

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #18-07

AGENDA ITEM: 4.2

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: April 4, 2018

PREPARED BY: Michael Hren, AICP
Principal Planner

CITY COUNCIL
MEETING DATE: May 21, 2018
(Tentative)

SUBJECT: **Zone Change #425**, initiated by Merced Gateway LLC. This application involves amending the Zoning of two parcels from Agricultural (A-1-20) to Business Park (B-P), consistent with the parcels' existing General Plan designations. The parcels total 71.135 acres and are located approximately 1,300 feet east of Coffee Drive along the north and south sides of Campus Parkway to approximately 264 feet west of the intersection of Gerard Avenue and Campus Parkway, between Gerard Avenue and Mission Drive. *PUBLIC HEARING*

ACTION: PLANNING COMMISSION:

Recommendation to City Council (tentatively scheduled for May 21, 2018)

- 1) Environmental Review #18-11 (CEQA Section 15162 Finding)
- 2) Zone Change #425

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #18-11 (CEQA Section 15162 Finding)
- 2) Zone Change #425

SUMMARY

This application is a request to change the zoning designations for two parcels totaling 71.135 acres (Attachment A), from Agricultural (A-1-20) to Business Park (B-P). This change is consistent with the existing General Plan designation for these parcels.

No specific project has been proposed for the site. The proposed change to the zoning classification would make it possible for a future development to occupy this site. For a list of permitted and conditional uses allowed within a Business Park (B-P) zone, please refer to the table at Attachment B.

Because the site is located across the street from a developed parcel within an R-1-5 zone, all development on the site would be subject to the Interface Regulations of Chapter 20.32 of the City's Zoning Ordinance. Therefore, all permitted uses on lots of the site that are across Gerard Avenue from homes in the R-1-5 Zone would be subject to Site Plan Review. Interface regulations are intended to protect existing residential neighborhoods and to ensure that new development is

designed in a manner to minimize negative impacts on nearby uses to the greatest extent possible. For a full explanation of the Interface Regulations, please refer to Attachment C.

Planning staff is recommending approval of the proposed Zone Change and the associated Environmental Review.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval of Environmental Review #18-11 (15162 Findings) and Zone Change #425 (in accordance with the draft resolution at Attachment F) subject to the following conditions:

- *1) The Zoning Designation shall be changed from Agricultural (A-1-20) to Business Park (B-P) for the property shown in Attachment A of Planning Commission Staff Report #18-07.
- *2) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- *3) The Project shall comply with the applicable mitigation measures set forth in Expanded Initial Study #97-22 for the Lyons Annexation to the City of Merced, Attachment E of Planning Commission Staff Report #18-07 (Item M-5 is for improvements not located on the site of the Project and is not applicable).
- *4) All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
- *5) Approval of the Zone Change is subject to the applicant's entering into a written Legislative Action Agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.
- *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) Community Facilities District (CFD) formation is required for annual operating costs for storm drainage, public landscaping within State Highway rights-of-way, street trees, and street lights. CFD procedures shall be initiated before any final permit approval. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
- *9) All development on the site would be subject to the Interface Regulations of Chapter 20.32 of the City's Zoning Ordinance. Therefore, all permitted uses on lots of the site that are across Gerard Avenue from homes in the R-1-5 Zone would be subject to Site Plan Review.
- *10) Access to Campus Parkway will be limited solely to Plum Drive; no other curb cuts to Campus Parkway shall be permitted.

(* Denotes non-discretionary conditions.

PROJECT DESCRIPTION

This project includes only a zoning change to bring the property into alignment with the use specified for it in the General Plan. At this time, no further project details or specifications are available.

Surrounding Uses

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Single-Family Dwellings	Single-Family Residential (R-1-5)	Low Density Residential (LD)
South	Single-Family Dwelling, Farmland, Farmdale Lateral	Outside of City Limits	Business Park Reserve (BP-R)
East	Farmland, Farmdale Lateral	Heavy Industrial (I-H)	Industrial (IND)
West	Vacant	Regional/Community Commercial (C-C)	Regional/Community Commercial (RC)

BACKGROUND

This property was annexed into the City of Merced in 1999 as a part of the Lyons Annexation (#183). This property was initially included in applications for a Merced Gateway project including proposed General Plan Amendment #06-05 and proposed General Plan Amendment #07-03. These applications were withdrawn prior to approval and the property in question was removed from the Merced Gateway project that was later approved in 2017.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project brings the property into compliance with the General Plan designation of Business Park (BP) by amending the zoning designation to Business Park (B-P).

Traffic/Circulation

- B) Traffic and circulation impacts would be evaluated upon receipt of a specific project. As per Condition #10 above, access to Campus Parkway shall be limited to Plum Drive. Due to Campus Parkway's status as a limited-access expressway in the City's General Plan, further curb cuts would lead to turning motions that would restrict the flow of traffic to an inappropriate degree for this type of roadway. Access was limited to certain intersections with Campus Parkway per the Environmental Impact Report (EIR) adopted for the project. Additional access to Campus Parkway for the adjacent Merced Gateway project was granted through a General Plan Amendment and EIR/Traffic Study process that demonstrated that additional access would not result in negative impacts to Campus Parkway's traffic flow. Additional access to the site could be made from Gerard Avenue and would be reviewed by the City as individual projects are applied for.

Parking

- C) The Zone Change does not include a specific project and is solely a change to the zoning designation for the site. Any future use would be required to comply with all parking requirements of the City's Zoning Ordinance.

Public Improvements/City Services

- D) Any future projects on this site would be responsible for installing all required public improvements including but not limited to, street, sidewalk, curb, gutter, streetlights, and street trees to the satisfaction of the City Engineer.

