attachment A). A cardroom is considered a conditional use within the C-C Zone and requires Planning Commission approval. Poker Flats Casino has been in Merced for approximately 30 years and the Police Department has not had any particular issues with their business.

In February 2010, the Planning Commission approved the expansion of Poker Flats Casino (CUP #1146 – Attachment D). At that time, Poker Flats Casino occupied only 1714 Martin Luther King, Jr. Way. That expansion did not allow additional card tables, but it did allow Poker Flats Casino to occupy the adjacent suite at 1720 Martin Luther King, Jr. Way. That CUP also limited their hours of operation until 2:00 a.m. (which was consistent with the City’s Cardroom Ordinance at that time). In 2016, the Merced City Council adopted Ordinance No. 2457 allowing 24-hour cardrooms in the C-C Zone, and games with unlimited bets and wagers. The applicant’s request to operate 24 hours per day and to have games with unlimited bets and wagers would be consistent with the new Cardroom Ordinance.

The requested increase in tables (8) would secure the total number of additional tables allowed under the revised ordinance for cardrooms. However, there is another cardroom within the City

(Merced Poker Room) located at 1459 Martin Luther King, Jr. Way (Attachment E). The City received an application from this business requesting to add an additional 8 tables to their business as well (Agenda Item 4.3, CUP #1216). Only 8 additional tables may be added City-wide, and together Poker Flats Casino and the Merced Poker Room are requesting approval for an additional 16 tables

It is staff's opinion that in the spirit of fairness to both businesses, each business should be allowed to have half of the tables allowed under the new ordinance. Therefore, Planning Staff is recommending approval of an additional 4 tables for Poker Flats Casino, not the 8 they requested.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Conditional Use Permit #1218 (including the adoption of the Resolution at Attachment H) subject to the following conditions:

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) - Attachment B, 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 and 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 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.

The following conditions were included in the approval for CUP #1146 (Attachment D), but are also applicable to this approval.

- 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.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

Poker Flats Casino is requesting approval for an additional eight card tables to be located within their business at 1714 and 1720 Martin Luther King, Jr. Way. In addition, the applicant is requesting that Condition #13 of Planning Commission Resolution #2968 for CUP #1146 be rescinded to allow the business to operate 24 hours per day, and for approval to have games with unlimited bets and wagers (both allowed under the new Cardroom Ordinance).

Surrounding Uses
(Attachment A)

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Offices and Restaurant (across the alley)	Central Commercial (C-C)	Regional/Community Commercial (RC)
South	Marie’s Kitchen	Central Commercial (C-C)	Regional/Community Commercial (RC)
East	City of Merced Parking Lot #6 and Restaurant/Market	Central Commercial (C-C)	Regional/Community Commercial (RC)
West	Merced Theater (across MLK, Jr. Way)	Central Commercial (C-C)	Regional/Community Commercial (RC)

BACKGROUND

Cardroom Regulations

In 1997, the State of California passed the Gambling Control Act. The Act requires the Department of Justice, Division of Gambling Control, to issue a State gambling license to all operating and new card rooms in order for them to operate in the State. One of the requirements of the Act is that the jurisdiction in which the card room is located has in place an ordinance with specific criteria specified. The City has had such an ordinance in place since 1998.

In 2005, the City received a letter from the Department of Justice indicating that specific changes to our ordinance were necessary to comply with State law. The City’s ordinance was subsequently amended to comply with State law.

In April 2016, the City amended its cardroom ordinance again. This time, the ordinance was amended as follows:

- Increased the number of card tables allowed from 8 to 16;

- Allow an existing cardroom to increase the number of tables by up to 8 additional tables (subject to the overall limit of 16 card tables in the City and obtaining a CUP);
- Remove City-imposed limits on bets, wagers, and antes;
- Requires a cardroom with permission to expand the number of card tables to do so within one year of CUP approval; and,
- 24-hour operation was expanded from just the Thoroughfare Commercial (C-T) zone to include the Central Commercial (C-C) zone.

A copy of the revised ordinance is shown at Attachment F.

