

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #19-04

AGENDA ITEM: 4.2

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: Jan. 23, 2019

PREPARED BY: Julie Nelson,
Associate Planner

CITY COUNCIL
MEETING DATE: March 4, 2019
(Tentative)

SUBJECT: **Site Utilization Plan Revision #38 to Planned Development (P-D) #1**, initiated by Merced Mall LTD, property owners. This application is a request to allow the renovation and expansion of the Merced Mall located at 851 W. Olive Avenue. The Project would increase the leasable retail area of the Merced Mall and construct a new movie theater at one of two possible locations within the project site. The project site consists of approximately 52 acres and is generally located on the north side of Olive Avenue between M and R Streets. The site has a General Plan designation of Regional/Community Commercial (RC) and is zoned Planned Development (P-D) #1. *PUBLIC HEARING*

ACTION: PLANNING COMMISSION:

Recommendation to City Council

- 1) Environmental Review #18-02 (Draft Mitigated Negative Declaration, including the Mitigation Monitoring Program)
- 2) Site Utilization Plan Revision #38 to Planned Development (P-D) #1

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #18-02 (Draft Mitigated Negative Declaration including the Mitigation Monitoring Program)
- 2) Site Utilization Plan Revision #38 to Planned Development (P-D) #1

SUMMARY

The proposed project would renovate the Merced Mall located at 851 West Olive Avenue (Attachment A) adding additional floor space in two phases. The renovation would include the parcel where the Mall is located (APN: 236-220-038) and the parcels where the United Artists Theater and Michael's is located as well as the Mall retail space adjacent to Big Lots (APN's: 236-220-016; -015; -014) (refer to the map at Attachment B). It should be noted that this project does not include the Sears building. The property where Sears is located is owned by a different entity and is not part of this project.

Phase I of the project would expand the existing building along the southern elevation, adding approximately 50,000 square feet of building area (Attachment C). Along with the building expansion, the southern parking lot along Olive Avenue would be reconfigured.

The project applicant has proposed two alternatives for construction of a new movie theater as part of Phase II. The project applicant would determine at a later date which alternative will be constructed. Details for both alternatives have been provided.

Phase II, Alternative 1 would relocate the existing theater from its existing location east of the Mall to the existing Mall building. The theater would be constructed at-grade between JC Penny and Kohl's. This would create a pedestrian Mall and open courtyard in front of the theater area (Attachment D). The theater would be approximately 72,000 square feet and have up to 3,000 seats.

Phase II, Alternative 2 would demolish the existing United Artists Theater and two retail stores located along the eastern boundary of the project site, and would construct a 72,000-square-foot at-grade theater at that location (Attachment E)

City staff has reviewed the project, including both Phase II alternatives, and is recommending the Planning Commission recommend approval of the Site Utilization Plan Revision to the City Council. Once the applicant has determined which alternative would be constructed, a Site Plan Review application would be required to finalize the project details (Condition #10). Please note that the elevations provided are conceptual and draft in nature. The final plans approved by the Site Plan Review Committee may vary from what is included herein.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval of 1) A Mitigated Negative Declaration (Environmental Review #18-02) including the Mitigation Monitoring Program; and 2) Site Utilization Plan Revision #38 to Planned Development (P-D) #1 (including the adoption of the Resolution at Attachment H) subject to the following conditions:

- *1) The proposed project shall be constructed/designed in substantial compliance with the Site Plan for Phase I (Attachment C of Planning Commission Staff Report #19-04), the Site Plan for either Phase II, Alternative 1, or Phase II, Alternative 2 (Attachments D and E of Planning Commission Staff Report #19-04), and the conceptual elevations found at Attachment F of Planning Commission Staff Report #19-04, except as modified by the conditions or as approved by the Site Plan Review Committee.
- 2) The following conditions apply to the new renovation areas of the Merced Mall and not to existing development that won't be modified under this renovation. Details to be worked out with Planning Staff.
- *3) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- *4) The Project shall comply with all applicable conditions previously approved for this site
- *5) All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.

- *6) Approval of the Site Utilization Plan Revision 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.
- *7) 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.
- *8) 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.
- *9) The project shall comply with all mitigation measures required by the mitigation monitoring program for Initial Study #18-02 (Exhibit B of Draft Planning Commission Resolution at Attachment H).

Site Design/Building Design

- *10) In compliance with Merced Municipal Code Section 20.20.020 Q, Site Plan Review approval is required prior to development to address conformance with the standards of Planned Development (P-D) #1.

- 11) Umbrellas, fencing, or other outdoor features used for the outdoor seating areas shall not include advertising for any specific business or brand and shall be uniform in color to complement the buildings.
- 12) The site shall be provided with pedestrian access between the buildings and connection to public ways (i.e., public sidewalks, streets, etc.).
- 13) All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment. Pedestrian access shall be reviewed and approved by the Site Plan Review Committee prior to a building permit being issued.
- 14) All mechanical equipment shall be screened from public view.
- 15) Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City's Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks.
- 16) A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access shall be provided for all reconfigured parking areas. .
- 17) If changes are made to the site that would affect the current system used by the UC Merced Cat Tracks System and the Merced Transit System (The Bus), the developer shall work with UC Merced (Cat Tracks) and the Merced Transit System (The Bus) to determine the best location for public transit facilities. If relocated, the location of these facilities will be subject to review and approval by the Site Plan Review Committee.

Public Improvements/Infrastructure

- 18) Any driveways that are modified, added, or relocated shall comply with the City of Merced Design Standards for commercial driveways and are to be reviewed by the Fire Department as part of the review of the improvement plan submittals.
- 19) Any missing improvements along the project frontage shall be installed to meet City Standards. Any existing improvements that have been damaged or otherwise do not meet current City Standards shall be repaired or replaced to meet City Standards. This includes, but is not limited to, sidewalk, curb, gutter, street trees, and street lights.
- 20) Bicycle parking shall meet the minimum requirements of the California Green Building Code and MMC 20.38.080.
- 21) The project shall comply with the Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
- 22) All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards. The City Engineer shall approval final design of the storm drain system prior to construction.
- 23) All new utilities (including electrical lines) shall be installed underground.

- 24) A backflow prevention device shall be provided for all water services (i.e., domestic, irrigation, and fire).

Landscaping

- 25) All landscaping shall comply with the Section 20.36.040 – Landscape and Sprinkler Plans, of the City’s Zoning Ordinance in addition to all applicable state laws.
- 26) Full landscape and irrigation plans shall be submitted at the time of building permit application.
- 27) All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or parkstrips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.
- 28) Parking lot trees shall be installed per the City’s Parking Lot Landscape Standards for any new or modified parking areas. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City’s approved tree list). Trees shall be installed at a ratio of at least one tree for each six parking spaces. The trees may be located in planter areas that protrude into the parking areas, or which run along the edge of the parking areas and shall be located to accommodate any carport or shade structures. Details regarding the above to be worked out with Planning Staff and/or approved by the Site Plan Review committee.).
- 29) When possible, mature existing trees should remain or be relocated on the site. Details to be worked out with Planning Staff.
- 30) As depicted in the elevations provided, landscape planters shall be placed throughout the courtyard area and along the sidewalk area. However, the planters shall not block access to the site, stores, or other facilities. All planters shall provide the necessary clearance to meet handicap accessibility requirements.
- 31) All landscaping on the site shall be maintained in a healthy and aesthetically pleasing manner.

General Construction

- 32) Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District.
- 33) The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
- 34) Construction activity shall only take place between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless otherwise approved by the Chief Building Official.
- 35) The project shall comply with all FEMA Flood Zone requirements and with the California 200-year Urban Level of Flood Protection requirements.