Building and Site Design/Landscaping

- E) There is no specific project at this time. Therefore, there is no building, site or landscape design. Future projects may be subject to appropriate findings and considerations at the time of their application.

Neighborhood Impact/Interface

- F) The northern portion of the subject site is located across Gerard Avenue from homes in an R-1-5 Zoning district. The western portion of the subject site is adjacent to lands that are currently used for agricultural purposes or lay vacant, and are part of Planned Development #74. The southern portion of the subject site is located across Mission Avenue from 16 homes outside of the City of Merced's city limits. The eastern portion of the subject site is adjacent to and across Campus Drive from lands that are currently used for agricultural purposes or lay vacant, and are zoned as Heavy Industrial (I-H).

Since there is no specific project at this time, the zoning change does not create any specific impacts to adjacent properties. Any future projects on the subject site would be required to comply with the City of Merced's Interface Regulations, Chapter 20.32 of the City of Merced's Zoning Ordinance (Attachment C of Planning Commission Staff Report #18-07).

Signage

- G) Any future projects on the subject site would be required to comply with the City of Merced's Sign Ordinance.

Land Use/Density Issues

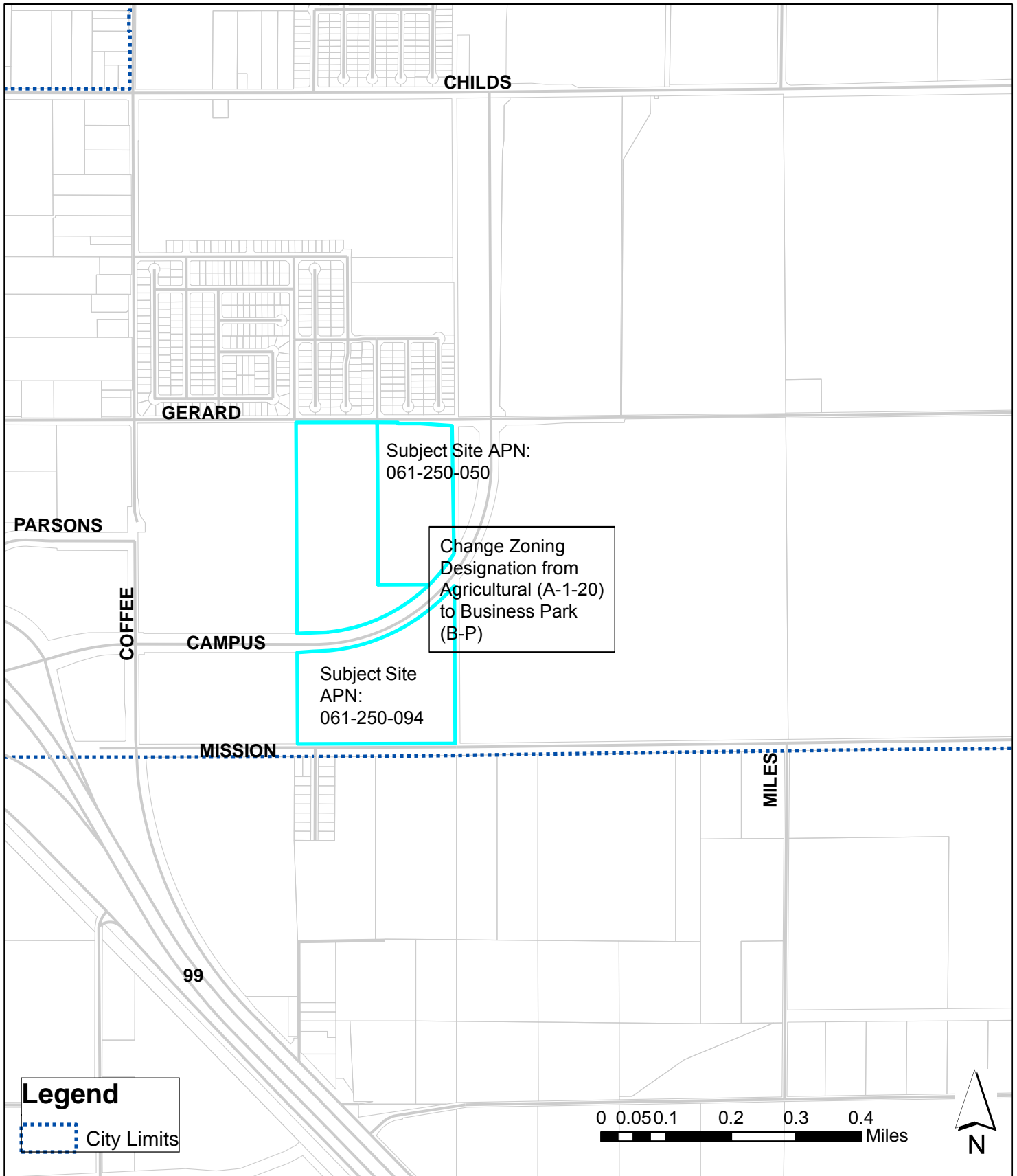
- H) This project brings the zoning of the subject site into conformity with the land use specified in the General Plan. Since there is not a specific project at this time, no density issues are currently present.

Environmental Clearance

- I) The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and concluded that Environmental Review #18-11 is a second tier environmental document, based upon the City's determination that the proposed development remains consistent with the current general plan and provisions of CEQA Guidelines, Section 15162 (Merced Vision 2030 General Plan Environmental Impact Report SCH #2008071069). A copy of the Section 15162 Findings can be found at Attachment D.