History of Poker Flats Casino

The subject site is a developed 0.17-acre parcel with a card room, restaurant, and apartments. The cardroom is in a stand-alone building and has been there for approximately 30 years. Originally, the cardroom operated as “Merced Cardroom” (owned by the Comereski family) and subsequently as “Poker Flats Casino” (owned by the Vargas family, now for over 20 years). For many years, the Vargas family considered relocating to a C-T Zone to be able to operate 24 hours per day (previously not allowed in the C-C Zone). However, because the new Cardroom Ordinance allows 24-hour operations in the C-C Zone, the Vargas family would like to stay at their site in Downtown.

In 2010, the Planning Commission approved their request to expand into an adjacent suite and occupy the entire 1,350-square-foot (approximately) building. To this date, Poker Flats Casino has not needed to expand to 1720 Martin Luther King, Jr. Way, because the size of their current operation (4 tables) does not require additional space. However, Poker Flats Casino is currently leasing both 1714 and 1720 Martin Luther King, Jr. Way, and if granted approval for additional tables, they would be prepared to make an opening between the two suites and occupy the entire building (after obtaining building permit approvals). The expansion (not fully shown on the floor plan) would include new exterior paint, signage, interior paint, flooring, light fixtures, ceiling panels, bathrooms, etc. These improvements would be reviewed at staff level with design review permits (for the exterior) and building permits.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

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

Traffic/Circulation

- B) The subject site is located in Downton near the northeast corner of Martin Luther King, Jr. Way and Main Street. There is one driveway on Martin Luther King, Jr. Way, providing vehicles direct access to the site. The site can also be accessed from Main Street through an adjacent City-owned parking lot.

The proposed additional eight tables would increase the number of seats in the card room from 36 to 108 (not including seats for dealers). This increase would allow the business to host tournaments and draw more people to the site. This could result in increased traffic

volume to this area. However, this section of Martin Luther King, Jr. Way is part of a minor arterial roadway that turns into a local street, the former generally designed to carry moderate volumes of traffic. It is common for the Level of Service to drop significantly in Downtown areas, as they tend to have mixed-use developments and entertainment businesses that attract high volumes of traffic. The traffic generated by the additional tables would be very small compared to the total traffic volume on this roadway segment (and within Downtown in general) and would not create significant impacts to the traffic volumes and circulation in the area. If only four additional tables are approved at this location, the impact would be even less.

Parking

- C) The subject site is located within the City's Downtown Parking District, which is served by City-owned parking lots and does not require parking for businesses located on the first floor. The cardroom would be expanding to the adjacent single-story suite, so additional parking would not be required for the additional 72 seats from the requested 8 card tables. There are two City-owned parking lots within 100 feet of Poker Flats Casino. One parking lot is located 20 feet east of the subject site and the other is located 90 feet northwest of the subject site, behind the Merced Theater. Staff has noted that these parking lots are generally under-utilized. Given the abundance of City-owned parking spaces and the negligible scope of expansion, staff does not anticipate parking to be a significant issue.

Building Design

- D) No changes are proposed to the exterior of the building with this application. If granted approval for additional tables, the applicant would like to paint the exterior of the building and install new signs (to be added later and reviewed at staff level). Interior changes would include renovated restrooms, new flooring, new interior paint, new ceiling panels, and new light fixtures. The building wall dividing 1714 and 1720 Martin Luther King Jr. Way, would be opened to connect both suites. The suite at 1714 Martin Luther King, Jr. Way would have 5 gaming tables and the suite at 1720 Martin Luther King, Jr. Way would have 7 gaming tables, if an additional 8 tables are approved. If only 4 additional tables are approved, each suite would have 4 tables each (Attachment C).

Site Design

- E) There are no proposed changes to the existing site plan. The existing site plan includes pedestrian access from Martin Luther King, Jr. Way and from an adjacent City-owned parking lot to the east. Vehicle access is available from Martin Luther King, Jr. Way (with limited on-site parking). On-street parking is available in front of the building.

Neighborhood Impact/Interface

- F) The subject site is located in Downtown Merced and is surrounded by a variety of commercial and entertainment businesses. A cardroom is considered entertainment with the potential to attract a large number of customers. Entertainment businesses are common throughout the neighborhood with the Merced Theater, 17th Street Public House (pub), Regal Hollywood (movie theatre), Partisan (pub), O'Ryleigh's (pub), Chandelier's Hookah

Lounge, Chandeliers Night Club, Playhouse Merced (live theatre), and El Palacio Night Club, all located within 800 feet of the subject site. In addition, the other cardroom in the City, the Merced Poker Room, is located 3 blocks from the subject site (at 1459 Martin Luther King, Jr. Way). Given the abundance of entertainment businesses in the area (including another cardroom), and the fact that Poker Flats Casino has been at this location for nearly 30 years, staff does not anticipate that the approval of additional card tables would create any unusual circumstances for the neighborhood.

