

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Tuesday, September 18, 2018
DAY 1

Vice-Chairperson CAMPER called the meeting to order at 7:00 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Mary Camper, Scott G. Drexel, Michael Harris, Jeremy Martinez, and Peter Padilla,

Commissioners Absent: Sam Rashe (excused) and Chairperson Robert Dylina (excused)

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Principal Planner Hren, Associate Planner Nelson, Interim Deputy City Attorney Flores, Police Chief Goodwin, SCI Consultant Kyle Tankard, Secretary III Lane, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S PADILLA-HARRIS, and carried by unanimous voice vote (two absent), to approve the Minutes of September 5, 2018, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

4.1 Overview of Other Commercial Cannabis Business Permit (CCBP) Retail Sales Applications.

Planning Manager ESPINOSA provided an overview of all the cannabis retail sales applications and explained to members of the public and the Commission how the meeting will proceed differently than most meetings in that all the public hearings for Items 4.2 through 4.5 will be conducted tonight without Planning Commission action. At tomorrow's meeting, the Planning Commission will take action on the individual applications.

Vice-Chairperson CAMPER opened public testimony at 7:08 p.m. to allow public comment as follows:

ZACH DRIVON, Drivon Consulting, Stockton, spoke as a representative of the 5th ranked dispensary applicant.

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 7:14 p.m.

4.2 Commercial Cannabis Business Permit #18-06R, initiated by Blue Fire, Inc., on a property owned by REM Land Group, LLC. This application is a request to permit the operation of a Retail Dispensary for medicinal and adult-use cannabis and cannabis-related products, including delivery services, at 1975 W. Olive Avenue, a parcel of 2.08 acres, within Planned Development (P-D) #12, with a General Plan Designation of Industrial (IND).

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #18-23.

Public testimony was opened at 7:24 p.m.

Speakers from the Audience in Favor:

DEVIN STETLER, Applicant, Modesto

NATASHA PARRA, Blue Fire Director of Operations, Modesto
RON ROBERTS, Property Owner, Oakdale

The Applicant provided a small presentation that covered their years of experience in the industry and an overview of their business operations, including security.

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 7:36 p.m.

[Secretary's Note:

There was no vote at this meeting; the Commission voted on this item at the meeting of Wednesday, September 19, 2018.]

4.3 Commercial Cannabis Business Permit #18-10R, initiated by Green Door, Inc., on property owned by Ray Barry McAuley and Jeanne R McAuley, trustees. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis and cannabis-related products, including delivery services, on a 0.17-acre parcel at 811 W. Main Street within a Regional/Central Commercial (C-C) Zone.

Planning Manager ESPINOSA reviewed the report on this item. For further information, refer to Staff Report #18-24.

Public testimony was opened at 7:49 p.m.

Speaker from the Audience in Favor:

CHRIS HESTER, Applicant, Sacramento

The Applicant provided a small presentation that covered their years of experience in the industry and an overview of their business operations, including security.

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 7:59 p.m.

[Secretary's Note:

There was no vote at this meeting; the Commission voted on this item at the meeting of Wednesday, September 19, 2018.]

- 4.4 Commercial Cannabis Business Permit #18-17R, initiated by Merced Business Ventures, Inc., DBA Manzanita, on property owned by Robert Gray. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis, including delivery services, on a 0.3-acre parcel at 1594 W. 18th Street within a General Commercial (C-G) Zone.

Planning Manager ESPINOSA reviewed the report on this item. For further information, refer to Staff Report #18-25.

Public testimony was opened at 8:10 p.m.

Speakers from the Audience in Favor:

LUKE BRUNER, Applicant, Merced

JEFF LINDEN, Applicant, Merced

RENE GUTIERREZ, Merced Hispanic Chamber of Commerce, Merced

The Applicant provided a small presentation that covered their years of experience in the industry and an overview of their business operations, including security.

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 8:27 p.m.

[Secretary's Note:

There was no vote at this meeting; the Commission voted on this item at the meeting of Wednesday, September 19, 2018.]

- 4.5 Commercial Cannabis Business Permit #18-14R, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the

operation of a retail dispensary for both medicinal and adult-use cannabis and cannabis-related products, including delivery services, on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th St.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #18-26.