Attachments:

- A) Location Map
- B) Business Park Permitted Uses
- C) Interface Regulations
- D) CEQA Section 15162 Findings
- E) Mitigation Measures from Lyons Annexation, Expanded Initial Study #97-22
- F) Draft Planning Commission Resolution



Disclaimer: This document was prepared for general inquiries only. The City of Merced makes no warranty, representation, or guarantee regarding the accuracy of this map. The City of Merced is not responsible for errors or omissions that might occur. Official information regarding specific parcels should be obtained from official recorded or adopted City documents.

Zone Change #425 and Environmental Review #18-11

Attachment A



20.10.020 Land Use Regulations for Commercial Zoning Districts

A. Permitted Uses. Table 20.10-1 identifies land uses permitted in commercial zoning districts.

TABLE 20.10-1 PERMITTED LAND USES IN THE COMMERCIAL ZONING DISTRICTS

Key	Zoning District ^[1]							
	C-O	C-N	C-C	C-SC	C-T	C-G	B-P	Additional Regulations
P Permitted Use								
M Minor Use Permit Required								
SP Site Plan Review Permit Required								
C Conditional Use Permit Required								
X Use Not Allowed								
RESIDENTIAL USES								
Group/Transitional/Supportive Housing	X	X	P [3]	X	X	X	X	
Live/Work Units	C	C	P [2]	X	X	X	X	Sec. 20.44.080
Multiple-Family Dwellings	C	C	P	X	X	X	X	
Residential Care Facilities, Small (6 or Less)	X	X	P [3]	X	X	X	X	
Residential Care Facilities, Large (More than 6 residents)	X	X	P [3]	X	X	X	X	
Single-Room Occupancy	X	X	P [3]	X	X	X	X	Sec. 20.44.120
COMMUNITY USES								
Community Assembly	C	C	C	X	C	C	C	
Community Garden	SP	SP	SP	X	X	SP	X	Sec. 20.44.050
Colleges and Trade Schools	C	C	C	X	X	C	C	
Convalescent or Nursing Homes	C	C	C	X	X	X	X	
Cultural Institutions	C	C	C	X	C	C	C	
Day Care Centers (Children & Adults)	M	M	M	X	X	X	SP	
Emergency Shelters	X	X	C	X	C	P	X	Sec.20.44.150
Government Offices	P	P	P	X	C	C	C	
Hospitals and Surgery Centers	C	C	C	X	X	X	C	
Instructional Services	P	P	P	X	X	X	SP	
Medical Offices and Clinics	P	P	P	X	X	X	C	
Parks and Recreational Facilities	C	C	C	X	X	X	C	
Public Safety Facilities	SP	SP	P	C	SP	SP	SP	
Rehabilitation Centers	P	P [6]	P[10]	X	X	C	C	
Social Assistance Services	C	C	C	X	SP	P	X	

Key	Zoning District ^[1]							Additional Regulations
	C-O	C-N	C-C	C-SC	C-T	C-G	B-P	
P Permitted Use								
M Minor Use Permit Required								
SP Site Plan Review Permit Required								
C Conditional Use Permit Required								
X Use Not Allowed								
COMMERCIAL USES								
Alcoholic Beverage Sales [7]	X	P [7][8]	P [7]	C [7][8]	P [7]	P [7]	SP [7]	Sec.20.44.010
Bail Bond Businesses	C	X	C [10]	X	C	C	C	
Bars and Nightclubs	X	C	C	X	C	C	C	
Banks, Retail	P	P	P	P [9]	SP	SP	SP	
Bed and Breakfast	X	X	C	X	C	C	X	Sec.20.44.030
Building Supplies/Home Improvement	X	X	C	X	SP	P	SP	
Business Support Services	X	C	M	X	P	P	SP	
Cardrooms [5]	X	X	C [5]	X	C [5]	C [5]	X	Chapter 9.08
Cemeteries and Mausoleums	X	X	C	X	C	P	X	
Check Cashing/Payday Loan Establishments	C	X	C [10]	X	C	C	C	Sec.20.44.040
Commercial Cannabis Businesses	Refer to Table 20.44-1 in Section 20.44.170							
Commercial Recreation, Indoor (Except Below)	X	SP	SP	X	P	SP	C	
Multi-Screen (6 or More) Movie Theaters	X	C	P	X	C	X	C	
Commercial Recreation, Outdoor	X	X	X	X	P	C	C	
Drive-Through and Drive-Up Sales	C	C	SP	X	P	P	SP	
Equipment Sales and Rental	X	X	X	X	P	P	SP	
Farmer’s Market	C	SP	SP	SP	SP	SP	SP	Sec.20.50.030B
Flea Market	X	X	X	X	C	C	C	
Funeral Parlors and Mortuaries	C	C	C	X	C	P	C	
Gas and Service Stations/Car Washes	X	C	SP	C [9]	P	P	SP	Sec.20.44.070
Hotels and Motels	X	X	P	X	P	C	C	
Hookah Lounges	X	C	C	X	C	C	C	
Kennels	X	X	X	X	C	P	C	
Maintenance and Repair Services	X	X	X	X	P	P	SP	
Massage Establishments	C [16]	C [16]	C [16]	X	C [16]	C [16]	X	Chapter 5.44
Massage Therapy—Sole Practitioner	P[17]	P[17]	P[17]	X	C [16]	C [16]	X	Chapter 5.44
Mobile Food Vendors	C	C	C [10]	X	SP [11]	SP	C	Sec. 5.54 & 20.44.020
Mobile Home Sales	X	X	X	X	P	P	SP	
Office, Professional	P	P	P	C [9]	SP	SP	SP	