Number of Tables

- G) The revised Cardroom Ordinance allows 8 additional tables within the City of Merced. The Ordinance does not determine how the additional tables are to be allocated between the existing cardrooms. Currently, both the Merced Poker Room and Poker Flats Casino, each have four tables making it an even split of the eight tables allowed under the previous ordinance.

The Merced Poker Room submitted an application to increase the number of tables at their establishment by eight tables. Subsequently, Poker Flats Casino submitted an application to increase the number tables at their establishment by eight tables. Because the total number of additional tables allowed City-wide is eight, both establishments could not be approved to add eight tables. Staff recommends that the total number of additional tables allowed be divided equally between the two cardrooms. This would allow each establishment to increase their number of tables from four to eight tables. There is no limit on the number of seats provided (other than what would be required by the Building and Fire Codes), so it's still possible one cardroom could have more players than the other, but the total number of tables would still remain equal.

Signage

- H) The applicant is not proposing any specific changes to signage at this time. If approved, the applicant would consider installing new wall-mounted signs. All signing shall comply with the City's Sign Ordinance and requires staff-level design review approval (Condition #34). A maximum of 1 square foot of signing is permitted for each foot of primary frontage (the business would be eligible for 30 square feet of signing). The building is developed close to the edge of the property line (near the public sidewalk), so any signage or structures extending over the public right-of-way shall require an encroachment permit (Condition #11).