Public testimony was opened at 8:35 p.m.

Speaker from the Audience in Favor:

BEN KIMBRO, Applicant, Tulsa, OK

The Applicant provided a small presentation that covered their years of experience in the industry and an overview of their business operations, including security.

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 8:47 p.m.

[Secretary's Note:

There was no vote at this meeting; the Commission voted on this item at the meeting of Wednesday, September 19, 2018.]

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

6. **ADJOURNMENT**

Vice-Chairperson CAMPER adjourned the meeting at 8:49 p.m., to the Planning Commission meeting of Wednesday, September 19, 2018.

-----September 19, 2018, Day 2-----
Merced City Council Chambers
Wednesday, September 19, 2018

[Secretary's Note:

Chairperson DYLINA delayed the commencement of the meeting in order to allow Chairperson MARTINEZ to arrive from a work obligation that ran late.]

Chairperson DYLINA called the meeting to order at 7:19 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Mary Camper, Scott G. Drexel, Michael Harris, *Jeremy Martinez, Peter Padilla, Sam Rashe, and Chairperson Dylina

*Commissioner Martinez arrived at 7:19 p.m.

Commissioners Absent: None

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Principal Planner Hren, Associate Planner Nelson, Interim Deputy City Attorney Flores, Police Chief Goodwin, SCI Consultant Kyle Tankard, and Recording Secretary Davis

[Secretary's Note: Items 1 through 3 on the agenda were addressed at the previous meeting on Tuesday, September 18, 2018, Chairperson DYLINA chose to begin with Item 4.2 and to reopen the public hearing for each item.]

[Secretary's Note: Commissioner RASHE and Chairperson DYLINA disclosed to the Commission that since they were absent at the previous meeting, they did come in to City Hall to listen to the recording of the meeting and listened to all the public testimony on Agenda Items 4.1 through 4.5. Therefore, they were able to participate in the discussion and the vote.]

4. **ITEMS**

- 4.2 Commercial Cannabis Business Permit #18-06R, initiated by Blue Fire, Inc., on a property owned by REM Land Group, LLC. This application is a request to permit the operation of a Retail Dispensary for medicinal and adult-use cannabis and cannabis-related products, including delivery services, at 1975 W. Olive Avenue, a parcel of 2.08 acres, within Planned Development (P-D) #12, with a General Plan Designation of Industrial (IND).

[Secretary's Note: Recording Secretary DAVIS re-read the item description; there was no presentation given by Staff. For further information, refer to Staff Report #18-23.]

There was no one present wishing to speak regarding this item; therefore, public testimony was re-opened and then closed at 7:20 p.m.

M/S PADILLA-HARRIS, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-19, and approve Commercial Cannabis Business Permit #18-06R, subject to the Findings and twenty (20) Conditions set forth in Staff Report #18-23 (RESOLUTION #4005):

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

- 4.3 Commercial Cannabis Business Permit #18-10R, initiated by Green Door, Inc., on property owned by Ray Barry McAuley and Jeanne R McAuley, trustees. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis and cannabis-related products, including delivery services, on a 0.17-acre parcel at 811 W. Main Street within a Regional/Central Commercial (C-C) Zone.

[Secretary's Note: Recording Secretary DAVIS re-read the item description; there was no presentation given by Staff. For further information, refer to Staff Report #18-24.]

Commissioner CAMPER recused herself.

Public testimony was re-opened at 7:26 p.m.

Speaker from the Audience (Neutral):

RICHARD SANDFORD, Merced

There were no speakers from the audience in support or opposition to the project.

Public testimony was completed at 7:27 p.m.

M/S PADILLA-DREXEL, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-23, and approve Commercial Cannabis Business Permit #18-10R, subject to the Findings and twenty-two (22) Conditions set forth in Staff Report #18-24 (RESOLUTION #4006):

AYES: Commissioners Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: Commissioner Camper

Commissioner CAMPER returned to the dais.

- 4.4 Commercial Cannabis Business Permit #18-17R, initiated by Merced Business Ventures, Inc., DBA Manzanita, on property owned by Robert Gray. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis, including delivery services, on a 0.3-acre parcel at 1594 W. 18th Street within a General Commercial (C-G) Zone.

