

**CITY OF MERCED**  
**Planning & Permitting Division**

**STAFF REPORT:** #19-06

**AGENDA ITEM:** 4.1

**FROM:** Kim Espinosa,  
Planning Manager

**PLANNING COMMISSION**  
**MEETING DATE: Feb. 6, 2019**

**PREPARED BY:** Julie Nelson,  
Associate Planner

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**SUBJECT:** **Conditional Use Permit #1228**, initiated by Mark Patterson, on behalf of Gateway Park Development Partners, LLC, property owner. This application involves a request to allow the sale of beer and wine for off-site consumption within an ARCO convenience market, generally located at the southeast corner of Campus Parkway and Coffee Street (810 S. Coffee Street). The subject site has a General Plan designation of Regional Commercial (RC) and is zoned Planned Development (P-D) #74.  
\*PUBLIC HEARING\*

**ACTION:** PLANNING COMMISSION:

- 1) Environmental Review #18-68 (Categorical Exemption)
- 2) Conditional Use Permit #1228

**SUMMARY**

The project applicant is requesting approval to sell beer and wine for off-site consumption at the future Arco AM/PM gas station and convenience market to be located at the southeast corner of Campus Parkway and Coffee Street (810 S. Coffee Street) (see the Location Map at Attachment A). The construction of the convenience market is the first development to take place within the Merced Gateway Marketplace Development (now known as Gateway Marketplace). The construction of the building was approved by the Site Plan Review Committee in conformance with the City's Zoning Ordinance. However, a conditional use permit (CUP) is required for alcohol sales if the retail outlet is less than 20,000 square feet. There are also certain standards that apply for alcohol sales sold for off-site consumption and from a gas station. More information will be provided in the "Findings" Section of this report on those requirements.

The proposed Arco AM/PM convenience market would be approximately 3,348 square feet (refer to the Site Plan at Attachment B). The market would include gasoline sales and a car wash. Of the 3,348 square feet of building area, approximately 1,800 square feet would be used for retail sales area, including the 19 walk-in coolers (see the Floor Plan at Attachment C). Of the 19 walk-in coolers, 7 of those would be used for the sale of beer and wine. Beer and wine may also be displayed outside of the cooler areas. Roughly, an additional 12 to 15 square feet may be dedicated to the sale of alcoholic beverages outside the cooler area.

The site plan and elevations (Attachments B and D) are being provided to the Planning Commission for information only. The design was approved by the Site Plan Review Committee on November 29, 2018.

Staff has reviewed the applicant's request and is recommending approval subject to the conditions contained in this staff report.

### **RECOMMENDATION**

Planning staff recommends that the Planning Commission approve Environmental Review #18-68 (Categorical Exemption) and Conditional Use Permit #1228 (including the adoption of the Resolution at Attachment I) subject to the following conditions:

- \*1) The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan), Attachment C of Planning Commission Staff Report #19-06, except as modified by the conditions.
- \*2) All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions" shall apply.
- \*3) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- \*4) The Project shall comply with the conditions set forth in Planning Commission Resolution #3084 for the Merced Gateway Project [General Plan Amendment #15-03, Zone Change #422, and Establishment of Planned Development (P-D) #74] and Site Plan Review Resolution #426 previously approved for this project.
- \*5) All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
- \*6) The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

- \*7) The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
- \*8) No sales of alcoholic beverages shall be allowed between the hours of 2:00 a.m. and 6:00 a.m.
- \*9) No beer or wine shall be displayed within five (5) feet of the cash register or the front door.
- \*10) No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
- \*11) No sale of alcoholic beverages shall be made from a drive-through window.
- \*12) No display or sale of beer or wine shall be made from an ice tub.
- \*13) No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.
- \*14) Employees shall be at least twenty-one (21) years of age to sell alcohol.
- 15) No single-serving containers smaller than 20 ounces shall be sold individually, unless otherwise approved by the Police Chief or designee. Any containers smaller than 20 ounces shall be sold as part of a larger pack (i.e., 6-pack or 12-pack).
- 16) “No Loitering” signs shall be placed on the building along the alley and the front of the store.
- 17) The proprietor and/or successors in interest and management shall be prohibited from externally advertising or promoting beer & wine and/or distilled spirits including, but not limited to, window and wall signage.
- 18) This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.
- 19) The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
- 20) The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.
- 21) Sufficient lighting shall be provided throughout the site to provide a safe environment for patrons of the market. Details to be worked out with staff.

22) The premises shall remain clean and free of debris at all times.

(\* Denotes non-discretionary conditions.

**PROJECT DESCRIPTION**

The proposed project would allow the sale of beer and wine from the Arco AM/PM gas station and convenience market to be constructed at the southeast corner of Campus Parkway and Coffee Street (801 S. Coffee Street). As currently proposed, the convenience market would have seven walk-in coolers dedicated to the sale of alcohol as well as an additional 12 to 15 square feet of floor area displays (refer to the floor plan at Attachment C).