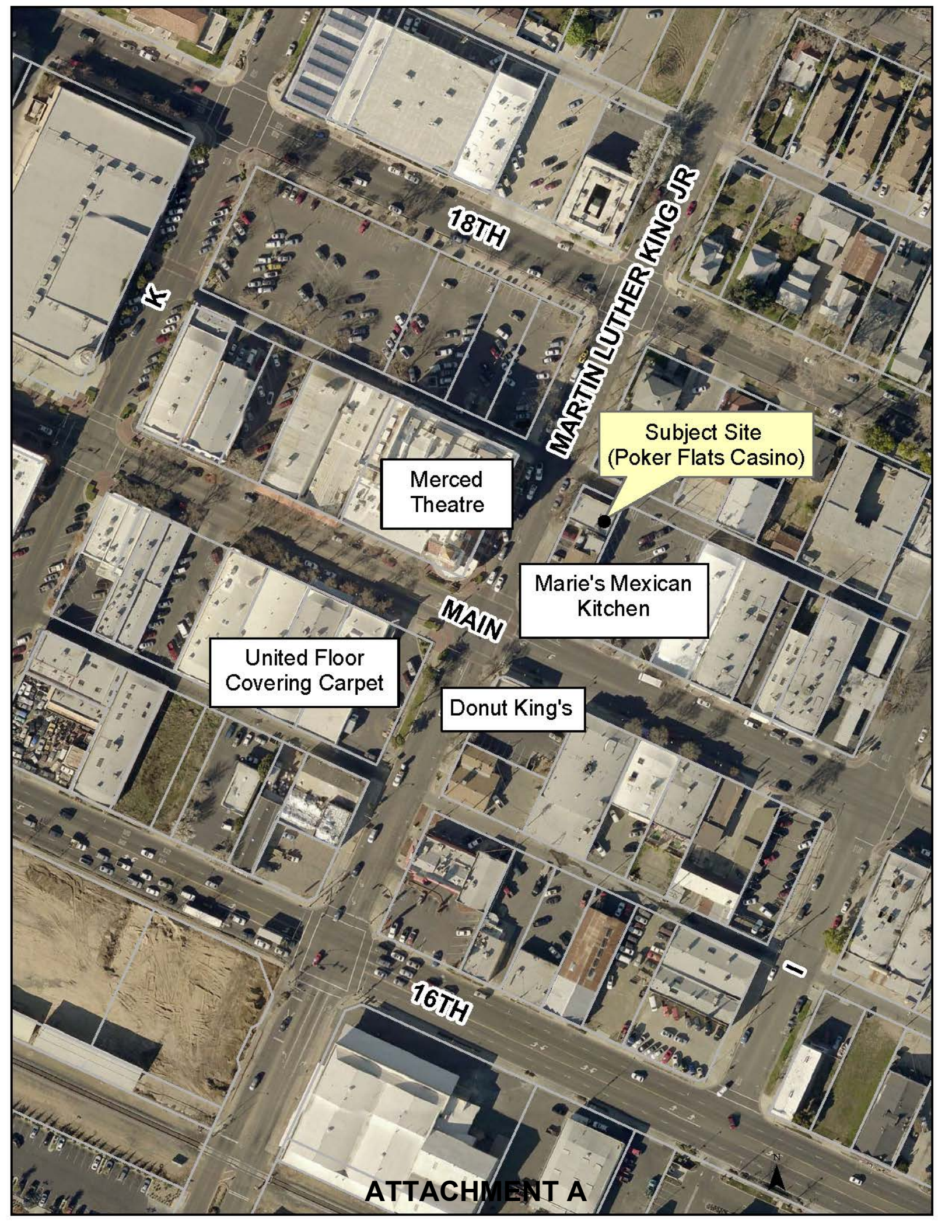
Environmental Clearance

- I) Planning staff has conducted an environmental review (#17-02) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no significant adverse environmental effects have been found) is being recommended (Attachment G).

Attachments:

- A) Location Map
- B) Floor Plan with 12 Tables

- C) Floor Plan with 8 Tables
- D) Resolution #2968 of CUP #1146
- E) Location of Merced Poker Room
- F) MMC Section 9.08.020
- G) Categorical Exemption
- H) Draft Planning Commission Resolution



18TH

MARTIN LUTHER KING JR

Subject Site
(Poker Flats Casino)