Other General

- 36) The premises shall remain clean and free of debris, weeds, and graffiti at all times.
- 37) All signs shall comply with the requirements of the North Merced Sign Ordinance. No free-standing A-Frame or sandwich board-type signs shall be allowed. All other moveable temporary signs are prohibited as well. Temporary banners may be installed on a building wall in compliance with the City's Sign Ordinance and after obtaining a Temporary Banner Permit from the Planning Department. A building permit shall be obtained for all permanent signs.
- 38) All businesses selling and/or serving alcoholic beverages shall comply with all regulations of the California Alcoholic Beverage Control and the City of Merced. Any future bar, nightclub, cocktail lounge, or similar use would require a Conditional Use Permit. Any business less than 20,000 square feet in size selling alcoholic beverages for off-site consumption would also require a Conditional Use Permit.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The project site is the Merced Mall located at 851 West Olive Avenue (Attachment A). The proposed project would increase the leasable retail area of the Mall and would be constructed in two phases, with Phase II having two options for the current movie theater. A description of each phase as well as the two Alternatives proposed for Phase II are provided below.

Phase I

Phase I of the proposed project would expand the buildings located along the southern elevation of the shopping center south towards West Olive Avenue by an additional 80 feet (Attachment C). The new frontage would be constructed in an updated and contemporary design. The height of the new frontage would increase the building mass and would be approximately 50 feet. This would increase the gross leasable area (GLA) of the project site by approximately 50,000 square feet, for a total GLA of 588,097 square feet. The southern parking lot would be reconfigured, repaved, restriped, and re-landscaped. The total parking within the project site under Phase I would decrease by 232 parking spaces for a total of 2,867 parking spaces.

Phase II

Phase II of the proposed project would include construction of a 72,000-square-foot movie theater containing up to 3,000 seats. The project applicant has proposed two alternatives under Phase II which would result in the location of a new movie theater at one of two locations within the project site.

Phase II, Alternative 1

Phase II, Alternative 1 would add an at-grade 72,000-square-foot theater between the existing JC Penny and Kohl's stores in the main shopping center building (Attachment D). In addition, this Phase would remove the enclosed Mall roof between JC Penney and Kohl's, and result in a pedestrian Mall and open courtyard in front of the new theater. The design and height of the movie theater addition would be integrated into the existing shopping center building and would be

consistent with the exterior additions completed under Phase I. The height of the movie theater would be approximately 50 feet in height. The existing United Artists movie theater would be demolished and replaced with a new retail building of similar size. The total GLA of the project site after Phase I and Phase II, Alternative 1 would be approximately 660,097 square feet. The total number of parking spaces within the project site following completion of Phase I and Phase II, Alternative 1 would decrease by 232 parking spaces for a total of 2,810 parking spaces.

Phase II, Alternative 2

Phase II, Alternative 2 would demolish the existing United Artists Theater and two retail stores located along the eastern boundary of the project site, and would construct a 72,000-square-foot at-grade theater at that location (Attachment E). The design and height of the movie theater would be consistent with the exterior additions completed under Phase I, and would be approximately 50 feet in height. The existing theater is approximately 22,680 square feet in size, and the existing retail stores are approximately 25,416 square feet in size. As a result, the total GLA would increase by approximately 23,904 square feet for a total GLA of 612,001 square feet under Phase I and Phase II, Alternative 2. Construction of Phase II, Alternative 2 would include reconfigured parking for the theater. The existing 3,099 parking spaces would decrease by 124 parking spaces under Phase I and Phase II, Alternative 2, resulting in a total of 2,975 parking spaces under Phase II, Alternative 2 buildout.

Surrounding uses are noted at Attachment A

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Retail/Fire Station/Multi-Family (across Loughborough Drive)	P-D #1	Regional/Community Commercial (RC)/High Medium Density Residential (HMD)
South	Retail/Office (across Olive Avenue)	P-D #15	Commercial Office (CO)/Thoroughfare Commercial (CT)
East	Retail/Office/ Convalescent Home	P-D #1	Commercial Office (CO)
West	Retail	P-D #1	Regional/Community Commercial (RC)

BACKGROUND

Planned Development (P-D) #1 was established in 1965. In 1968, the City approved the plans for the Merced Mall and the Mall opened its doors in 1969. The theater was approved in 1969 and opened sometime in the early 1970's. The building where Michael's and Big Lots are located were also approved in the early 1970's and have had various tenants through the years. Through the years, the Mall has undergone some minor upgrades to the interior and exterior, including the addition of a food court in the early 1990's. The theater has also undergone some minor changes through the years, reconfiguring the theater sizes, adding a theater, and exterior renovations.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Regional/Community Commercial (RC) and the zoning designation of Planned Development (P-D) #1.

The following Land Use Policies and Implementing Actions would be achieved with the approval of this request:

Policy L-2.3 Promote the Retention and Expansion of Existing Industrial and Commercial Businesses.

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

Implementing Action 3.2.b

Encourage infill and redevelopment projects within the urban area that could enhance the effectiveness of the transit system.

- *Encourage projects that increase pedestrian activity and mixed-uses.*

Policy L-3.3 Promote Site Designs That Encourage Walking, Cycling, and Transit Use

Implementing Action 3.3a

Encourage project designs which increase the convenience, safety and comfort of people using transit, walking or cycling.

Traffic/Circulation

- B) The current configuration of vehicle driveways and pedestrian access would not be altered with this project. The project site currently has 11 vehicle ingress/egress driveways providing access to and from West Olive Avenue, R Street, Loughborough Drive, and Fairfield Drive. As noted above, the parking lot facing West Olive Avenue would be reconfigured, repaved, and restriped.

As part of the Environmental Review process for this project, a Traffic Impact Analysis was prepared by LSA Associates, Inc. (refer to Appendix C of the Initial Study at Enclosure 1). Upon completion of Phases I and II of the project, the project is forecast to generate a total of 4,892 daily trips with 47 trips occurring in the a.m. peak hour (7:00 a.m. to 9:00 a.m.) and 367 trips occurring during the p.m. peak hour (4:00 p.m. to 6:00 p.m.). However, for Alternative II, adjustments were made for trips generated by the existing uses. As such, under Phase II, Alternative 2, the project is anticipated to generate 2,431 net daily trips, with 23 trips occurring during the a.m. peak hour and 176 trips occurring during the p.m. peak hour. This traffic analysis looked at 11 intersections and 6 roadway segments adjacent to the project site (refer to the map at Attachment G):

Seven conditions were examined in the Traffic Analysis:

- 1) Existing
- 2) Existing plus project Phase I
- 3) Existing plus project Phases I and II, Alternative 1
- 4) Existing plus project Phases I and II, Alternative 2

- 5) Cumulative
- 6) Cumulative plus project Phases I and II, Alternative 1
- 7) Cumulative plus project Phases I and II, Alternative 2

The traffic analysis looked at the Level of Service for the roadway segments and intersections previously identified. The Level of Service (LOS) rating (Categories A through F, with “A” being the best) identifies the quality of traffic operating conditions. LOS A indicates free-flow traffic conditions with little or no delay. LOS F represents over-saturated conditions where traffic flows exceed capacity resulting in long queues and delays. The City of Merced has adopted LOS D as the standard for streets to operate at an acceptable level.

Based on the analysis of the above road segments, intersections, and project scenarios, the intersection of Mall Driveway 2-Pepperwood Lane/Olive Avenue is forecast to operate at an unsatisfactory Level of Service (LOS) in all scenarios (it currently operates at an LOS F during p.m. peak hours). However, since the major street (Olive Avenue) at this intersection has unimpeded through movements on low delays, the impact at this intersection would not be considered a significant CEQA impact. Therefore, the City does not recommend any mitigation for this intersection. All other study intersections are forecast to operate at a satisfactory LOS in all scenarios and no significant delay is forecast at any of the signalized intersections. Additionally, all roadway segments would operate at an LOS D or better.