Key	Zoning District ^[1]							Additional Regulations
P Permitted Use	C-O	C-N	C-C	C-SC	C-T	C-G	B-P	
M Minor Use Permit Required								
SP Site Plan Review Permit Required								
C Conditional Use Permit Required								
X Use Not Allowed								
COMMERCIAL USES (Continued)								
Pawn Shops	X	X	C [10]	X	X	P	X	
Personal Services	SP	P	P	P [9]	SP	SP	SP [12]	
Retail, General	SP[12]	P	P	P [9]	P	SP	SP	
Restaurants	C [13]	P [8]	P	C [9]	P	M	SP [12] [13]	
Tattoo Parlors	X	SP	M	X	M	M	SP	
Tobacco Retailers [18]	X	P [18]	P [18]	P [18]	P [18]	P [18]	SP[18]	Sec.20.44.160
Vehicle Parts and Accessories Sales	X	P	P	X	P	P	SP	
Vehicle Rentals	X	X	M	X	P	P	SP	
Vehicle Repair and Maintenance, Major	X	X	X	X	C	P	C	
Vehicle Repair and Maintenance, Minor	X	SP	P	X	P	P	C	
Vehicle Sales	X	X	P [10] [14]	X	P	P	C	
INDUSTRIAL USES								
Manufacturing and Processing, General	X	X	X	X	X	M	C	
Manufacturing and Processing, Light	X	X	X	X	X	P	SP	
Research and Development	C	X	C	X	SP	SP	P	
Warehousing, Wholesaling, and Distribution	X	X	SP[15]	X	P	P	SP	
Wrecking & Salvage Establishments	X	X	X	X	C	C	X	Sec.20.44.140
TRANSPORTATION, COMMUNICATION, AND UTILITY USES								
Airports	X	X	X	X	C	C	C	
Freight Terminals	X	X	X	X	C	C	C	
Heliports	C	X	C	X	C	C	C	
Parking Facilities	P	P	P	P[9]	P	P	P	
Public/Mini Storage	X	X	X	X	M	M	SP	
Recycling Collection Facilities								Sec.20.44.090
Reverse Vending Machines	P	P	P	M[9]	P	P	P	
Small Collection Facilities	SP	SP	SP	SP[9]	SP	SP	SP	
Large Collection Facilities	X	X	X	X	C	C	C	
Utilities, Major	C	C	C	X	C	C	C	
Utilities, Minor	P	P	P	P[9]	P	P	P	
Wireless Communications Facilities	See Chapter 20.58							

Notes:

- [1] A Site Plan Review Permit may be required per Chapter 20.32 (Interface Regulations) regardless of the uses shown in Table 20.10-1.
- [2] Residential use on the ground floor is prohibited unless it is located on the back of the property where it is not visible or approved with a Conditional Use Permit.
- [3] Prohibited as a single use. Permitted as part of a residential mixed-use project.
- [4] Use shall not exceed 20,000 square feet.
- [5] 24 hour operations limited to C-T and C-C zones per Chapter 9.08 (Gaming).
- [6] Rehabilitation centers for drug, methadone, and alcohol are prohibited.
- [7] A Conditional Use Permit is required for establishments smaller than 20,000 square feet.
- [8] A Conditional Use Permit is required for alcoholic beverage sales for on-site consumption.
- [9] Permitted only as part of a shopping center or other retail establishment with a minimum of 5,000 square feet of floor area devoted to the sale of groceries.
- [10] Prohibited in the City Center area between 19th and 16th Streets and O Street and Martin Luther King, Jr. Way, including properties fronting on either side of each of the above streets, except vehicle sales showrooms can be allowed.
- [11] Includes refreshment stands.
- [12] Permitted only as an ancillary use to serve employees, not to occupy more than 5,000 square feet.
- [13] Conditional Use Permit required unless the use is ancillary to a principal permitted use. For restaurants, Conditional Use Permit is required unless the uses are conducted in and entered from within the building with no outside advertising.
- [14] A Site Plan Review Permit is required for used vehicle sales.
- [15] Temporary warehousing and storage only is allowed per the requirements of Section 20.10.030(D).
- [16] Provided that a massage establishment permit has not been revoked at that location within 12 months of the application for a conditional use permit and a massage establishment permit is obtained pursuant to Chapter 5.44.
- [17] Must have valid certificate from State of California as a massage therapist or massage practitioner pursuant to the Massage Therapy Act (Business and Professions Code Section 4600 *et seq.*).
- [18] Prohibited within 1,000 feet of schools and other uses per Sec. 20.44.160, unless building over 20,000 square feet.



20.10.030 Development Standards and Guidelines for Commercial Zoning Districts

- A. General Standards.** Table 20.10-2 identifies development standards that apply to all parcels and structures located in commercial zoning districts. See Figure 20.10-1.
- B. Outdoor Operation of Uses.**
 - 1. The outdoor operation of a land use in the C-C and C-N zoning districts shall require approval of a Site Plan Review Permit. Outdoor dining in accordance with Chapter 12.36 (Restaurant Encroachment Permits), outdoor recreation,

Chapter 20.32 - INTERFACE REGULATIONS

Sections:

20.32.010 Purpose

20.32.020 Definitions

20.32.030 Site Plan Review

20.32.040 Exceptions

20.32.010 Purpose

This chapter establishes special permit requirements for projects proposed near to existing land uses that might be negatively impacted by the new use. These requirements are intended to protect existing residential neighborhoods and to ensure that new development is designed in a manner to minimize negative impacts on nearby uses to the greatest extent possible to promote harmonious and orderly development, and the stability of land values and investments.

20.32.020 Definitions

The following terms when used in this chapter are defined as follows:

- A.** A parcel is “abutting” another parcel if it is located immediately adjacent to another parcel and shares at least one property lot line.
- B.** A parcel is “across from” another parcel if any of its property lines when extended across the street or alley touch the parcel on the other side of the street.
- C.** A parcel is “developed” if there is a minimum of 20 percent lot coverage and the parcel contains a land use legally conforming to the zoning district within which it is located.