**Surrounding Uses**  
(Attachment A).

<b>Surrounding Land</b>	<b>Existing Use of Land</b>	<b>Zoning Designation</b>	<b>City General Plan Land Use Designation</b>
North	Single Family Residential (across Gerard Ave.)	R-1-5/R-1-6	Low Density Residential (LD)
South	Single Family & Agriculture (across Mission Ave.)	Merced County	Commercial Reserve (Com-R)
East	Vacant Commercial	B-P	Business Park (BP)
West	Pioneer School/ Vacant Commercial (across Coffee Street)	R-1-6/ P-D #35	School/Thoroughfare Commercial (CT)

**BACKGROUND**

The project site is part of the Merced Gateway Marketplace (now the Gateway Marketplace) project that was reviewed by the Planning Commission on June 21, 2017, and approved by the City Council on August 7, 2017. The proposed gas station and convenience market was part of the original plan approved for the Gateway Marketplace. This project is the first development to occur within the Gateway Marketplace Master Plan area.

**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) #74.

**Zoning Ordinance Compliance**

B) Zoning Ordinance Section 20.44.010 – Alcoholic Beverage Sales for Off-Premises Consumption, requires a Conditional Use Permit (CUP) for off-premises alcohol sales for a business with less than 20,000 square feet of floor area. This section also sets forth three Findings that must be made in order for the Planning Commission to approve a conditional use permit (CUP). Below are those Findings:

1. *The proposed use will not result in an “undue concentration” of establishments dispensing alcoholic beverages as defined in Section 23958 and 23958.4 of the California Business and Professions Code and giving consideration to the California Department of Alcoholic Beverage Control’s guidelines related to the number and proximity of such establishments within a one thousand (1,000) foot radius of the site.*

The approval of the sale of beer and wine for the Arco AM/PM convenience market would not result in an undue concentration. This site is located within Census Tract 26 (Attachment E). The State of California Alcoholic Beverage Control (ABC) allows 4 licenses for off-site consumption. According to the ABC website, this census tract currently has 3 licenses issued for off-site consumption (Attachment E). All the current licenses are outside the City Limits. None of the sites are within 1,000 feet of the proposed Arco AM/PM site.

2. *The proposed use shall not adversely affect the economic and societal welfare of the pertinent community or residentially zoned community in the area of the City involved, after giving consideration to the distance of the proposed use from residential zoning districts, churches, schools, hospitals, playgrounds, public parks, or any other similar uses as determined by the Director of Development Services.*

The proposed project site is not adjacent to or within 1,000 feet of any residential uses. This is a vacant parcel with vacant land to the north, east, and west. The land to the south is currently used for agriculture. As shown on the map at Attachment F, Pioneer Elementary School is more than 600 feet away as required by ABC regulations. There are no churches or other sensitive uses within the area.

3. *The proposed use shall not significantly adversely affect the crime rate in the area of the proposed site. Particular attention shall be given to those crimes involving public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct.*

This area is currently undeveloped and therefore, does not generate much crime. According to the Merced Police Department, for the period between January 1, 2018 and December 31, 2018, there were only a total of 16 incidents in this area. None of the incidents involved public drunkenness, the illegal sale or use of narcotics, drugs, or alcohol, disturbing the peace, or disorderly conduct. Most of the incidents were accidents, traffic stops, or vehicle violations. As shown on the Hot Spot map at Attachment G, the crime rate in this area is considered low to none.

The development of this area, including the proposed convenience market with alcohol sales would most likely increase the crime in the area, just because there would be more people and businesses in the area. However, it is not expected to cause a drastic increase or an increase higher than other similar uses within the City.

- C) The Zoning Ordinance also has standards for gas stations selling alcoholic beverages. A CUP is required if the building is less than 20,000 square feet and there are a list of six standards that must be met. These standards have been incorporated into the Conditions of Approval (refer to Conditions #9 through #14).

### **Neighborhood Impact/Interface**

- D) As described above, the site is vacant and surrounded by vacant land (refer to the Location Map at Attachment A). The development of this area will have an impact to the surrounding area. These impacts were addressed through the Environmental Impact Report for the overall project. The operation of the gas station and convenience market would not create an impact on the immediate neighborhood.

Public hearing notices were sent to all property owners within 300 feet of the site. To date, staff has not received any comments or concerns.

### **Environmental Clearance**

- E) The Planning staff has conducted an environmental review (#18-68) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption is being recommended (Attachment H).