Parking

- C) Parking for general retail uses calculated at one space for every 300 square feet of floor area. With Phase I of the project, the parking lot on the south side of the Mall (along Olive Avenue) would be reconfigured, re-striped, and re-landscaped. The total number of parking spaces (3,099) for the Merced Mall and would be reduced by 232 spaces for a total of 2,867. Based on a total Gross Leasable Area (GLA) of 588,097 after the proposed Phase I addition, the total parking required for general retail uses would be 1,960 spaces.

Parking for theaters is based on the number of seats (if fixed seats are provided). The parking ratio based on fixed seats is 1 space for every 4 seats. The new theater under both alternatives would provide up to 3,000 fixed seats. This would create the need for an additional 750 spaces above the 1,960 spaces required for the general retail uses. Therefore, a total of 2,710 spaces would be required at the completion of Phase II, Alternatives 1 or 2. With the construction of Phase II, Alternative 1 (adding the 70,000-square-foot theater to the Mall building), the total GLA would be increased to 660,097 square feet, creating a need for 2,200 parking spaces. The total number of parking spaces provided after construction of Phase I and Phase II, Alternative 1, would be 2,810 spaces.

Construction of Phase II, Alternative 2 (demolishing the existing theater and two retail buildings and building a new 70,000-square-foot theater) would also include reconfiguring the parking on the theater parcel (Attachment E). The parking requirements under both alternatives would be the same: 2,810 spaces. With the completion of Phase II, Alternative 2, the site would provide 2,975 spaces.

The site provides adequate parking under all the above scenarios and provides enough additional parking to allow a cushion for uses that may have a higher parking requirement than standard retail commercial. For example, restaurants are required to provide 1 space for each 100 square feet of floor seating area or 1 space for each 2.5 seats, whichever is greater. Personal services such as salons are required to provide 1 space for every 250 square feet of floor area or 1 per employee whichever is greater.

Public Improvements/City Services

- D) All the roads and major infrastructure needed to serve the site are existing. However, any damaged public improvements such as sidewalk, curb, gutters, street trees, etc. along the project frontage would have to be replaced. The need for repairs or replacement of infrastructure would be determined at the building permit stage.

Any improvements to driveways or other public facilities would be required to be constructed to City Standards.

Building Design

- E) The existing Mall structure would remain, but would be modified and updated to a more contemporary look. The proposed improvements for Phase I would include extending the southern elevation to the south approximately 80 feet to add additional floor and pedestrian area. The vacant retail space located to the east of the main Mall entrance (previously occupied by CVS) would be reconfigured and leased to new retailers and restaurants, some of which would have storefronts facing the parking lot adjacent to West Olive Avenue. Refer to Attachment F for the conceptual design of the building elevations for Phase 1 and Phase II, Alternative 1.

The building elevations would be updated to a more contemporary design. Instead of the building elevations being a consistent color and design, there will be a mixture of materials and colors, as well as the use of awnings and other architectural features to provide a more interesting and appealing design. The height of the new frontage would increase the building mass and would be approximately 50 feet tall.

Phase II, Alternative 1, would add the theater to the existing building between JC Penny's and Kohl's Department Stores. The roof would be opened to create a pedestrian Mall and open courtyard in front of the new theater. The height of the new theater would be approximately 50 feet tall and would continue the use of a more modern design for the building elevations.

Phase II, Alternative 2, would demolish the existing theater and two retail spaces to the east of the Merced Mall. Specific elevations for the proposed 70,000 square-foot theater have not been provided, the design and height of the movie theater would be consistent with the exterior additions completed under Phase I, and would be approximately 50 feet in height.

The building elevations and site design at Attachments C through F are very preliminary and conceptual only. The final designs would be approved by the Site Plan Review Committee prior to building permit issuance (Condition #10).

Site Design

- F) The general layout of the site would not be changed with the proposed renovations. The driveway access would remain the same as well as the location of the parking areas. However, the parking lot on the south side of the Mall would be reconfigured as part of Phase I to allow for the proposed expansion.

The overall site would be more welcoming for pedestrians and bicyclists. Condition #12 requires pedestrian access between all buildings and connections to the public ways. Condition #13 requires that all walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.

With Phase II, Alternative 1, the roof of the Mall would be opened up to allow the construction of the theater and the creation of a pedestrian courtyard area as well as an outdoor dining area (refer to the drawings at Attachment F).

Phase II, Alternative 2, would modify the eastern portion of the site by demolishing the existing theater, Michael's, and the vacant retail space adjacent to Big Lots (see site plan at Attachment E). As described in the Parking section above, this alternative would reduce and reconfigure the parking on between the Mall and theater. It would also slightly modify the circulation of the site by providing a drive aisle and compact parking spaces along the south side of the Big Lots building. A pedestrian path is provided between the Mall and the theater.

Landscaping

- G) The proposed renovation would include new landscaping for the site. As required by Condition #28, parking lot trees are required at a ratio of one tree for every six parking spaces. There are a number of trees on the site currently. When possible, those trees should remain or be relocated within the site (Condition #29). The building elevations provided include landscape planters within the outdoor courtyard area and along the sidewalk.

Neighborhood Impact/Interface

- H) The project site is surrounded primarily by commercial uses, with the exception of the apartments to the north across Loughborough Drive and the convalescent hospital to the east. The construction of the project may have impacts on the surrounding uses, especially residential uses due to dust and noise. However, conditions of approval and mitigation measures have been included to help reduce these impacts by limiting construction to occur only between the hours of 7:00 a.m. to 7:00 p.m. and by requiring dust control measures to limit the spread of dust from the construction site.

After construction is completed, it's not anticipated that the project would cause additional impacts to the surrounding neighborhood.

The Draft Initial Study was circulated for the required 30-day review period. During that time, staff did not receive any formal comments from the public. Public hearing notices were sent to all property owners within 300 feet of the site advising them of the public

hearing to be held by the Planning Commission. To date, staff has not received any comments or concerns from the surrounding neighborhood.

Signage

- I) Specific signs have not been proposed with this project. However, in the future, it's likely the applicant would request a modification to the City's Sign Ordinance to allow the existing Merced Mall pylon sign to be modified and updated. Currently, the existing free-standing pylon sign along Olive Avenue does not comply with the City's Sign Ordinance and therefore, could not be modified without being brought into compliance with the sign code regulations. Because the current sign ordinance would not allow a sign with a changeable marquee, the existing sign is not being modified at this time. All other signs on the site would be required to comply with the North Merced Sign Ordinance.

Environmental Clearance

- J) The Planning staff has conducted an environmental review (Initial Study # 18-02) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Mitigated Negative Declaration (i.e., no significant effects in this case because of the mitigation measures and/or modifications described in Initial Study #18-02 is being recommended (Enclosure 1). A Mitigation Monitoring Program (Exhibit B of Attachment H) will also be adopted.