20.32.030 Site Plan Review

- A.** A proposed use in a “High Impact” zoning district shall require a Site Plan Review Permit if it is abutting or across from a developed parcel in a “Low Impact” zoning district. For example, if a proposed use is located in the R-3 zoning district and is abutting or across from a parcel in the R-1 zoning district, then a Site Plan Review Permit is required. Table 20.32-1 lists out all cases that require a Site Plan Review Permit pursuant to this chapter. Figure 20.32-1 illustrates the concept.

- B. A Site Plan Review Permit (with a public hearing and public notice per Section 20.68.050.E and Chapter 20.70) shall also be required for a proposed use in a High Impact zoning district that is abutting or across from either:
 1. A developed parcel that is zoned Planned Development with a use similar to a permitted use within the corresponding Low Impact zoning district; or,
 2. A parcel outside the Merced City limits with a use similar to a permitted use within the corresponding Low Impact zoning district.
- C. The Director of Development Services may refer any application to the Planning Commission for review and final decision.

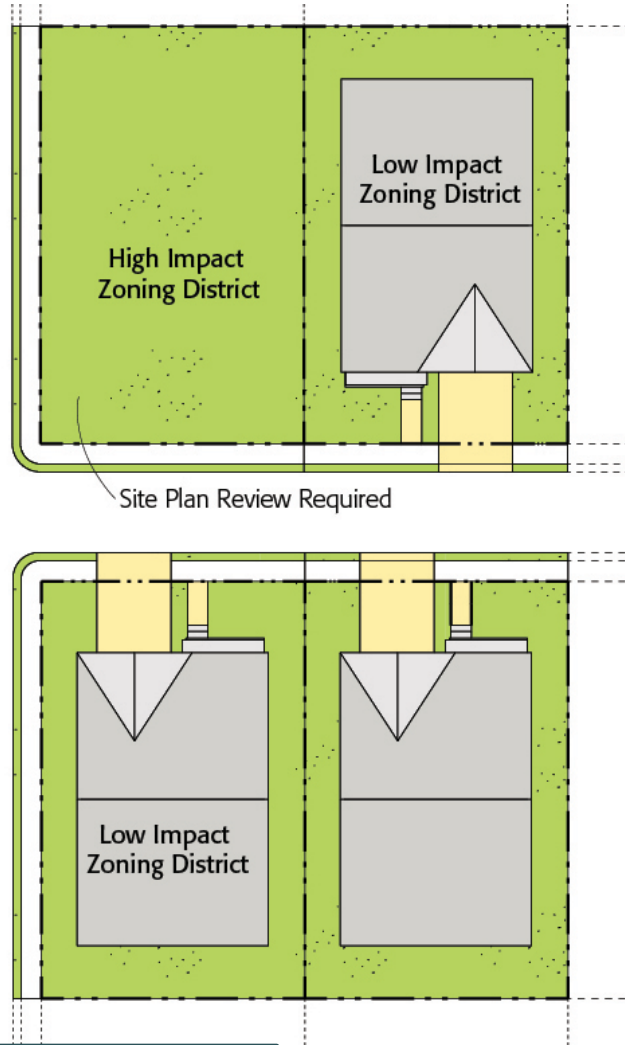
TABLE 20.32-1 SITE PLAN REVIEW PERMIT REQUIRED

		High Impact Zoning District													
		R-3	R-4	R-MH	C-N	C-SC	C-C	D-CM	C-O	C-T	C-G	B-P	I-L	I-H	A-G
Low Impact Zoning District	R-1	■	■	■	■	■	■	■	■	■	■	■	■	■	■
	R-2				■	■	■	■	■	■	■	■	■	■	■
	R-3										■		■	■	
	R-4										■		■	■	
	R-MH										■		■	■	
	C-O										■		■	■	
	A-G	■	■	■	■	■	■	■	■	■	■	■	■	■	■

■	Site Plan Permit Required
■	No Site Plan Permit Required



FIGURE 20.32-1 --SITE PLAN REVIEW REQUIREMENT



20.32.040 Exceptions

This section shall not apply to parcels across the street if the street is a proposed or existing arterial or higher order street as shown on the General Plan Circulation map.



**The California Environmental Quality Act
(CEQA) Section 15162 Findings:**

Application: Zone Change #425 – Environmental Review #18-11

Assessor Parcel Number or Location: Assessor’s Parcel Numbers (APN): 061-250-094 & 061-250-050

Previous Initial Study/EIR Reference: Merced Vision 2030 General Plan EIR, SCH# 2008071069.

Original Project Date: The Merced Vision 2030 General Plan EIR, SCH# 2008071069 was adopted on January 3, 2012.

Section A - Previous Studies

- | | | |
|--|--------------------------|-------------------------------------|
| | Yes | No |
| 1. Substantial changes are proposed in the project that will require major revisions of the previous project EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment/Finding: The proposed Zone Change brings the properties in question into compliance with the General Plan’s Land Use designations. As there is no project proposed at this time, there is no revision to the previous EIR necessary at this time.

- | | | |
|--|--------------------------|-------------------------------------|
| | Yes | No |
| 2. Substantial changes have occurred with respect to the circumstances under which the project is undertaken that will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment/Finding: There have been no changes in the circumstances under which the project is undertaken that would require major revisions in the previous EIR. There are no new significant environmental effects or substantial increases in the severity of previously identified environmental effects.

- | | | |
|---|--------------------------|-------------------------------------|
| | Yes | No |
| 3. New information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, has been revealed? (If “Yes” is checked, go to Section “B” below) | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment/Finding: There is no new information of substantial importance that was not known and could not have been known with the reasonable diligence at the time the previous EIR was adopted.