[Secretary's Note: Recording Secretary DAVIS re-read the item description; there was no presentation given by Staff. For further information, refer to Staff Report #18-25.]

Public testimony was re-opened at 7:29 p.m.; there being no one present wishing to speak regarding this item, Chairperson DYLINA closed public testimony at 7:30 p.m.

M/S CAMPER-HARRIS, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-30, and approve Commercial Cannabis Business Permit #18-17R, subject to the Findings and twenty-one (21) Conditions set forth in Staff Report #18-25 (RESOLUTION #4007):

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

- 4.5 Commercial Cannabis Business Permit #18-14R, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis and cannabis-related products, including delivery services, on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th St.

[Secretary's Note: Recording Secretary DAVIS re-read the item description; there was no presentation given by Staff. For further information, refer to Staff Report #18-26.]

Public testimony was re-opened at 7:31 p.m.

Speakers from the Audience in Opposition:

ZACH DRIVON, representative for Medallion Wellness, Stockton
MICHAEL O'LEARY, Applicant, Medallion Wellness

Mr. DRIVON presented information regarding the location chosen by Harvest of Merced, LLC, and questioned its proximity to a school in the area and whether it met the distance requirement from a school in the ordinance.

Mr. DRIVON noted three map images that he presented to the Commission during the meeting showing approximate distances between parcels.

Speaker from the Audience in Favor:

BEN KIMBRO, Applicant, Harvest of Merced, LLC, Tulsa, OK

[Secretary's Note: Planning Manager ESPINOSA noted that the applicant had time remaining from his fifteen minutes at the previous meeting and was allowed to use the remaining time of 4:16 to rebut Mr. DRIVON.]

Speaker from the Audience (Neutral):

DWIGHT LARKS, Merced
SUSAN BOUSCAREN, Merced

Public testimony was completed at 7:41 p.m.

Chairperson DYLINE allowed staff to comment on public testimony regarding the 1,000 ft. buffer and the web-based mapping tool.

Principal Planner HREN stated that they investigated the parcel in question by communicating with the MCOE (Merced County Office of Education) to confirm the use of the parcel and determined that it was not used as a school for children.

Commissioner PADILLA asked Interim Deputy City Attorney FLORES to define the use of "schools" in regards to the Cannabis Ordinance.

Planning Manager ESPINOSA spoke on staff's due diligence in keeping the web-based mapping tool updated and confirming active schools located on the aforementioned mapping tool.

Commissioner PADILLA confirmed with staff that the software was available to all the applicants during the process and that applicants were provided ample time to verify distances and measurements of the property they chose.

Commissioner MARTINEZ disclosed his concern of the accuracy of relying on software for cases that are in close proximity to sensitive uses. He recused himself from the vote due to a conflict of interest.

Commissioner RASHE and Chairperson DYLINEA both vouched for the accuracy of the GIS software and voiced their confidence in City staff and saw no reason to doubt software that has been in use by the City for many years without major discrepancies.

M/S PADILLA-RASHE, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-27, and approve Commercial Cannabis Business Permit #18-14R, subject to the Findings and twenty-two (22) Conditions set forth in Staff Report #18-26 (RESOLUTION #4008):

AYES: Commissioners Camper, Drexel, Harris, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: Commissioner Martinez

Chairperson DYLINEA asked Ms. FLORES, for the benefit of the members of the audience, to explain the appeal process regarding the commercial cannabis business permits.

[Secretary's Note: At the discretion of the Chairperson, Section 5, Informational Items, was omitted during this meeting since Ms. ESPINOSA reviewed upcoming meeting details during the previous meeting on Tuesday.]