Attachments:

- A) Location Map
- B) Location Map with Parcel Numbers
- C) Site Plan - Phase I
- D) Site Plan – Phase II, Alternative 1
- E) Site Plan – Phase II, Alternative 2
- F) Building Elevations – Design Concept
- G) Roadway Segments/Intersections
- H) Draft Planning Commission Resolution

Enclosures

- 1) Initial Study/Draft Mitigated Negative Declaration

Site Utilization Plan Revision #38 to P-D #1 Merced Mall Renovation

Multifamily Residential

LOUGHBOROUGH DR

Retail Commercial

Office Commercial

RST

MST


FAIRFIELD DR

Franciscan
Convalescent
Hospital

OLIVE AVE

Office
Commercial

Multifamily Residential

 Subject Site



**Site Utilization Plan Revision #38 to P-D #1
Merced Mall Renovation - Assessor's Parcel Numbers**

LOUGHBOROUGH DR

236-220-014

236-220-015

236-220-038

236-220-016

FAIRFIELD DR

OLIVE AVE



Subject Site

ATTACHMENT B

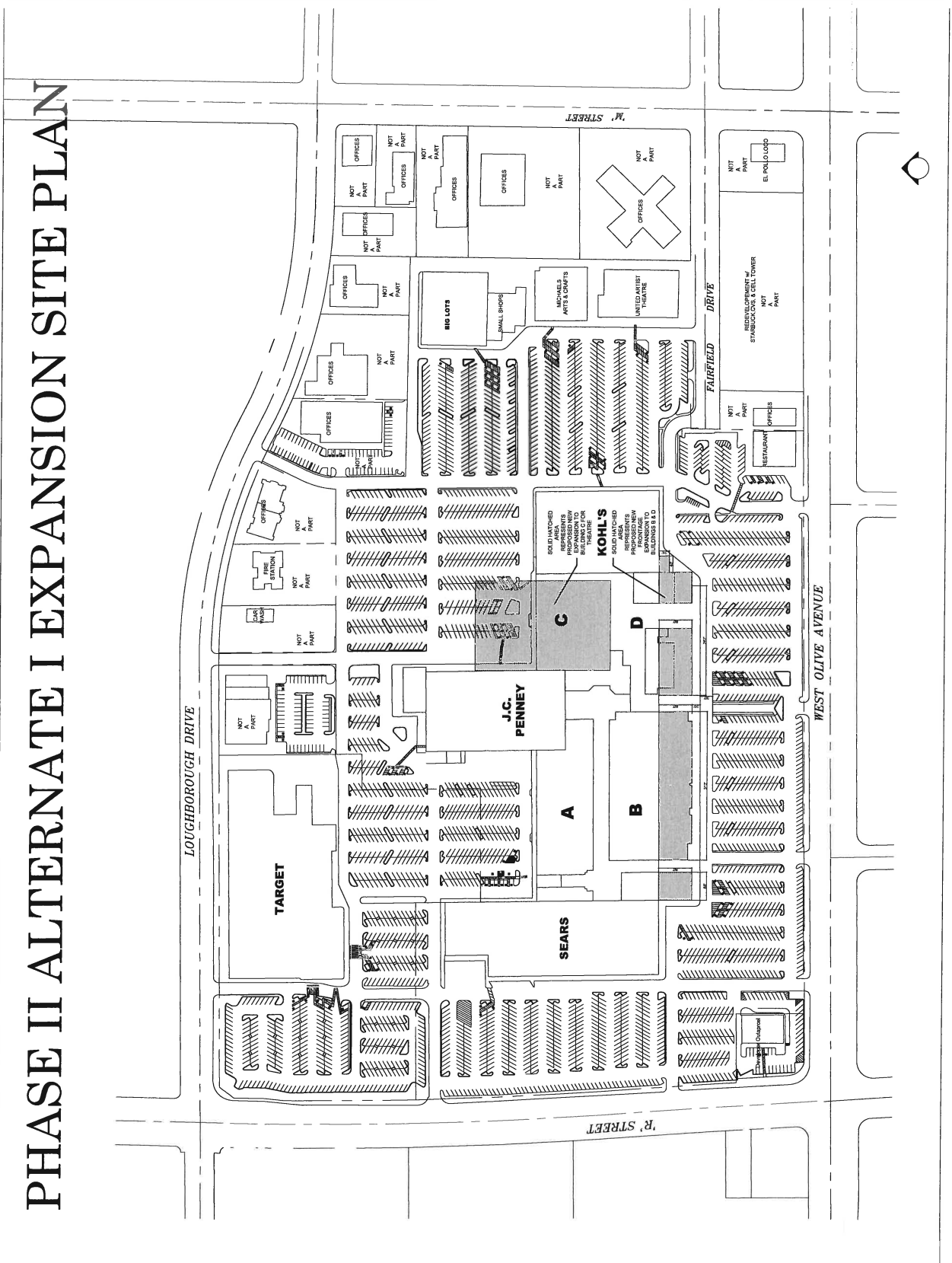


PHASE II ALTERNATE I EXPANSION SITE PLAN

Project Data	06-04-17
EXISTING	91,602
NECESSARY	15,700
Total Development Store G.A.	107,302
Building A	52,000
Building B	33,000
Building C	22,302
Total Envelope AME G.A.	107,302
Restaurant	8,520
Total G.A.	107,302
Garage	107,302
Development Car Parcel	17,000
Total Site G.A.	124,302
TOTAL PARKING SPACES:	3,889
SPACES 1000 SF OF G.A.	276

PROPOSED PHASE I	
New Retail Construction Bldg B, B.1, B.2	15,700
Building B	13,000
Building D	2,700
CHANGE IN TOTAL G.A.	60,000
TOTAL SITE G.A.	184,302
AFTER EXPANSION	184,302
TOTAL PARKING SPACES:	2,889
SPACES 1000 SF OF G.A.	206

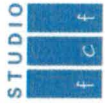
PHASE II ALTERNATE I	
New Retail Construction Bldg C	72,000
CHANGE IN TOTAL G.A.	72,000
OVER EXISTING G.A.	72,000
AFTER EXPANSION	256,302
TOTAL PARKING SPACES:	4,389
SPACES 1000 SF OF G.A.	326



CODDING

Merced Mall
733 Collegemore Mall
Merced, CA 95361

PROJECT:	Merced Mall
LOCATION:	Merced CALIFORNIA
DESCRIPTION:	Exhibit A3
DATE:	06/04/17
DRAWN BY:	DMC
COMPANION NUMBER:	0
SCALE:	0 50 100
COMPILED BY:	EX-A3