### **Attachments:**

- A) Location Map
- B) Site Plan
- C) Floor Plan
- D) Elevations
- E) Census Tract & Existing License Map
- F) Sensitive Uses Map
- G) Crime Hot Spot Map
- H) Categorical Exemption
- I) Draft Planning Commission Resolution



BLUE BELLS CT

DAISY CT

ALBERT DR

BLIX AVE

HYDRANGEA CT

LILY DR

AZALEA CT

PETUNIA CT

PL

HONEYSUCKLE R

DAFFODIL DR

DENISE DR

CARLY/ANNE DR

Residential

GARDENIA AVE

GERARD AVE

Pioneer Elementary School

Future Multi-Family Residential

PARSONS AVE

Commercial (Vacant)

Commercial (Vacant)

Commercial (Vacant)

ALFARATA BLVD

COFFEE ST

CAMPUS PKWY

HWY 99 ON RAMP

MISSION AVE

COFFEE ST

PROJECT SITE  
810 S Coffee St.

Commercial (Vacant)

Commercial (Vacant)

HWY 99

HWY 99 ON RAMP

MISSION AVE

Residential (County)

Ag Land (County)

HWY 99 ON RAMP

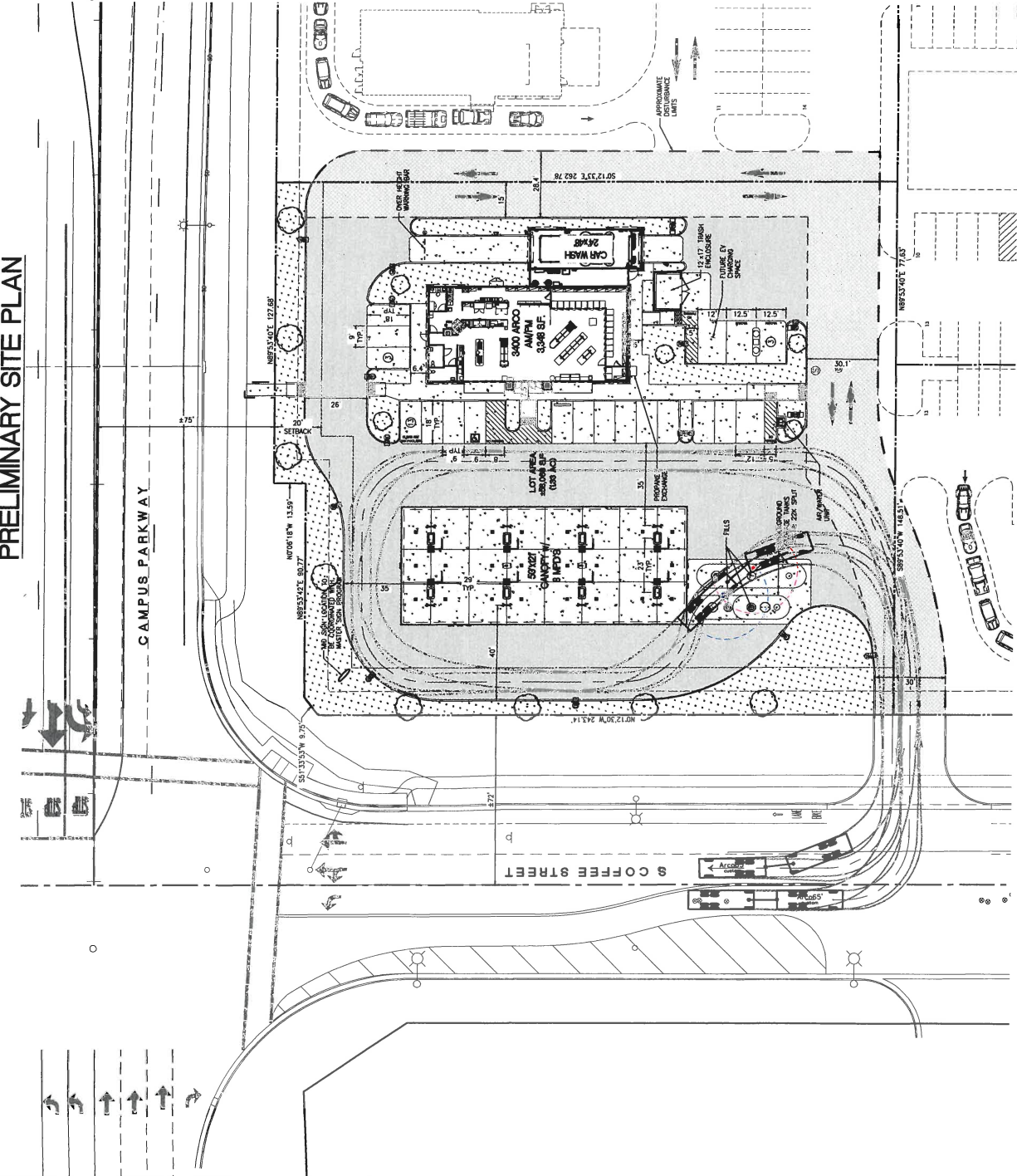
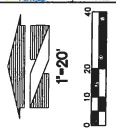
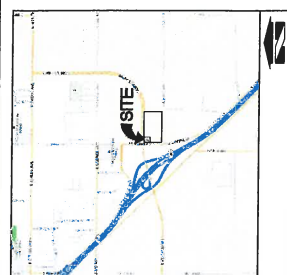
HWY 99