Merced
Theatre

Marie's Mexican
Kitchen

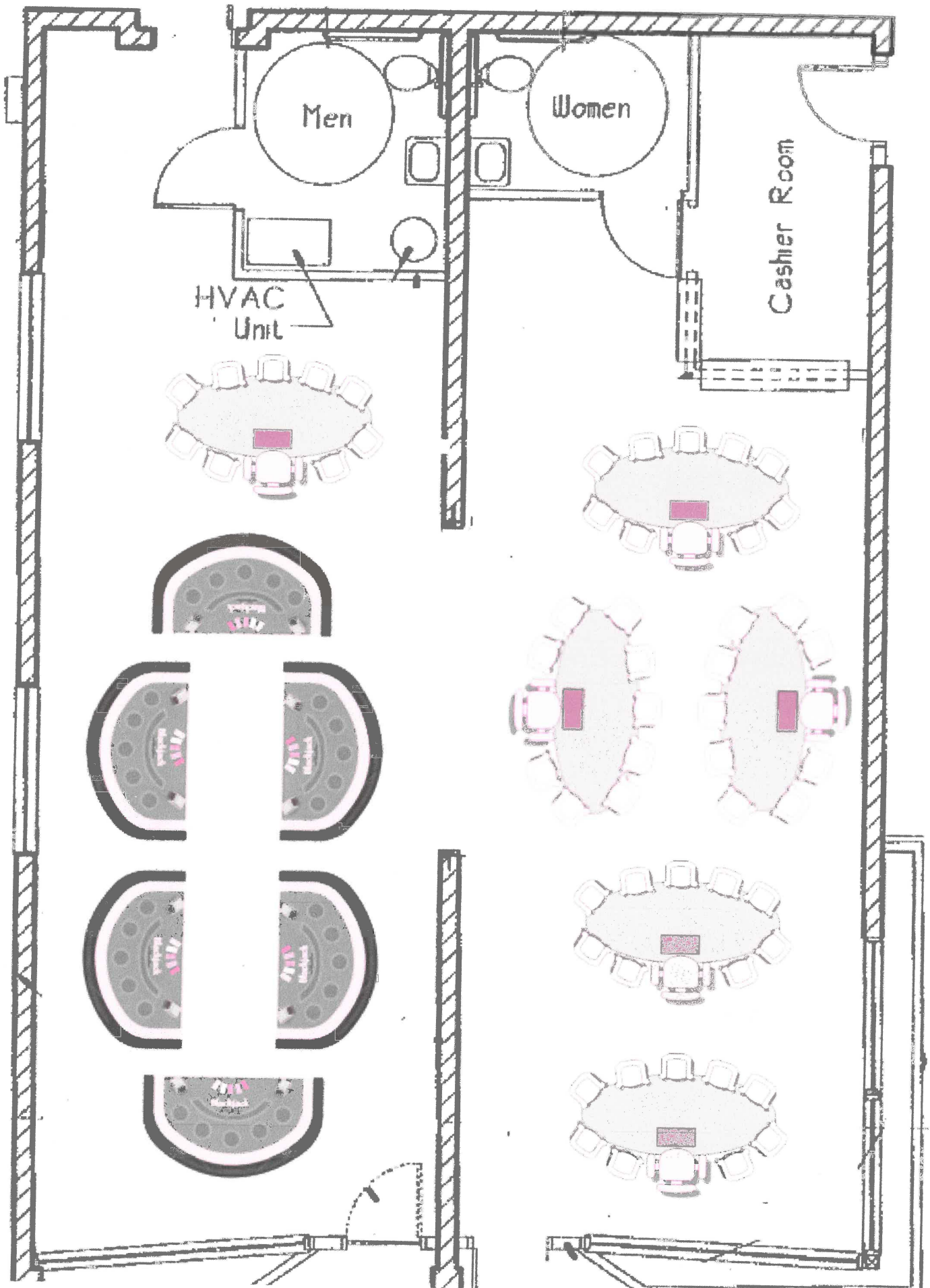
MAIN

United Floor
Covering Carpet

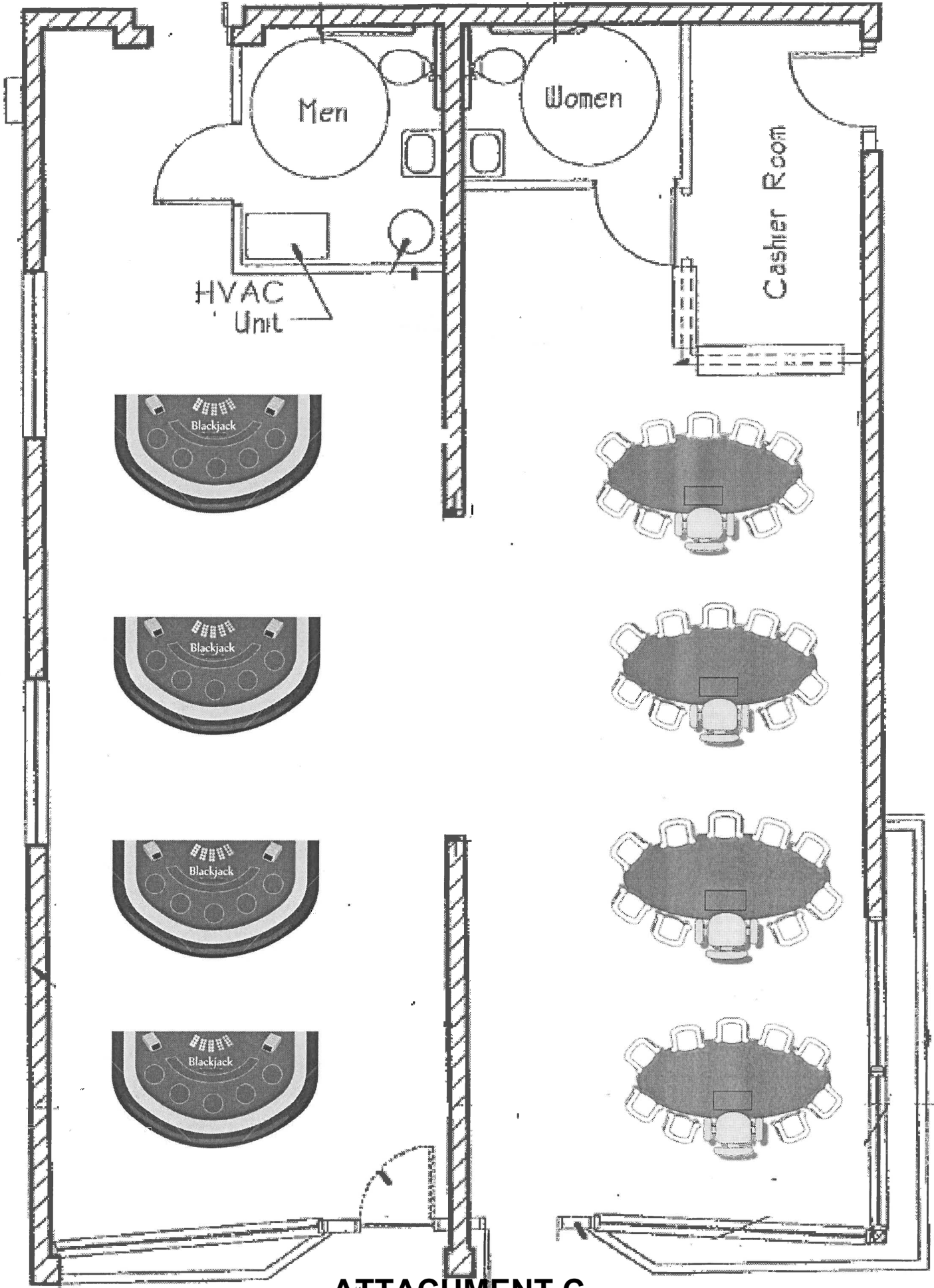
Donut King's

16TH

ATTACHMENT A



ATTACHMENT B



ATTACHMENT C

CITY OF MERCED
Planning Commission

Resolution #2968

WHEREAS, the Merced City Planning Commission at its regular meeting of February 3, 2010, held a public hearing and considered **Conditional Use Permit #1146**, initiated by Terry Vargas, applicant and business owner of Poker Flats Casino, for Citrus Beginnings, LP, property owner. This application involves an expansion of an existing card room, "Poker Flats Casino," at 1714 Martin Luther King Jr. Way to now include 1720 Martin Luther King Jr. Way (both tenant spaces are contained in one building) so that 4 card tables (total) can comfortably fit. The project site is generally located at the northeast corner of W. Main Street and Martin Luther King Jr. Way, within a Central Commercial (C-C) Zone; also known as Assessor's Parcel No. 031-153-014; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through L of Staff Report #10-02; and,

WHEREAS, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #09-52, and approve Conditional Use Permit #1146, subject to the Conditions set forth in Exhibit A attached hereto.

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

AYES: Commissioners Cervantes, Ward, Zuercher, Williams, and Chairperson Amey

NOES: None

ABSENT: Commissioners Acheson and McCoy

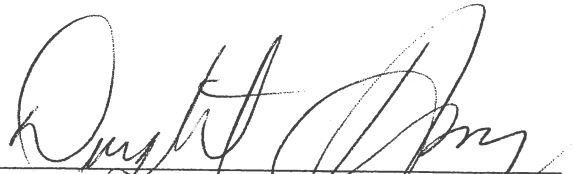
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 2968

Page 2

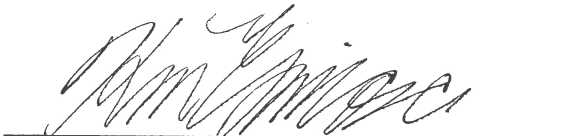
February 3, 2010

Adopted this 3rd day of February 2010



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Conditions of Approval
Planning Commission Resolution #2968
Conditional Use Permit #1146

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (elevations), and Exhibit 3 (floor plan) -- Attachments B, C, and D of Staff Report #10-02, except as modified by the conditions.