F. Clay Fry Architect, Inc.
1164 Crescentia Court
Lafayette, CA 94549
925-765-2876

CODDING
MERCED MALL
MERCED, CALIFORNIA

MARCH 23, 2018

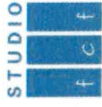
THEATER SQUARE

A1



ATTACHMENT F

CONCEPTUAL



F. Clay Fry Architect Inc.
1164 Crescent Court
Lafayette, CA 94509
925-765-2876

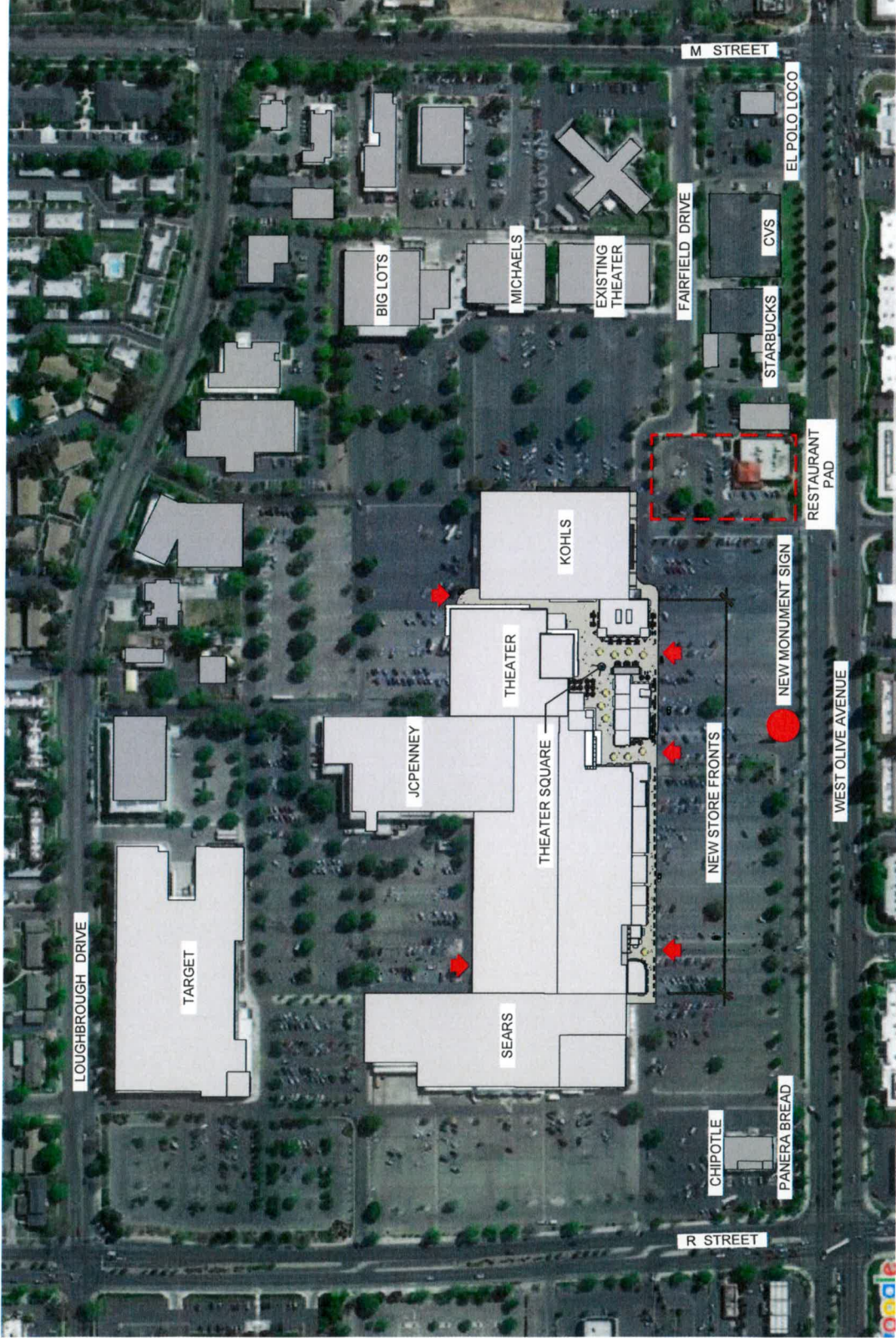
CODDING

MERCED MALL
MERCED, CALIFORNIA

MARCH 23, 2018

SITE PLAN

A2



CONCEPTUAL



F. Clay Fry Architect, Inc.
1164 Crescent Court
La Jolla, CA 92037
925-765-2516

CODDING

MERCED MALL
MERCED, CALIFORNIA

MARCH 23, 2018

PERSPECTIVES

A3



CONCEPTUAL



F. Clay Fry Architect Inc.
1164 Crescentia Court
Lafayette, CA 94509
925-165-2816

CODDING

MERCED MALL
MERCED, CALIFORNIA

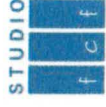
MARCH 23, 2018

PERSPECTIVES

A4



CONCEPTUAL



F. Clay Fry Architect, Inc.
1164 Crescentia Court
Lafayette, CA 94549
925-765-2876

CODDING

MERCED MALL
MERCED, CALIFORNIA

MARCH 23, 2018

PERSPECTIVES

A5

CONCEPTUAL



F. Clay Fry Architect, Inc.
1154 Crater Court
Lafayette, CA 94509
925-662-2016

CODDING
MERCED MALL
MERCED, CALIFORNIA

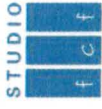
MARCH 23, 2016

PERSPECTIVES

A6



CONCEPTUAL



F. Clay Fry Architect, Inc.
1164 Crescentia Court
Lafayette, CA 94549
925-765-2876

CODDING

MERCED MALL
MERCED, CALIFORNIA

MARCH 23, 2018

PERSPECTIVES

A7



CONCEPTUAL



STUDIO
+ c f
Stacy Fry Architect Inc.
1540 Robinson Court
Lodi, CA 95240
925-335-2576

CODDING
MERCED MALL
MERCED, CALIFORNIA

MARCH 23, 2016

PERSPECTIVES

A8

CONCEPTUAL



F. Clay Fry Architect Inc.
1164 Crescent Court
Lafayette, CA 94549
925-765-2876

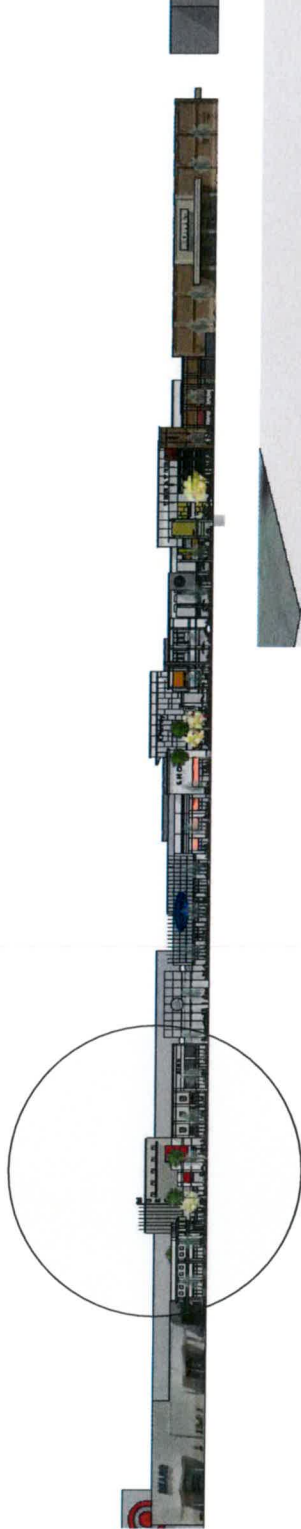
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MERCED, CALIFORNIA