DOPPLER RD

ALFALFARD



# PRELIMINARY SITE PLAN

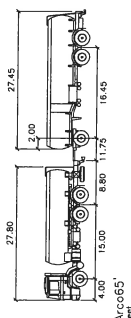


### PROJECT DATA:

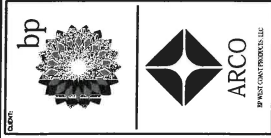
**LOCATION:** SEC CAMPUS PARKWAY & S COFFEE ST  
 CITY OF MERCED, CA  
 06120091000  
**APPROXIMATE ZONING:** RESIDENTIAL/COMMERCIAL (C-C)  
**FLOOD PLAIN DESIGNATION:** ZONE AO - WITH A BASE FLOOD ELEVATION (FEET) OF 1  
 COMMENTARY - FINAL NUMBER OF APPROXIMATE  
 DESIGN DATE OF DECEMBER 12, 2008.

**BUILDING SETBACKS:** 5' SIDE  
 MINIMUM SIDE STREET WID.  
 MINIMUM REAR SETBACK WID.  
**BUILDING SEPARATION:** 10' MIN.  
**MAXIMUM BUILDING HEIGHT:** 35'-0"  
**PARKING CALCULATIONS:** 1 SPACE PER 200 SF OF BUILDING AREA + 3 SPACES  
**CONVENIENCE STORE:** 3,348 SF  
**PARKING CALCULATION:** 1,248 SF / (200 SF/A SPACE) + 3 SPACES  
**TOTAL PARKING SPACES PROVIDED:** 19 PARKING SPACES  
**ADA PARKING SPACES PROVIDED:** 3 ADA PARKING SPACES PROVIDED  
**NUMBER OF PARKING SPACES IN ISOLATED AREA:** 19

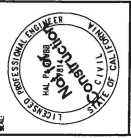
**PROPOSED GROUND COVER SUMMARY:**  
 ASPHALT: 14,871 SF (1.2%)  
 PAVING AND MANICURING: 1,800 SF (0.15%)  
 MAINTENANCE: 58,003 SF (4.00%)



ArCo065  
 Car: 8'00" Length, 5'00" Steering Angle, 7'70" Articulating Angle  
 Truck: 27'80" Length, 5'00" Steering Angle, 7'70" Articulating Angle  
 Trailer: 45'00" Length, 5'00" Steering Angle, 7'70" Articulating Angle



18215 7TH AVENUE SOUTH  
 MERCED, CA 95368  
 (409)351-9782 FAX  
 (409)351-9782  
 CIVIL ENGINEERING AND PLANNING  
 SURVEYING, ENVIRONMENTAL SERVICES  
 PROJECT NO. 06120091000  
 SHEET NO. 18 OF 18



**DEVELOPER INFORMATION:**  
 ARCO NTI  
 3400 am/pm  
 FUEL CANOPY w/ 8 MPD's  
 24'x18' CAR WASH

**SITE ADDRESS:** SEC CAMPUS PARKWAY & S COFFEE ST  
**FACILITY #/TID:** 18709  
**PRELIMINARY SITE PLAN**

**SP-1**

Preliminary Not For Construction





18215 72ND AVENUE SOUTH  
 BOST, WA 98032  
 (425)231-8732 FAX  
 (425)231-8732 FAX  
 OIL, INDUSTRIAL, AND PLUMBING,  
 SURVEY, ENVIRONMENTAL SERVICES