2. All conditions contained in *Resolution #1294-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. 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 (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.

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. If problems including, but not limited to, excessive harassment, malicious property damage, lewd and/or disorderly conduct result from the proposed land use, the subject conditional use permit may be subject to review and revocation by the City of Merced in accordance with the procedures in the Municipal Code.
8. No one under the age of 21 shall be allowed to participate in any card playing activity or be allowed to loiter in the area of the cardroom.
9. No one shall be allowed to participate in card playing activities while obviously intoxicated.
10. All participants in the card games shall play with their own money. No employee participation in the game shall be allowed.
11. No owner or employee shall extend credit to card players.
12. Alcoholic beverages shall not be allowed in the cardroom area or on the premises.
13. The cardroom shall be open during all hours of operation (except from 2 a.m. to 6 a.m. when the business must be closed per the Municipal Code) for inspection by the Merced City Police Department for the purpose of monitoring these conditions.
14. Landscape/sprinkler plans are required to bring the landscaping up to City standards and in line with the previous beautification project for Martin Luther King Jr. Way.
15. The applicant shall be required to have a business license inspection and an "operational permit" by the Fire Department. A building permit is required in accordance with the California Building Codes for interior changes, including demolition of the wall between the

tenant spaces, bathrooms, and entrance/exits from a licensed architect or engineer.