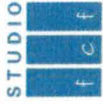
MARCH 23, 2018

MERCED MARQUE

A9



CONCEPTUAL



F. Clay Fry Architect, Inc.
1054 Creechmill Court
Livermore, CA 94550
925-952-2116

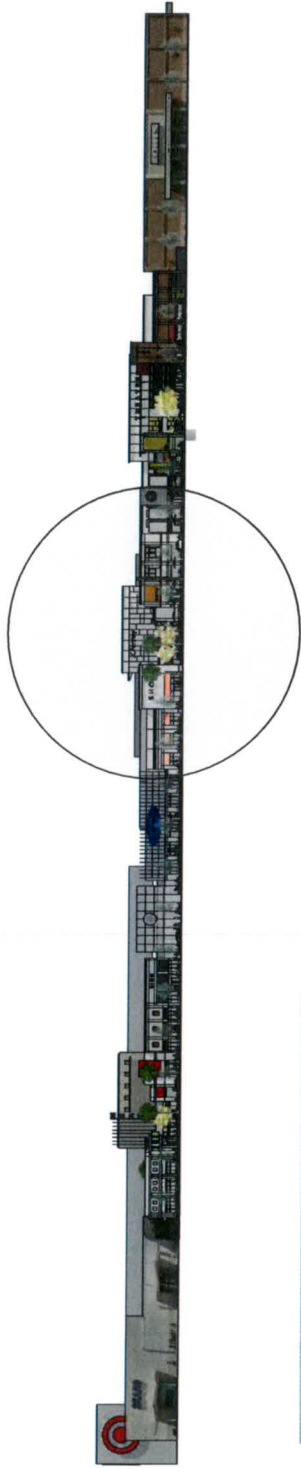
CODDING

MERCED MALL
MERCED, CALIFORNIA

MARCH 23, 2018

JCPENNEY MARQUE

A10



CONCEPTUAL



F. Clay Fry Architect, Inc.
11504 Oranville Court
Lafayette, CA 94509
925-765-2876

CODDING MERCED MALL MERCED, CALIFORNIA

MARCH 23, 2018

THEATER SQUARE

A11



CONCEPTUAL



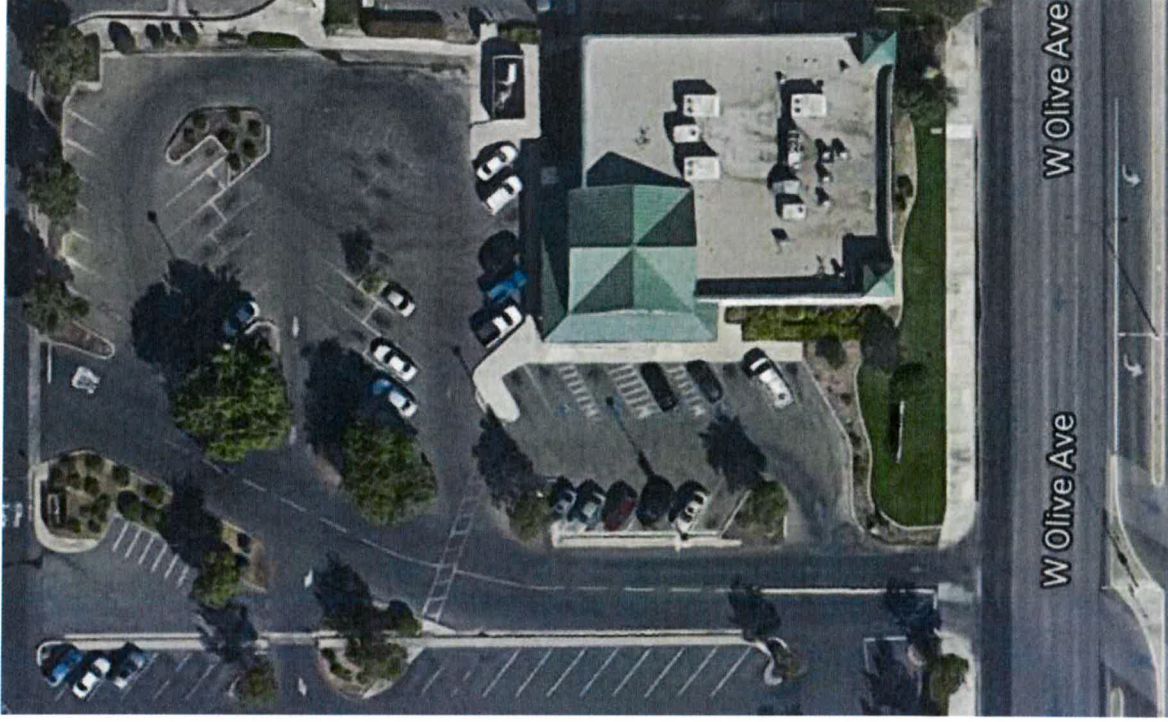
F. Clay Fry Architect, Inc.
1164 Crescentia Court
Lafayette, CA 94549
925-765-2816

CODDING
MERCED MALL
MERCED, CALIFORNIA

MARCH 23, 2018

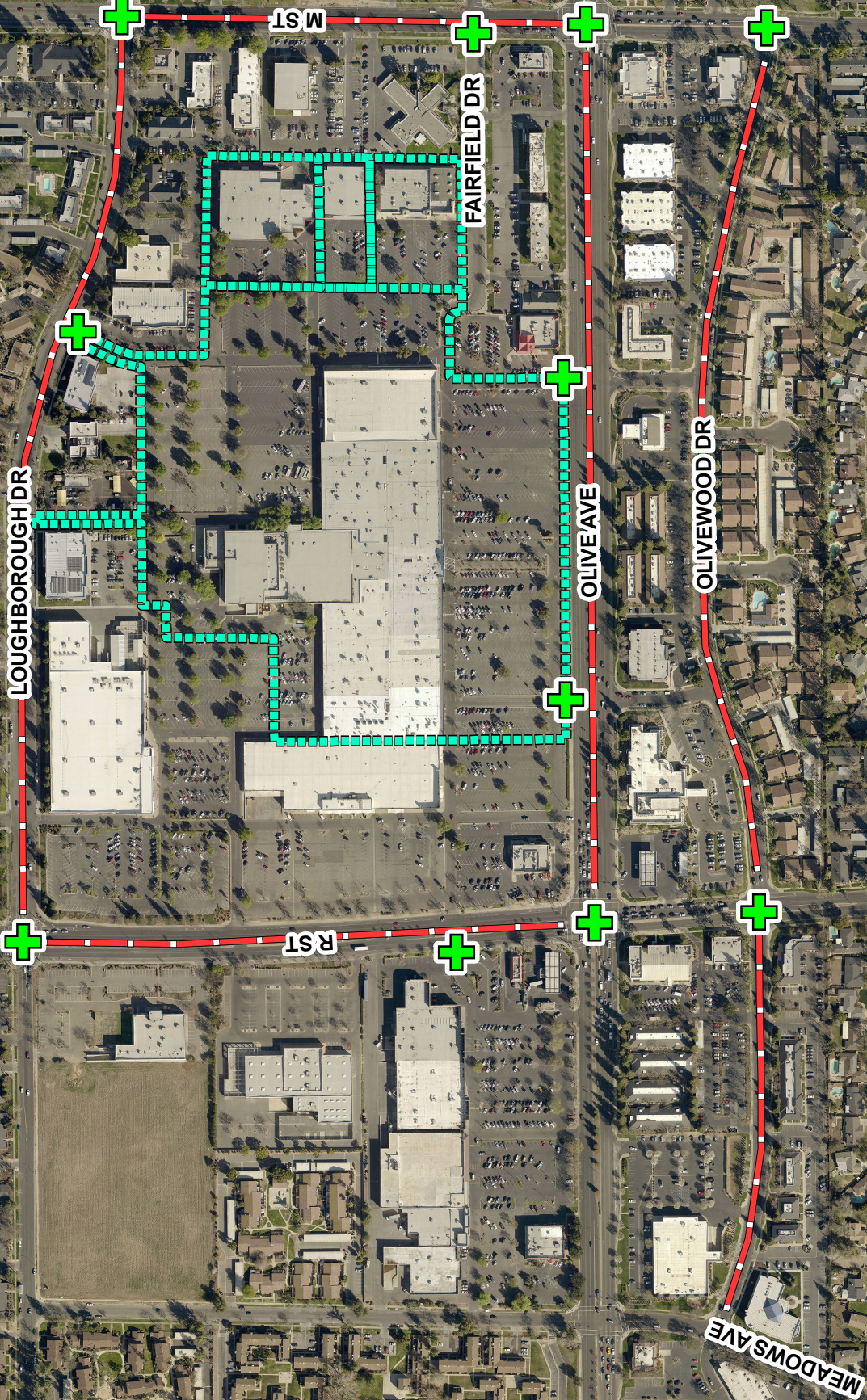
RESTAURANT PAD

A12



CONCEPTUAL

Site Utilization Plan Revision #38 to P-D #1
Roadway Segments/Intersections Studied



Intersections
Roadway Segments
Subject Site

**CITY OF MERCED
Planning Commission**

Resolution #_____

WHEREAS, the Merced City Planning Commission at its regular meeting of January 23, 2019, held a public hearing and considered **Site Utilization Plan Revision #38 to Planned Development #1**, initiated by Merced Mall LTD, property owners. This application is a request to allow the renovation and expansion of the Merced Mall located at 851 W. Olive Avenue. The Project would increase the leasable retail area of the Merced Mall and construct a new movie theater at one of two possible locations within the project site. The project site consists of approximately 52 acres and is generally located on the north side of Olive Avenue between M and R Streets. The site has a General Plan designation of Regional/Community Commercial (RC) and is zoned Planned Development (P-D) #1; also known as Assessor's Parcel No. 236-220-038; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #19-04; and,

WHEREAS, 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 adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program (Exhibit B) regarding Initial Study #18-02, and approval of Site Utilization Plan Revision #38 to Planned Development (P-D) #1, subject to the Conditions set forth in Exhibit A attached hereto.