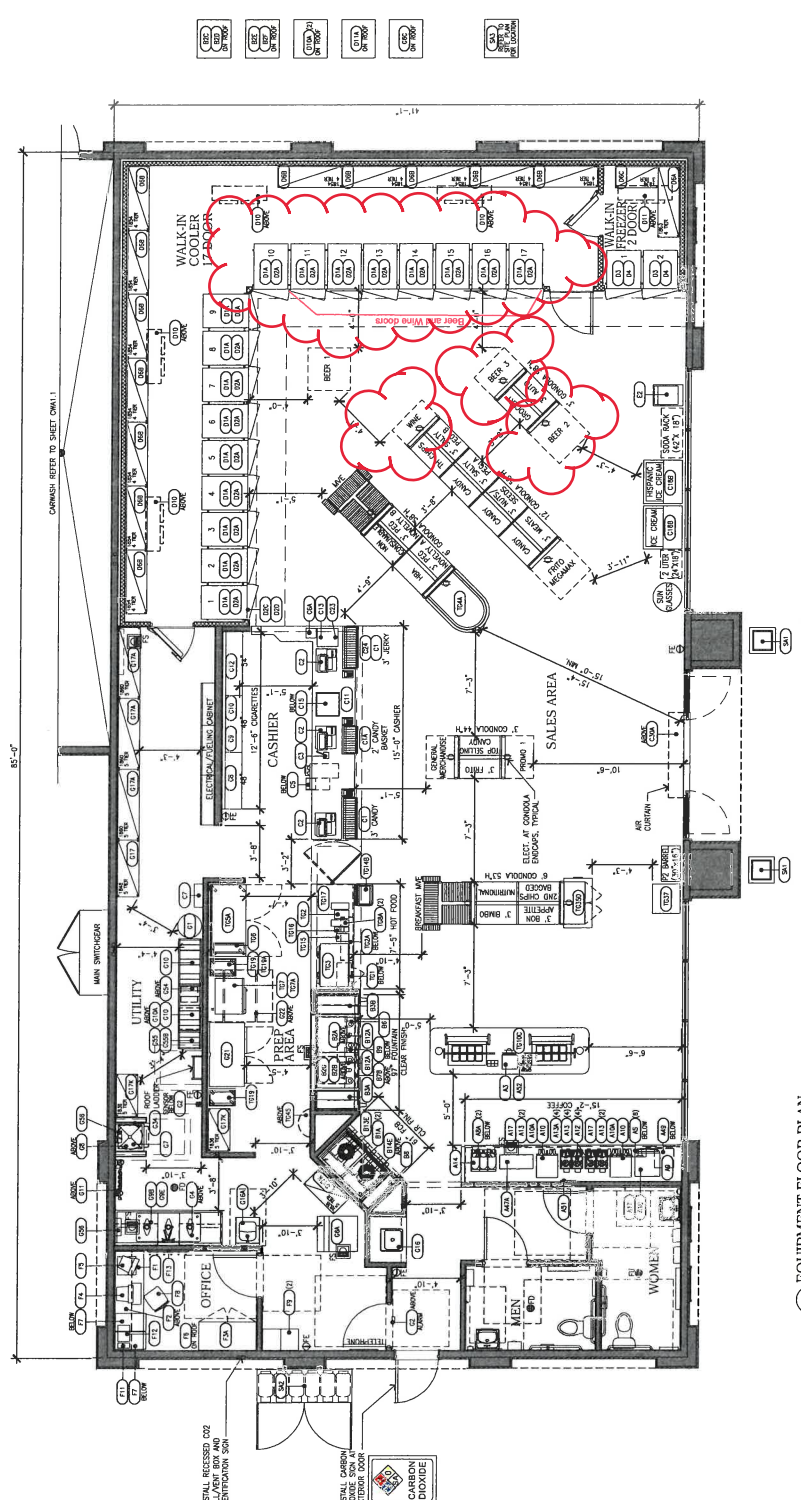
ARCO NTL  
 3400 88TH AVE  
 FUEL CANOPY w/ 8 MPD's  
 24x48 CAR WASH

SEC CAMPUS PARKWAY  
 6 S. CORNER STREET  
 MCKEE, CALIFORNIA

FACILITY # TBD  
 PROJECT # 18709

EQUIPMENT FLOOR PLAN  
 SHEET NO. Q1.1

NO.	DATE	REVISION
1	02/22/18	INITIAL SUBMITTAL FOR MAIN FULLER REVIEW
2	02/22/18	APPROVED BY MAIN FULLER
3	12/04/18	RE-SUBMIT BP REVISIONS FOR APPROVAL
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EQUIPMENT FLOOR PLAN  
 SCALE: 1/4"=1'-0"



3400 AMT/PM  
FUEL CANOPY w/ 8 MPD's  
24'X18' CAR WASH

NO.	DATE	REVISIONS
1	1/20/11	REVISED
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DEVELOPMENT INFORMATION	
ARCO NTI	3400 amt/pm
FUEL CANOPY w/ 8 MPD's	
24'X18' CAR WASH	