Section B - New Information

- | | | |
|---|--------------------------|-------------------------------------|
| A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration. | Yes | No |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| B) Significant effects previously examined will be substantially more severe than shown in the previous EIR. | Yes | No |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative. | Yes | No |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative. | Yes | No |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment/Finding: The proposed Zone Change brings the Zoning of these parcels into compliance with the General Plan's Land Use designations. As there is no project proposed on these parcels at this time, no new information is present as a result of this application.

On the basis of this evaluation, in accordance with the requirements of Section 15162 of the CEQA Guidelines:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | 1. It is found that subsequent negative declaration will need to be prepared. |
| <input type="checkbox"/> | 2. It is found that an addendum Negative Declaration will need to be prepared. |
| <input type="checkbox"/> | 3. That a subsequent EIR will need to be prepared. |
| <input checked="" type="checkbox"/> | 4. No further documentation is required. |

Date: March 8, 2018

Prepared By:



Michael Hren, AICP
Principal Planner

EXHIBIT B

EXPANDED INITIAL STUDY #97-22
for
LYONS ANNEXATION
TO THE CITY OF MERCED

Mitigation Measures

A. EARTH

- A-1 Grading and excavation shall be conducted according to City of Merced standards to reduce the effects of disruptions, displacement, compactions, and over-covering of soils.
- A-2 The Project applicants shall prepare grading plans for individual projects for review and approval by the City of Merced Inspection Services, Engineering, and Public Works Departments prior to approval of building permits. The grading plans shall include the nature and extent of work proposed, phasing, and minimize the effects of disruptions, displacement, compaction, and over-covering of soils.
- A-3 Prior to approval of a tentative map, the City shall review plans for drainage and stormwater run-off control systems and their component facilities to ensure that these systems are non-erosive in design.
- A-4 Upon completion of construction, subsequent Projects shall re-vegetate all exposed soil surfaces within 30 days, or as otherwise approved by the City, to minimize potential topsoil erosion. Reasonable alternatives to re-vegetation may be employed, especially during peak high temperature periods, subject to the approval of the City.
- A-5 Projects under review shall be required to submit temporary erosion control plans for construction activities.
- A-6 Prior to the issuance of a building permit, the applicant shall design all structures according to the Uniform Building Code Seismic Section 3.
- A-7 Prior to recordation of the final map, the applicant shall retain a qualified geologist to conduct soil samples throughout the Project area to identify expansive soils, and those areas shall be identified on a map for the City.
- A-8 Building plans shall be reviewed by a registered engineer specializing in geo-technical assessments to ensure that the soils can support the load.

B. AIR

- B-1 All active portions of construction sites, earthen access roads, and material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice a day with complete coverage, preferably in the late morning and after work is done for the day. Where feasible, reclaimed water shall be used.
- B-2 All clearing, grading, earth moving, or excavation activities shall cease during periods of winds greater than 20 miles per hour averaged over one hour.

- B-3 All material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.
- B-4 The area disturbed by clearing, earth moving, or excavation activities shall be minimized at all times. This can be accomplished by mowing instead of disking for weed control and seeding and watering inactive portions of the construction site until grass is evident, if construction time frames warrant.
- B-5 Construction site vehicle speeds shall be limited to 15 miles per hour.
- B-6 If used, petroleum-based dust palliatives shall meet the road oil requirements of the District's rule regarding Cutback Asphalt Paving Materials.
- B-7 Streets adjacent to the Project site shall be swept as needed to remove silt and/or mud that may have accumulated from construction activities. The streets are required to be wet prior to or in conjunction with rotary sweeping.
- B-8 All internal combustion engine-driven equipment shall be properly maintained and well tuned according to the manufacturer's specifications.
- B-9 When reasonably available and economically feasible, diesel powered or electric equipment shall be utilized in lieu of gasoline powered engines.
- B-10 Construction activities shall minimize obstruction of through traffic lanes adjacent to the site and a flag person shall be retained to maintain safety adjacent to existing roadways.
- B-11 Prior to issuance of a grading permit, the project will be required to comply with District Regulation VIII. Specifically, the rules that apply to this project are: Rule 8010 (Administrative Requirements) and Rule 8020 (Construction, Demolition, Excavation, and Extraction Activities). Additional rules that may apply to this project depending on construction practices employed are: Rule 8030 (Handling and Storage of Bulk Materials), Rule 8060 (Paved and Unpaved Roads), and Rule 8070 (Parking , Shipping, Receiving, Transfer, Fueling, and Service Areas).
- B-12 At the City Planner's discretion, subsequent industrial projects within the Project boundaries may be required to submit an air quality analysis to the City prior to construction. Such studies shall outline any impacts associated with specific industrial processes to be present on-site.

C. WATER

- C-1 Prior to approval of a Final Map or subsequent development projects, the applicant shall demonstrate to the City that storm drainage facilities are adequate to meet Project demands and that improvements are consistent with the Merced County Critical Area Flooding and Drainage Plan and any updates.
- C-2 Prior to approval of subsequent development projects, the applicants shall demonstrate to the City that temporary erosion control measures will be followed during construction.
- C-3 As individual industrial users are determined, the applicants shall provide detailed information to the City regarding projected water usage. The applicants shall provide all water system needs (including wells, water mains, etc.) for individual projects or pay equivalent fees to insure the construction of the necessary water infrastructure.

- C-4 Industrial users shall recycle their own water if feasible and implement water conservation measures and techniques as determined for individual projects.
- C-5 Prior to development of individual projects within Flood Zone A, base flood elevations will need to be determined. Areas within 100-year flood plains will be required to comply with all pertinent provisions of the City's Flood Damage Prevention Ordinance (MMC 17.48) and all updates.