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

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

ATTACHMENT H

PLANNING COMMISSION RESOLUTION # _____

Page 2

January 23, 2019

Adopted this 23rd day of January 2019

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Mitigation Monitoring Program

Conditions of Approval
Planning Commission Resolution # _____
Site Utilization Plan #38 to Planned Development (PD) #1

1. The proposed project shall be constructed/designed in substantial compliance with the Site Plan for Phase I (Attachment C of Planning Commission Staff Report #19-04), the Site Plan for either Phase II, Alternative 1, or Phase II, Alternative 2 (Attachments D and E of Planning Commission Staff Report #19-04), and the conceptual elevations found at Attachment F of Planning Commission Staff Report #19-04, except as modified by the conditions or as approved by the Site Plan Review Committee.
2. The following conditions apply to the new renovation areas of the Merced Mall and not to existing development that won't be modified under this renovation. Details to be worked out with Planning Staff.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. The Project shall comply with all applicable conditions previously approved for this site
5. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
6. Approval of the Site Utilization Plan Revision 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.

7. 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.
8. 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.
9. The project shall comply with all mitigation measures required by the mitigation monitoring program for Initial Study #18-02 (Exhibit B of Draft Planning Commission Resolution at Attachment H of Staff Report #19-04).

10. In compliance with Merced Municipal Code Section 20.20.020 Q, Site Plan Review approval is required prior to development to address conformance with the standards of Planned Development (P-D) #1.
11. Umbrellas, fencing, or other outdoor features used for the outdoor seating areas shall not include advertising for any specific business or brand and shall be uniform in color to complement the buildings.
12. The site shall be provided with pedestrian access between the buildings and connection to public ways (i.e., public sidewalks, streets, etc.).
13. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment. Pedestrian access shall be reviewed and approved by the Site Plan Review Committee prior to a building permit being issued.
14. All mechanical equipment shall be screened from public view.
15. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City's Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks.
16. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access shall be provided for all reconfigured parking areas. .
17. If changes are made to the site that would affect the current system used by the UC Merced Cat Tracks System and the Merced Transit System (The Bus), the developer shall work with UC Merced (Cat Tracks) and the Merced Transit System (The Bus) to determine the best location for public transit facilities. If relocated, the location of these facilities will be subject to review and approval by the Site Plan Review Committee.
18. Any driveways that are modified, added, or relocated shall comply with the City of Merced Design Standards for commercial driveways and are to be reviewed by the Fire Department as part of the review of the improvement plan submittals.

19. Any missing improvements along the project frontage shall be installed to meet City Standards. Any existing improvements that have been damaged or otherwise do not meet current City Standards shall be repaired or replaced to meet City Standards. This includes, but is not limited to, sidewalk, curb, gutter, street trees, and street lights.
20. Bicycle parking shall meet the minimum requirements of the California Green Building Code and MMC 20.38.080.
21. The project shall comply with the Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
22. All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards. The City Engineer shall approval final design of the storm drain system prior to construction.
23. All new utilities (including electrical lines) shall be installed underground.
24. A backflow prevention device shall be provided for all water services (i.e., domestic, irrigation, and fire).
25. All landscaping shall comply with the Section 20.36.040 – Landscape and Sprinkler Plans, of the City's Zoning Ordinance in addition to all applicable state laws.
26. Full landscape and irrigation plans shall be submitted at the time of building permit application.
27. All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or parkstrips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.
28. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards for any new or modified parking areas. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of at least one tree for each six parking spaces. The trees may be located in planter areas that protrude into the parking areas, or which run along

EXHIBIT A

OF PLANNING COMMISSION RESOLUTION #_____

the edge of the parking areas and shall be located to accommodate any carport or shade structures. Details regarding the above to be worked out with Planning Staff and/or approved by the Site Plan Review committee.).

29. When possible, mature existing trees should remain or be relocated on the site. Details to be worked out with Planning Staff.
30. As depicted in the elevations provided, landscape planters shall be placed throughout the courtyard area and along the sidewalk area. However, the planters shall not block access to the site, stores, or other facilities. All planters shall provide the necessary clearance to meet handicap accessibility requirements.
31. All landscaping on the site shall be maintained in a healthy and aesthetically pleasing manner.
32. Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District.
33. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
34. Construction activity shall only take place between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless otherwise approved by the Chief Building Official.
35. The project shall comply with all FEMA Flood Zone requirements and with the California 200-year Urban Level of Flood Protection requirements.
36. The premises shall remain clean and free of debris, weeds, and graffiti at all times.
37. All signs shall comply with the requirements of the North Merced Sign Ordinance. No free-standing A-Frame or sandwich board-type signs shall be allowed. All other moveable temporary signs are prohibited as well. Temporary banners may be installed on a building wall in compliance with the City's Sign Ordinance and after obtaining a Temporary Banner Permit from the Planning Department. A building permit shall be obtained for all permanent signs.
38. All businesses selling and/or serving alcoholic beverages shall comply with all regulations of the California Alcoholic Beverage

Control and the City of Merced. Any future bar, nightclub, cocktail lounge, or similar use would require a Conditional Use Permit. Any business less than 20,000 square feet in size selling alcoholic beverages for off-site consumption would also require a Conditional Use Permit.

n:shared:planning:PC Resolutions:SUP Rev#38 to PD #1 (Merced mall Expansion) Exhibit A

MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) has been formulated based upon the findings of the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the Merced Mall Expansion Project (project). The MMRP, which is provided in Table A, lists mitigation measures recommended in the IS/MND for the project and identifies mitigation monitoring requirements. The MMRP must be adopted when the City Council makes a final decision on the project.

MITIGATION MONITORING CONTENTS

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

As stated above, Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own “Mitigation Monitoring and Reporting Program” ordinance (Merced Municipal Code [MMC] 19.28). The City’s program was developed in accordance with the advisory publication, Tracking CEQA Mitigation Measures Under AB 3180, from the Governor’s Office of Planning and Research.¹

As required by MMC 19.28.050, the following findings are made:

- 1) The requirements of the adopted mitigation monitoring program for the Merced Mall Expansion Project shall run with the real property. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

In most cases, mitigation measures can be monitored through the City’s construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Mitigation Monitoring Checklist will be filled out upon project approval with

¹ Governor's Office of Planning and Research. 1994. Tracking CEQA Mitigation Measures Under AB 3180. Sacramento, California.

mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Development Services Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Director of Development Services in written form providing specific information on the asserted violation. The Director of Development Services shall initiate an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the Director of Development Services shall require appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. MMC Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigation measures proposed for the project. The columns within the tables are defined as follows:

Impact Statement:	Describes the potential impact that could result from implementation of the proposed project.
Mitigation Measure:	Describes the Mitigation Measure (referenced by number).
Monitoring Responsibility:	This column references any City department or public agency with which coordination is required to satisfy the identified mitigation measure.
Monitoring Timing:	Identifies at what point in time or phase of the project that the mitigation measure will be completed.
Verification:	These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

Table A: Mitigation Monitoring and Reporting Program

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing	Verification (Initials and Date)
<p>INITIAL STUDY IMPACTS AND MITIGATION MEASURES</p> <p>4.3 AIR QUALITY</p> <p>The project could violate air quality standards during the construction period.</p>	<p>AIR-1: Consistent with SJVAPCD Regulation VIII (Fugitive PM₁₀ Prohibitions), the following controls are required to be included as specifications for the proposed project and implemented at the construction site:</p> <ul style="list-style-type: none"> • All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. • All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. • All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking. • When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained. • All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.) • Following the addition of materials to, or the removal of materials from, the surface of out-door storage piles, said piles shall be effectively stabilized of fugitive dust emission utilizing sufficient water or chemical stabilizer/suppressant. 	<p>Development Services, Building Division</p>	<p>Contractors shall be responsible for including in contract specifications prior to issuance building permit and measures are implemented throughout duration of construction activities.</p>	
<p>4.4 BIOLOGICAL RESOURCES</p> <p>The project would result in the removal of trees that could adversely affect nesting</p>	<p>BIO-1: The following measures shall be implemented to reduce potential impacts to nesting birds:</p>	<p>Development Services, Building</p>	<p>The applicant and contractors shall be</p>	