SITE ADDRESS	
SEC CAMPUS PAVY	
8 COURTESY	
1601 14TH AVENUE	

FACILITY #TBD	
OWNER	
DESIGNER	
DATE	18/09

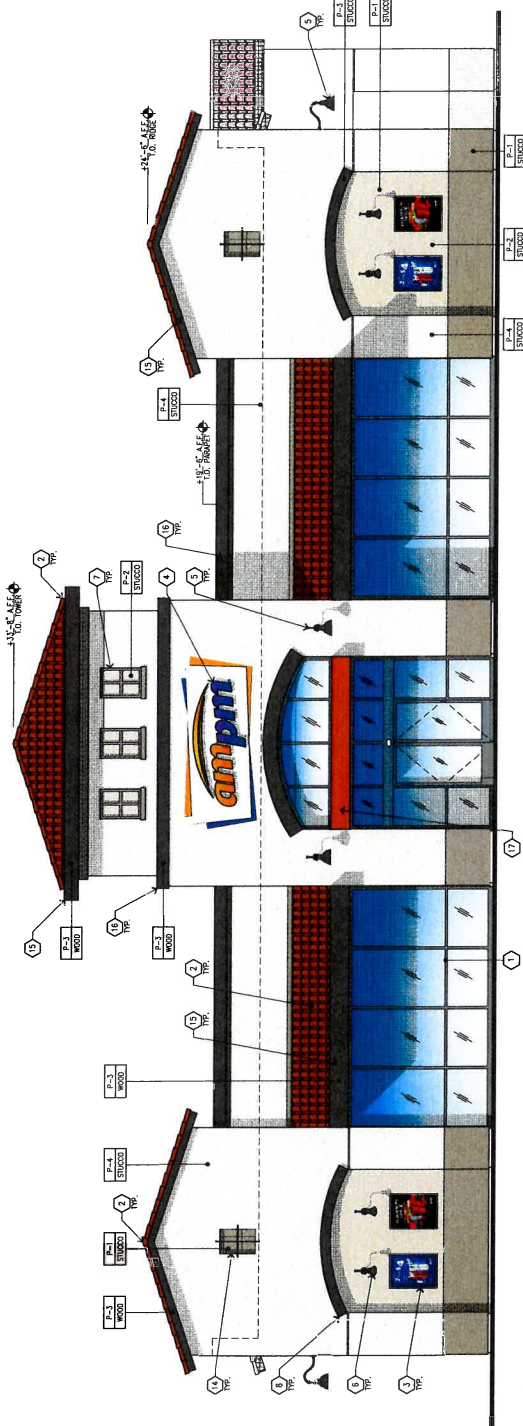
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ELEVATIONS	

A2.1

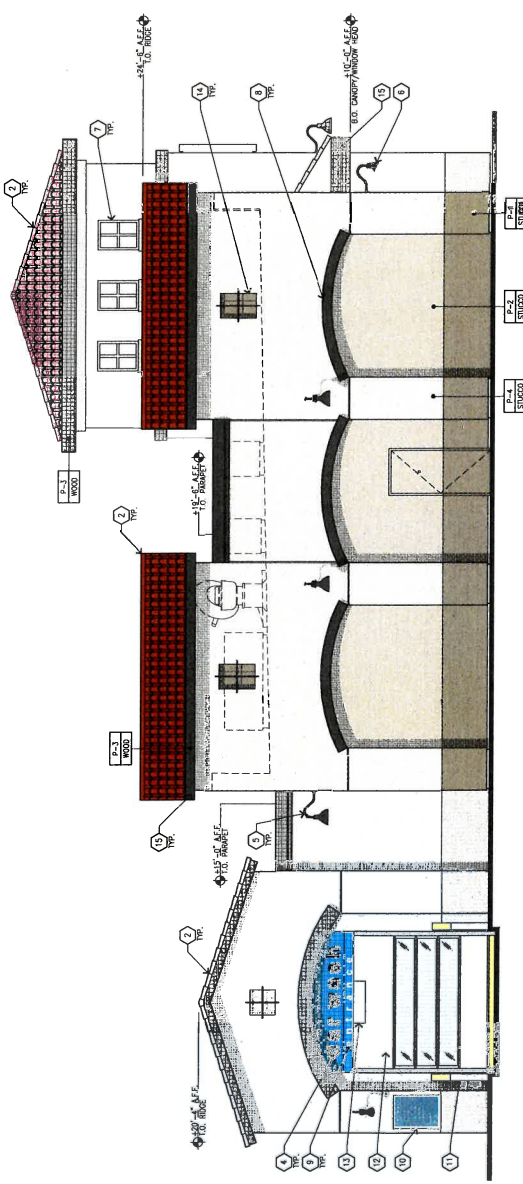
- KEYWORD NOTES**
- ALUMINUM ENTRANCE AND OVERHUNG SYSTEM
  - BARREL TILE ROOF, BRN. ROOFING, NLA BRN. GASK CRANKE BLEND
  - WALL POSTERS
  - WALL MOUNTED LED LIGHT FIXTURE
  - WALL MOUNTED LED SIGN LIGHT
  - FRAM. WOOD, NO GLASS W/ WOOD FRAME, PAINTED P-1
  - EPS LVL. PAINTED P-3
  - WINK LETTERS APPLIED TO ACH PANEL
  - INSULATED SIPR PANEL
  - 8" ROUND CONCRETE FILLED BOLLARD
  - WINK, ROLL-UP DOOR, COLOR: BEIGE
  - OVERHANG CLEARANCE BAR
  - ARCHITECTURAL RECES WITH RECOGNITIVE METAL CROSS
  - WOOD FACIA, PAINTED P-3
  - WOOD CRANKE, PAINTED P-3
  - ALUMINUM COMPOSITE MATERIAL FACIA PANEL