16. "No Loitering" signs shall be placed around the perimeter of the property to deter non-patrons.
17. All signage and architectural features to the building are subject to review by staff or by referral to the Design Review Commission (DRC).
18. If in the future, the business and/or business owner changes from the current owner(s) and "Poker Flats Casino," a new application must be brought back to staff with possible referral to the Planning Commission for consideration.

n:shared:planning:PC Resolutions:CUP#1146 Exhibit A



House of Furniture/
Smart & Final

New Location
Merced Poker
Room

In 'n Out
Burger

Existing
Merced
Poker Room

9.08.020 - Cardrooms.

- A. Cardrooms in the City of Merced may only be located in areas zoned as follows:
 - 1. Central Commercial (C-C);
 - 2. Commercial Thoroughfare (C-T);
 - 3. General Commercial (C-G).
- B. It is unlawful and a misdemeanor, subject to punishment in accordance with Chapter 1.12 of this Code, for any person, either as principal, agent, employee, or otherwise, to play, conduct, or deal any game of cards in any cardroom, or in any other public place or place resorted to generally by the public, between the hours of two a.m. and six a.m. of any day, with the exception of a duly licensed cardroom operating in a Commercial Thoroughfare (C-T) zone or Central Commercial (C-C) zone pursuant to a conditional use permit which regulates the hours of operation.
- C. Any person operating a cardroom shall be responsible and liable for patron security and safety in and around the gaming establishment. Security guards shall be provided in such number and at such times as directed by the chief of police, or as may otherwise be required by conditional use permit.
- D. As of April 18, 2016, there are two cardrooms authorized to operate within the City of Merced, each of which had four (4) card tables. There shall be no increase in the existing number of cardrooms without the approval of a majority of the voters of the city.
- E. The city hereby increases the number of authorized card tables within the city from eight (8) card tables to sixteen (16) card tables. There shall be no increase in the number of card tables beyond sixteen (16) card tables without the approval of a majority of the voters of the city.
- F. In order for a cardroom to increase the number of card tables from the four (4) card tables that existed as of April 18, 2016, the operator must first obtain a conditional use permit to add additional card tables. A cardroom operator may apply for up to eight (8) additional card tables subject to the overall limit of sixteen (16) card tables within the city; provided, however, that under no circumstances shall a cardroom have more than twelve (12) card tables.
- G. If a cardroom operator obtains a conditional use permit to add additional card tables, the new card tables must be added within one (1) year from the date of approval of the conditional use permit. Otherwise, the right to add the additional card tables shall automatically expire and the number of card tables allowed in that cardroom shall revert back to the number of card tables that existed prior to the approval of the conditional use permit.
- H. There shall be no city-imposed limits on bets and wagers in a cardroom located within the city. Individual cardroom operators may set their own limits on bets and wagers. The rules of each game and wagering limits shall be clearly posted at the gaming tables where the games are offered to provide the patrons adequate notice of such rules and limits.

NOTICE OF EXEMPTION

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

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

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

Project Title: Conditional Use Permit #1218 (Environmental Review #17-02)

Project Applicant: Terri Vargas

Project Location (Specific): 1714 and 1720 Martin Luther King, Jr. Way

APN: 031-153-014

Project Location - City: Merced

Project Location - County: Merced

Description of Nature, Purpose, and Beneficiaries of Project:

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: Terri Vargas

Exempt Status: (check one)

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

Reasons why Project is Exempt: As defined under the above referenced Section, the proposed project consists of minor interior and exterior alterations only, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

Lead Agency: City of Merced

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

Signature:  **Date:** 01-26-2017 **Title:** Planner

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

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

CITY OF MERCED
Planning Commission

Resolution #_____

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 _____, seconded by Commissioner _____, and carried by the following vote:

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

ATTACHMENT H

PLANNING COMMISSION RESOLUTION # _____

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

n:shared:planning:PC Resolutions: CUP#1218 Poker Flats Casino (1714 & 1720 MLK Jr Way)

Conditions of Approval
Planning Commission Resolution # _____
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 and 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 #_____

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.

n:\shared\planning\PC Resolutions: CUP #1218 Exhibit A