D. PLANT LIFE

- D-1 Prior to approval of a tentative map, the applicants shall submit a site-specific biological resource survey for special status species, prepared by a qualified biologist, to the City for review and possible mitigation. The survey shall include a review of existing literature relating to the occurrence and distribution of any special status species and habitats. The applicants shall consult with the U.S. Fish and Wildlife Department and/or California Department of Fish and Game to ensure adequacy and completeness. However, nothing in this condition shall be construed (expressly or implied) to provide or vest additional authority to U.S. Fish and Wildlife or the California Department of Fish and Game concerning the Project's approval. If a master biological survey is prepared and approved by the City for the entire site, then no further assessments will be needed for individual projects within the site boundaries.

E. ANIMAL LIFE

- E-1 Prior to approval of a tentative map, the applicants shall submit a site-specific biological resource survey for special status species, prepared by a qualified biologist, to the City for review and possible mitigation. The survey shall include a review of existing literature relating to the occurrence and distribution of any special status species and habitats. The applicants shall consult with the U.S. Fish and Wildlife Department and/or California Department of Fish and Game to ensure adequacy and completeness. However, nothing in this condition shall be construed (expressly or implied) to provide or vest additional authority to U.S. Fish and Wildlife or the California Department of Fish and Game concerning the Project's approval. If a master biological survey is prepared and approved by the City for the entire site, then no further assessments will be needed for individual projects within the site boundaries.

F. NOISE

- F-1 If subsequent industrial project noise levels exceed those found in Table F-2 of Expanded Initial Study #97-22, the applicants shall submit a noise analysis to the City which outlines proposed noise attenuation measures designed to decrease noise impacts. The City shall review and approve noise mitigation as necessary.
- F-2 Grading and construction activity shall be limited to daylight hours (between 7 a.m. and 7 p.m.) in areas where noise sensitive receptors are located.
- F-3 In noise sensitive areas, construction equipment, compressors, and generators shall be fitted with heavy duty mufflers specifically designed to reduce noise impacts.

G. LIGHT AND GLARE

- G-1 The applicants shall utilize lighting fixtures of minimal wattage necessary to provide adequate lighting for security, industrial operations, and circulation. Light spill shall be controlled by baffles, cut-off lenses, and fixture height necessary to minimize spill-over onto adjacent properties. Prior to building permit approvals, lighting plans shall be submitted for review by the City which specifies lighting type, location, and methods for minimizing spill.

J. RISK OF UPSET

- J-1 Applicants for all subsequent industrial users within the Project area shall submit a Hazardous Material Management and Business Plan to the Merced County Environmental Health Department, and the City Fire, Environmental Health, and Public Works Departments for evaluation and conformance with Federal, State, and local hazardous material requirements and standards.
- J-2 The use, storage, and production of hazardous materials shall not be allowed within 500 feet of any residential uses.

M. TRANSPORTATION/CIRCULATION

- M-1 The Project shall pay all fees as required under the City's Public Facilities Impact Fees (Chapter 17.62 of the Merced Municipal Code).
- M-2 The developer shall construct all collector, local, or cul-de-sac streets within the Project boundaries to their ultimate right-of-way with full frontage improvements as defined by the *City of Merced Standard Designs for all Engineering Structures* and the *Merced Vision 2015 General Plan* and any amendments thereto. This includes Kibby Road, Gerard Avenue, Tower Road, and any new interior streets within the Project boundaries. The timing of construction of the improvements are to be governed by the Subdivision Map Act and/or local ordinance.
- M-3 The developer shall dedicate the full right-of-way for all arterial and higher order streets within the Project boundaries as defined in the *Merced Vision 2015 General Plan*. For those arterial or higher order streets that are adjacent to but do not lie completely within the Project boundaries, the developer shall dedicate half of the required right-of-way. This includes Childs Avenue, Mission Avenue, and the Campus Parkway. Consistent with Mitigation Measure 7.b of the *Merced Vision 2015 General Plan EIR*, where the extent of right-of-way dedication exceeds the City's development standards for a collector street (currently 74 feet for a collector street located entirely within the Project and 37 feet for a collector abutting the Project), then the developer is eligible for reimbursements in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional dedication.
- M-4 The developer shall construct the "collector equivalent" (74 feet) portion of the right-of-way, along with full frontage improvements along the Project boundaries and at least one travel lane in each direction, for all arterial and higher order streets within the Project boundaries. Consistent with Mitigation Measure 7.b of the *Merced Vision 2015 General Plan EIR*, where the extent of street

improvements exceeds one-half of a "collector equivalent" street for a project fronting only one side of the street, the project is eligible for reimbursement for the cost of improvements exceeding the one-half "collector equivalent" in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional improvements.

- M-5 The Owner's obligation for public improvements listed below survives the expiration of the Development Agreement.
- a) *Traffic Signal at Childs Avenue and Kibby Road:* Owner shall install at Owner's expense within 20 years from execution of the Development Agreement, or whenever warrants are met in the judgment of the City Engineer, whichever is earlier. Scope of improvements includes a traffic signal to City standards and the satisfaction of the City Engineer. Security shall be determined at the time of first subdivision map or other discretionary action.
 - b) *Traffic Signal at Highway 140 and Kibby Road:* See Section 3.06 of "Development Agreement for Lyons Investments."

N. PUBLIC SERVICES

- N-1 The applicants shall cooperate with the City to identify the location for a new police substation within the general vicinity of the Project site. A joint police/fire facility will be considered.
- N-2 Prior to the issuance of building permits, the applicant shall be responsible for the payment of school facility impact fees as adopted by the Weaver Union School District and Merced Union High School District.