- COLOR LEGEND**
- P-1 BENJAMIN MOORE, 1077 "GREAT PAIRING GOLD", SATIN FINISH
  - P-2 BENJAMIN MOORE, 1030 "SANDY BEACH", SATIN FINISH
  - P-3 BAKER MILLER, 1000 "MANTON BROWN", SATIN FINISH
  - P-4 BENJAMIN MOORE, 00-69 "WHITE GLENDALE", SATIN FINISH
  - P-5 BENJAMIN MOORE, 1000 "SANDY BEACH", SATIN FINISH
  - P-6 BENJAMIN MOORE, 1000 "SANDY BEACH", SATIN FINISH
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  - P-49 BENJAMIN MOORE, 1000 "SANDY BEACH", SATIN FINISH
  - P-50 BENJAMIN MOORE, 1000 "SANDY BEACH", SATIN FINISH

- MATERIAL LEGEND**
- STUCCO 3/4" CEMENT PLASTER
  - TEXTURE FINE SAND FINISH
  - ALUMINUM COMPOSITE MATERIAL
  - CLEAR ANODIZED ALUMINUM
  - WOOD



11. WEST ELEVATION  
SCALE 1/4"=1'-0"



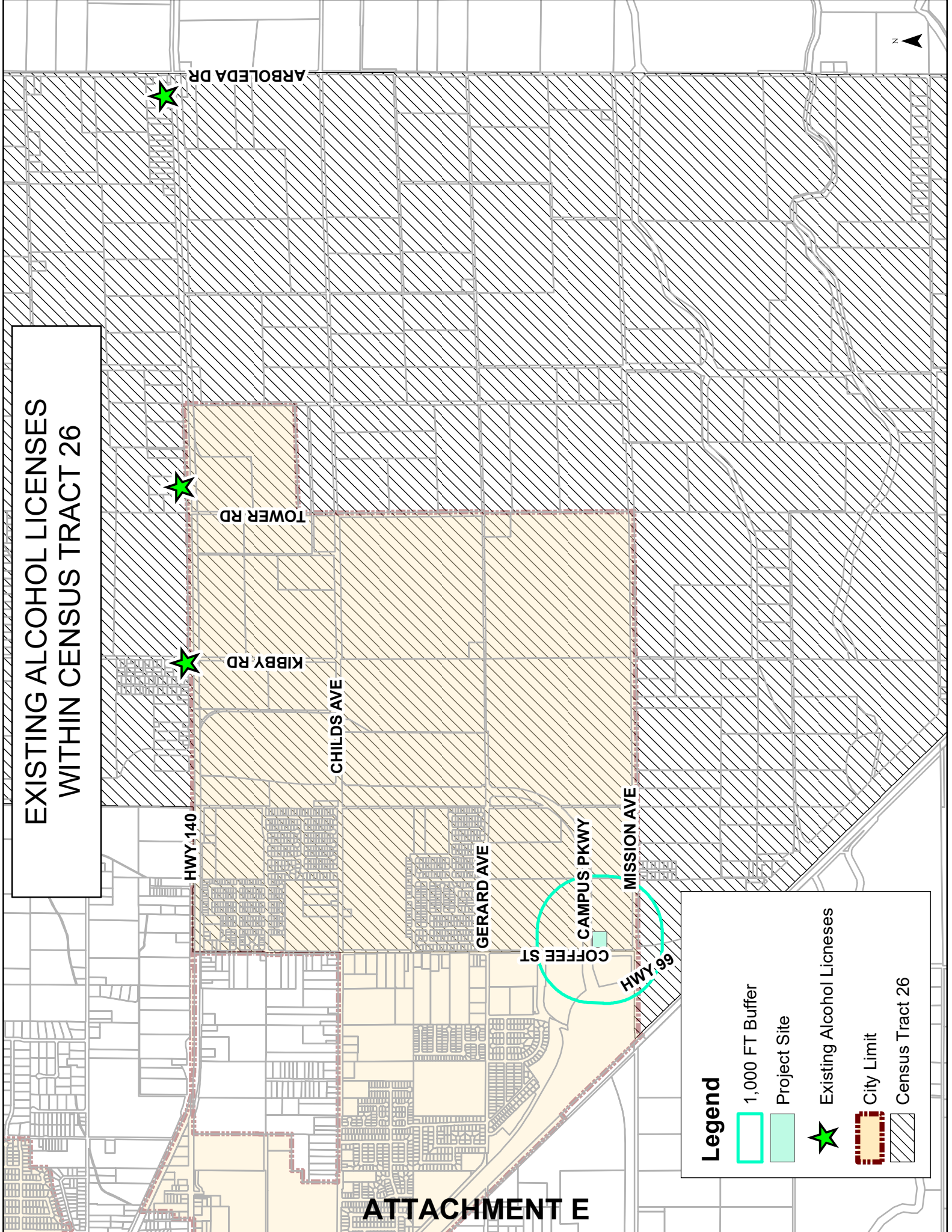
12. NORTH ELEVATION  
SCALE 1/4"=1'-0"