6. **ADJOURNMENT**

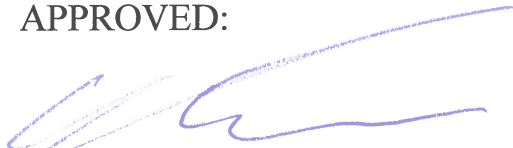
There being no further business, Chairperson DYLINA adjourned the meeting at 8:01 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINA, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #4005

WHEREAS, the Merced City Planning Commission at its scheduled meetings of September 18 and September 19, 2018, held a public hearing and considered **Commercial Cannabis Business Permit #18-06R**, initiated by Blue Fire, Inc., on a property owned by REM Land Group, LLC. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for medicinal and adult use cannabis and cannabis-related products at 1975 W. Olive Avenue, a parcel of 2.08 acres, within Planned Development (P-D) #12, with a General Plan Designation of Industrial (IND); also known as Assessor's Parcel Number (APN) 058-030-004; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through M of Staff Report #18-23; 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 #18-19 and approve Commercial Cannabis Business Permits #18-06R, 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 HARRIS, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 4005

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September 18 and 19, 2018

Adopted this 19th day of September 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 4005
Commercial Cannabis Business Permit #18-06R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) – Attachments C and E of Staff Report #18-23, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2480 (Attachment I of Staff Report #18-23) shall apply. Particular attention shall be paid to MMC 20.44.170(F) “Additional Regulations for Dispensary and Retail Sales of Cannabis” and MMC 20.44.170(G) “Additional Regulations for Commercial Cannabis Delivery Services.”
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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment J of Staff Report #18-23) at the time of submittal for building permits for tenant improvement.
9. The details of the property's fencing (if any), security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
12. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation

by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.

13. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with 20.44.170(L).4, "Commercial Cannabis Business Permit Renewal (All Types)", at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.
14. As per Ordinance #2480, the use of vending machines to dispense cannabis is strictly prohibited. Any vending machines on the property must not contain cannabis or cannabis-based products.
15. The applicants shall provide or cause to be provided a trash enclosure on the property such that all waste is securely stored until it is removed from the premises. Access to this enclosure shall be provided to the City's Department of Public Works.
16. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State standards and regulations.
17. The parking lot shall be repaved and restriped in compliance with the City of Merced's City Standards.
18. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures if applicable, flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.
19. The details of the final design of the exterior elevations and any signage shall be approved by Planning staff prior to issuance of a Certificate of Occupancy.

20. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to operation of a retail dispensary of cannabis and cannabis-based products may be authorized with the approval of the City's Chief Building Official, Fire Chief, and Director of Development Services.

n:shared:planning:PC Resolutions: CCBP #18-06R Exhibit A

CITY OF MERCED
Planning Commission

Resolution #4006

WHEREAS, the Merced City Planning Commission at its scheduled meetings of September 18 and September 19, 2018, held a public hearing and considered **Commercial Cannabis Business Permit #18-10R**, initiated by Green Door, Inc., on property owned by Ray Barry McAuley and Jeanne R McAuley, trustees. This application is a request to permit the operation of a retail dispensary, including delivery services, for both medicinal and adult-use cannabis on a 0.17-acre parcel at 811 W. Main Street within a Regional/Central Commercial (C-C) Zone; also known as Assessor's Parcel Number (APN) 031-123-008; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through O of Staff Report #18-24; 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 #18-23 and approve Commercial Cannabis Business Permit #18-10R, 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 DREXEL, and carried by the following vote:

AYES: Commissioners Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: Commissioner Camper

PLANNING COMMISSION RESOLUTION # 4006

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September 18 and 19, 2018

Adopted this 19th day of September 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #4006
Commercial Cannabis Business Permit #18-10R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (floor plan) and Exhibit 3 (elevations) -- Attachments C, D, and E of Staff Report #18-24, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2480 (Attachment J of Staff Report #18-24) shall apply. Particular attention shall be paid to MMC 20.44.170(F) “Additional Regulations for Dispensary and Retail Sales of Cannabis” and MMC 20.44.170(G) “Additional Regulations for Commercial Cannabis Delivery Services.”
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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The details of the property's fencing (if any), security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy. Key access and/or a Knox Box to any perimeter fencing shall be provided to the City Fire, Police, and Public Works Departments.
9. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment K of Staff Report #18-24) at the time of submittal for building permits for tenant improvement.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. Any non-public areas, including cannabis inventory storage room, restrooms, etc., within the facility shall be secured from intentional or accidental access by any person not employed, contracted, or otherwise authorized on the premises.

12. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
13. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
14. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with MMC 20.44.170(L).4, “Commercial Cannabis Business Permit Renewal (All Types)”, at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees, and be subject to all aspects of the selection process.
15. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures (if applicable), flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.
16. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
17. The applicants shall provide a trash enclosure on the property such that all waste is securely stored until it is removed from the premises with access to the enclosure to be provided to the Refuse Division. The proposed enclosure as shown on the Site Plan is located at the northwest corner of APN 031-123-010, which may conflict with the approved food truck parking area on that lot, so the final location and design shall be

approved by the Refuse Division prior to issuance of a building permit. The cross access agreement described in Condition #19 will also include the final location of the trash enclosure and ensure the dispensary's access to that enclosure.

18. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to operation of a retail dispensary of cannabis and cannabis-based products may be authorized with the approval of the City's Chief Building Official, Fire Chief, and Director of Development Services.
19. A joint parking and cross access agreement shall be recorded by the property owner to ensure that the dispensary has access to the parking, trash enclosure, and any other required facilities on the adjacent parcels (APN #031-123-009 and -010).
20. The parking areas shall be repaved and striped to City Standards prior to obtaining a Certificate of Occupancy.
21. The final design of the exterior elevations and any signage shall be approved by Planning staff prior to obtaining a Certificate of Occupancy. The final design of the proposed mural on the west elevation may require approval from the City's new Arts Commission. Details to be worked out with staff.
22. The dispensary owners shall work with the property owners and food truck operators as approved with Conditional Use Permit #1226 to allow for the joint use of the parking area on APN #031-123-010. If agreement cannot be reached, the property owners will need to determine the future use of the property. If the food truck(s) remain, the dispensary owners shall be responsible for ensuring that cannabis products are not consumed on-site as required in MMC 20.44.170(F)(16).

CITY OF MERCED
Planning Commission

Resolution #4007

WHEREAS, the Merced City Planning Commission at its scheduled meetings of September 18 and September 19, 2018, held a public hearing and considered **Commercial Cannabis Business Permit #18-17R**, initiated by Merced Business Ventures, Inc., DBA Manzanita, on property owned by Robert Gray. This application is a request to permit the operation of a retail dispensary for both medicinal and adult-use cannabis, including delivery services, on a 0.3-acre parcel at 1594 W. 18th Street within a General Commercial (C-G) Zone; also known as Assessor's Parcel Number (APN) 031-351-031; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through O of Staff Report #18-25; 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 #18-30 and approve Commercial Cannabis Business Permit #18-17R, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner CAMPER, seconded by Commissioner HARRIS, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 4007

Page 2

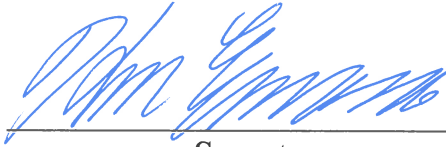
September 18 and 19, 2018

Adopted this 19th day of September 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 4007
Commercial Cannabis Business Permit #18-17R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (floor plan), and Exhibit 3 (elevations) -- Attachments C, D, and E of Staff Report #18-25, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2480 (Attachment J of Staff Report #18-25) shall apply. Particular attention shall be paid to MMC 20.44.170(F) “Additional Regulations for Dispensary and Retail Sales of Cannabis” and MMC 20.44.170(G) “Additional Regulations for Commercial Cannabis Delivery Services.”
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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The details of the property's fencing (if any), security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy. Key access and/or a Knox Box to any perimeter fencing shall be provided to the City Fire, Police, and Public Works Departments.
9. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment K of Staff Report #18-25) at the time of submittal for building permits for tenant improvement.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. Any non-public areas, including cannabis inventory storage room, restrooms, etc., within the facility shall be secured from intentional or accidental access by any person not employed, contracted, or otherwise authorized on the premises.

12. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
13. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
14. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with MMC 20.44.170(L).4, "Commercial Cannabis Business Permit Renewal (All Types)", at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees, and be subject to all aspects of the selection process.
15. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures (if applicable), flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.
16. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
17. The applicants shall provide a trash enclosure on the property such that all waste is securely stored until it is removed from the premises with access to the enclosure to be provided to the Refuse Division. The proposed enclosure as shown on the Site Plan is located at the southwest corner of the parcel, but per the Refuse Division, it should be relocated closer to the northwest corner of the parcel. The final location and design

shall be approved by the Refuse Division prior to issuance of a building permit. The applicants have also agreed to post a sign on the enclosure making clear there is no cannabis product inside of it, and it will be locked.

18. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to operation of a retail dispensary of cannabis and cannabis-based products may be authorized with the approval of the City's Chief Building Official, Fire Chief, and Director of Development Services.
19. A joint parking and cross access agreement shall be recorded by the property owner to ensure that the dispensary has access to the parking, trash enclosure, and any other required facilities on the adjacent parcel to the east (APN #031-351-028).
20. The parking areas shall be repaved and striped to City Standards prior to obtaining a Certificate of Occupancy.
21. The final design of the exterior elevations and any signage shall be approved by Planning staff prior to obtaining a Certificate of Occupancy. Details to be worked out with staff.

n:\shared\planning\PC Resolutions: CCBP #18-17R Exhibit A

Note: This item has been
appealed; therefore,
Resolution #4008 has not
yet gone into effect.
Efficacy of this Resolution
will be contingent on City
Council decision.

**CITY OF MERCED
Planning Commission**

Resolution #4008

WHEREAS, the Merced City Planning Commission at its scheduled meetings of September 18 and September 19, 2018, held a public hearing and considered **Commercial Cannabis Business Permit #18-14R**, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for both medicinal and adult use cannabis and cannabis-related products on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th St.; also known as Assessor's Parcel Number (APN) 031-173-012; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through M of Staff Report #18-26; 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 #18-27 and approve Commercial Cannabis Business Permit #18-14R, 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 RASHE, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: Commissioner Martinez

PLANNING COMMISSION RESOLUTION # 4008

Page 2

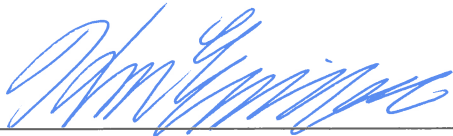
September 18 and 19, 2018

Adopted this 19th day of September 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #4008
Commercial Cannabis Business Permit #18-14R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Attachment C of Staff Report #18-26, and Exhibit 2 (floor plan), Attachment D of Staff Report #18-26, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2480 (Attachment I of Staff Report #18-26) shall apply. Particular attention shall be paid to MMC 20.44.170(F) “Additional Regulations for Dispensary and Retail Sales of Cannabis” and MMC 20.44.170(G) “Additional Regulations for Commercial Cannabis Delivery Services.”
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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
8. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment J of Staff Report #18-26) at the time of submittal for building permits for tenant improvement.
9. The details of the property's fencing (if any), security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
10. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
11. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
12. Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be

adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.

13. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with 20.44.170(L).4, "Commercial Cannabis Business Permit Renewal (All Types)", at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.
14. As per Ordinance #2480, the use of vending machines to dispense cannabis is strictly prohibited. Any vending machines on the property must not contain cannabis or cannabis-based products.
15. The applicants shall provide or cause to be provided a trash enclosure on the property such that all waste is securely stored until it is removed from the premises. Access to this enclosure shall be provided to the City's Department of Public Works.
16. Key access and/or a Knox Box to the perimeter fence shall be provided to the City of Merced Fire Department, Department of Public Works, and Police Department.
17. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State standards and regulations.
18. The parking lot shall be repaved and restriped in compliance with the City of Merced's City Standard Designs.
19. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures if applicable, flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.

20. There shall be no shared access to the building sharing a common wall with 863 W. 15th Street. Any existing shared access point must be sealed prior to the issuance of a Certificate of Occupancy.
21. The details of the final design of the exterior elevations and any signage shall be approved by Planning staff prior to issuance of a Certificate of Occupancy.
22. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to operation of a retail dispensary of cannabis and cannabis-based products may be authorized with the approval of the City's Chief Building Official, Fire Chief, and Director of Development Services.

n:shared:planning:PC Resolutions: CCBP #18-14R Exhibit A