P. UTILITIES

- P-1 Prior to recordation of Final Maps, the applicant shall demonstrate to the City the ability of service providers to accommodate development of the site without service interruptions to existing customers.
- P-2 Prior to approval of Parcel or Tentative Maps and subsequent individual industrial projects, the City shall review the Project application to ensure that wastewater facilities are adequate to meet Project service demands and are consistent with wastewater master plans. In order to provide adequate wastewater treatment facilities, the applicants shall participate in any applicable City programs to secure additional treatment capacity, subject to the terms of the Development Agreement. Some on-site treatment may be required as well.
- P-3 Prior to approval of Tentative or Parcel Maps, the applicant shall demonstrate to the City that storm drainage facilities are adequate to meet Project demands and/or the applicants shall provide improvements, consistent with master plans, necessary to meet Project demands.

Q. HUMAN HEALTH

- Q-1 Project applicants will be required to comply with the *Merced County Hazardous Waste Plan*.
- Q-2 Project applicants shall be required to prepare an environmental assessment for all projects where surface or subsurface contamination may be a concern. The assessment shall include, but not be limited to:
- Identification of potential sources of contamination caused by past or current land uses; and
 - Evaluation of non-point sources of hazardous materials, including agricultural chemical residues, fuel storage tanks, septic systems, or chemical storage areas.

R. AESTHETICS

- R-1 The Project shall be developed as an "industrial park" with standards for landscaping, screening, buffering, compatible architecture, signing, etc. Particular emphasis shall be paid to the visual appearance along perimeter and interior roadways.

T. CULTURAL RESOURCES

- T-1 If evidence of archaeological artifacts is discovered during construction, all operations within an area at and adjacent to the discovered site shall halt until a qualified archaeologist determines the extent of significance of the site.
- T-2 On-site preservation of a resource is the preferred alternative. Preserving a cultural deposit maintains the artifacts in context and may prevent inadvertent discovery of, or damage to, human burials. Preservation may be accomplished through a number of means such as capping or covering the site with a layer of soil, fencing the site area, and/or incorporation of the resource in a park area.

APPLICABLE MITIGATION MEASURES QUOTED FROM THE GENERAL PLAN EIR:

Air Quality

- 1-b) Appropriate CO (CALINE or equivalent) hot-spot air quality studies shall be prepared to identify appropriate project level mitigation measures for all development proposals which can be expected to reduce road segment or intersection levels of service below "D".
- 1-d) Development construction activity shall implement appropriate dust (PM10) suppression techniques as required by the SJVRAPCD.

Water

- 2-a) When site-specific development proposals with direct discharge into the area's surface water system are submitted to the City for review and action, Best Management options should be evaluated to determine need and feasibility.
- 2-b) Water conservation policy of the City should be periodically reviewed to determine need, appropriateness, and feasibility of implementing conservation practices suggested in the Merced Water Supply Plan.

Plant/Animal Life

- 3-a) When site-specific development proposals are submitted to the City for review and action, surveys should be conducted for special-status species prior to the disturbance of potentially suitable habitat. All surveys will be conducted in accordance with applicable state and federal guidelines.

Traffic/Circulation

- 7-a) Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection levels of service below "D."
- 7-b) The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service "D" on all road segments and intersections impacted by the development project.

Public Facilities/Services

- 8-c) Site designs will need to be reviewed to assure that development does not hinder efficient and cost-effective public services delivery.
- 8-d) Development projects will be required to pay public facilities impact fees as established by the City in accordance with the requirements of State law.

**CITY OF MERCED
Planning Commission**

Resolution # _____

WHEREAS, the Merced City Planning Commission at its regular meeting of Wednesday, April 4, 2018, held a public hearing and considered **Zone Change #425**, initiated by Merced Gateway LLC. This application involves amending the Zoning of two parcels from Agricultural (A-1-20) to Business Park (B-P), consistent with the parcels' existing General Plan designations. The parcels total 71.135 acres and are located approximately 1,300 feet east of Coffee Drive along the north and south sides of Campus Parkway to approximately 264 feet west of the intersection of Gerard Avenue and Campus Parkway, between Gerard Avenue and Mission Drive.; also known as Assessor's Parcel Numbers 061-250-094 and 061-250-050; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #18-07; and,

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council to find that the previous environmental review (Merced Vision 2030 General Plan EIR, SCH# 2008071069) remains sufficient and no further documentation is required (CEQA Section 15162), and recommend approval of Zone Change #425, 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)

PLANNING COMMISSION RESOLUTION # _____

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April 4, 2018

Adopted this 4th day of April, 2018

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # _____
Zone Change #425

1. The Zoning Designation shall be changed from Agricultural (A-1-20) to Business Park (B-P) for the property shown in Attachment A of Staff Report #18-07.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. The Project shall comply with the applicable mitigation measures set forth in Expanded Initial Study #97-22 for the Lyons Annexation to the City of Merced, Attachment E of Planning Commission Staff Report #18-07 (Item M-5 is for improvements not located on the site of the Project and is not applicable).
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
5. Approval of the Zone Change is subject to the applicant's entering into a written Legislative Action Agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.
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

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION # _____

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. Community Facilities District (CFD) formation is required for annual operating costs for storm drainage, public landscaping within State Highway rights-of-way, street trees, and street lights. CFD procedures shall be initiated before any final permit approval. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
9. All development on the site would be subject to the Interface Regulations of Chapter 20.32 of the City's Zoning Ordinance. Therefore, all permitted uses on lots of the site that are across Gerard Avenue from homes in the R-1-5 Zone would be subject to Site Plan Review.
10. Access to Campus Parkway will be limited solely to Plum Drive; no other curb cuts to Campus Parkway shall be permitted.

n:shared:planning:PC Resolutions:ZC#425 Exhibit A

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #_____