Table A: Mitigation Monitoring and Reporting Program

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing	Verification (Initials and Date)
birds.	<ul style="list-style-type: none"> If tree removal will occur during the nesting season (February 1 to August 31), a qualified biologist shall survey all suitable nesting habitat in the BSA for presence of nesting birds. This survey shall occur no more than 10 days prior to the start of construction. If no nesting activity is observed, work may proceed as planned. If an active nest is discovered, a qualified biologist shall evaluate the potential for the proposed project to disturb nesting activities. The evaluation criteria shall include, but are not limited to, the location/orientation of the nest in the nest tree, the distance of the nest from the BSA, and line of sight between the nest and the BSA. California Department of Fish and Wildlife (CDFW) shall be contacted to review the evaluation and determine if the project can proceed without adversely affecting nesting activity. If work is allowed to proceed after nesting activity has been observed, a qualified biologist shall be on-site daily during construction activities to monitor nesting activity. The biologist shall have the authority to stop work if it is determined the project is adversely affecting nesting activities. 	Division	responsible for implementing the measures throughout duration of construction activities.	
<p>4.5 CULTURAL RESOURCES</p> <p>Construction of the project could adversely affect unknown historic resources.</p>	<p>CUL-1: If unknown pre-contact or historic-period archaeological materials are encountered during project activities, all work in the immediate vicinity of the find shall halt until a qualified archaeologist can evaluate the find and make recommendations.</p> <p>Cultural resources materials may include pre-contact resources such as flaked and ground stone tools and debris, shell, bone, ceramics, and fire-affected rock, as well as historic resources such as glass, metal, wood, brick, or structural remnants. If the qualified archaeologist determines that the discovery represents a potentially significant cultural resource, additional investigations shall be required to mitigate adverse impacts from project</p>	Development Services, Building Division	The applicant and contractors shall be responsible for implementing the measures throughout duration of construction activities.	

Table A: Mitigation Monitoring and Reporting Program

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing	Verification (Initials and Date)
<p>Construction of the project could adversely affect unknown archaeological resources.</p>	<p>implementation. These additional studies may include, but are not limited to recordation, archaeological excavation, or other forms of significance evaluations.</p> <p>The applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological deposits, and include the following directive in the appropriate contract documents:</p> <p>“The subsurface of the construction site is sensitive for archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist shall assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include, but are not limited to, shellfish remains; bones, including human remains; flakes of, and tools made from, obsidian, chert, and basalt; mortars and pestles; historical trash deposits containing glass, ceramics, and metal artifacts; and structural remains, including foundations and wells.”</p> <p>The City shall verify that the language has been included in the grading plans prior to issuance of a grading permit or other permitted project action that includes ground-disturbing activities on the project site.</p> <p>CUL-2: Implement Mitigation Measure CUL-1.</p>	<p>Development Services, Building Division</p>	<p>The applicant and contractors shall be responsible for implementing the measures throughout duration of construction activities.</p>	

Table A: Mitigation Monitoring and Reporting Program

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing	Verification (Initials and Date)
Construction of the project could disturb unknown human remains.	CUL-3: If human remains are identified during construction and cannot be preserved in place, the applicant shall fund 1) the removal and documentation of the human remains from the project corridor by a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archaeology, 2) the scientific analysis of the remains by a qualified archaeologist, should such analysis be permitted by the Native American Most Likely Descendant, and 3) the reburial of the remains, as appropriate. All excavation, analysis, and reburial of Native American human remains shall be done in consultation with the Native American Most Likely Descendant, as identified by the California Native American Heritage Commission.	Development Services, Building Division	The applicant and contractors shall be responsible for implementing the measures throughout duration of construction activities.	
4.7 GREENHOUSE GAS EMISSIONS				
The project would directly or indirectly generate greenhouse gas emissions.	<p>GHG-1: The project applicant shall demonstrate compliance with the applicable BPS strategies to the Planning Division prior to the issuance of a building permit. The following BPS strategies are considered to be applicable, feasible, and effective in reducing GHG emissions generated by the project:</p> <ul style="list-style-type: none"> The project applicant shall provide a pedestrian access network that internally links all uses and connects to existing external streets and pedestrian facilities. The project applicant shall ensure site design and building placement minimize barriers to pedestrian access and interconnectivity. Physical barriers such as walls, berms, landscaping, and slopes between nonresidential uses that impede bicycle or pedestrian circulation shall be eliminated. In addition, barriers to pedestrian access of neighboring facilities and sites shall be minimized. The project applicant shall design roadways to reduce motor vehicle speeds and encourage pedestrian and bicycle trips by featuring traffic calming measures. Traffic calming measures include: bike lanes, center islands, closures (cul-de-sacs), diverters, education, forced turn lanes, roundabouts, and speed humps. 	Development Services, Planning Division	The applicant and contractors shall be responsible for implementing the measures prior to issuance of a building permit.	

Table A: Mitigation Monitoring and Reporting Program

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing	Verification (Initials and Date)
<p>4.9 HYDROLOGY AND WATER QUALITY</p> <p>The project could result in short-term construction-related water quality impacts.</p>	<ul style="list-style-type: none"> The project shall provide for car sharing programs. Accommodations for such programs could include providing parking spaces for the car share vehicles at convenient locations accessible by public transportation. The project applicant shall plant trees to provide shade. The project applicant shall install energy efficient heating and cooling systems, appliances and equipment, and control systems. 	Development Services, Building Division	The applicant and contractors shall be responsible for implementing the measures throughout duration of construction activities.	
<p>The project could result in stormwater pollution.</p>	<p>HYDRO-1: To minimize any potential short-term water quality effects from project-related construction activities, the project contractor shall implement Best Management Practices (BMPs) in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity. In addition, the proposed project shall be in compliance with existing regulatory requirements, including the Water Pollution Control Preparation (WPCP) Manual. In addition, implementation of a Storm Water Pollution Prevention Plan (SWPPP) would be required under the National Pollutant Discharge Elimination System (NPDES) to regulate water quality associated with construction activities.</p> <p>HYDRO-2: To reduce the potential for degradation of surface water quality during project operation, a SWPPP shall be prepared for the proposed project. The SWPPP shall describe specific programs to minimize stormwater pollution resulting from the proposed project. Specifically, the SWPPP shall identify and describe source control measures, treatment controls, and BMP maintenance requirements to ensure that the project complies with post-construction stormwater management requirements of the RWQCB.</p>	Development Services, Building Division	The applicant and contractors shall be responsible for implementing the measures prior to issuance of a building permit.	
<p>4.12 NOISE</p> <p>Construction could result in a temporary or periodic increase in ambient noise levels in the project vicinity.</p>	<p>NOI-1: The project contractor shall implement the following measures during construction of the project:</p> <ul style="list-style-type: none"> Equip all construction equipment, fixed or mobile, with 		The applicant and contractors shall be responsible for	

Table A: Mitigation Monitoring and Reporting Program

Impact Statement	Mitigation Measures	Monitoring Responsibility	Monitoring Timing	Verification (Initials and Date)
	<p>properly operating and maintained mufflers consistent with manufacturers’ standards.</p> <ul style="list-style-type: none"> ● Ensure that all general construction related activities are restricted to between the hours of 7:00 a.m. and 6:00 p.m. to avoid noise-sensitive hours of the day. ● Designate a “disturbance coordinator” at the City who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler) and would determine and implement reasonable measures warranted to correct the problem. 		<p>implementing the measures throughout duration of construction activities.</p>	

Source: LSA (2019).