Preliminary Not For Construction

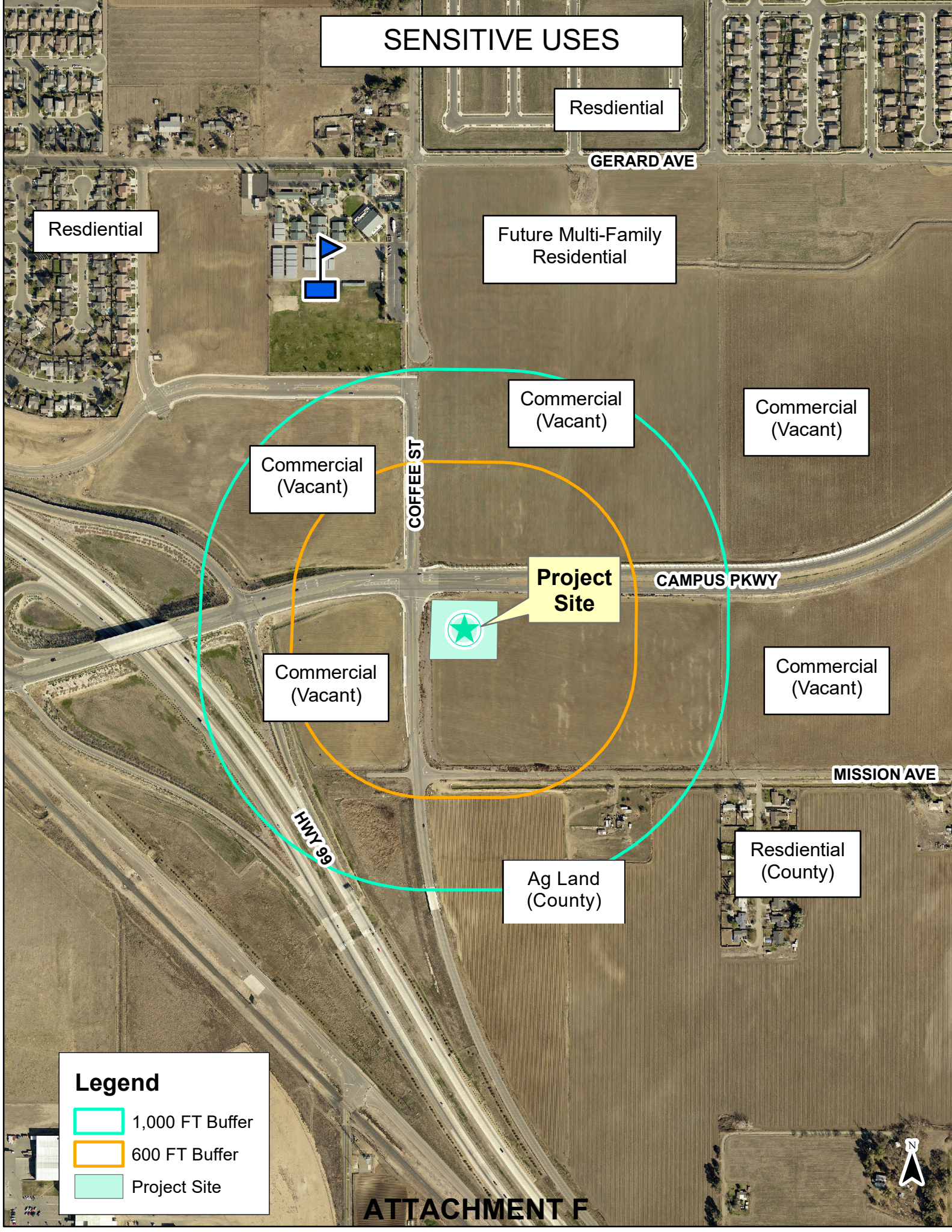




EXISTING ALCOHOL LICENSES  
WITHIN CENSUS TRACT 26



# SENSITIVE USES



Residential

GERARD AVE

Future Multi-Family Residential

Residential

Commercial (Vacant)

Commercial (Vacant)

Commercial (Vacant)

COFFEE ST

Project Site

CAMPUS PKWY

Commercial (Vacant)

Commercial (Vacant)

MISSION AVE

Residential (County)

Ag Land (County)

HWY 99

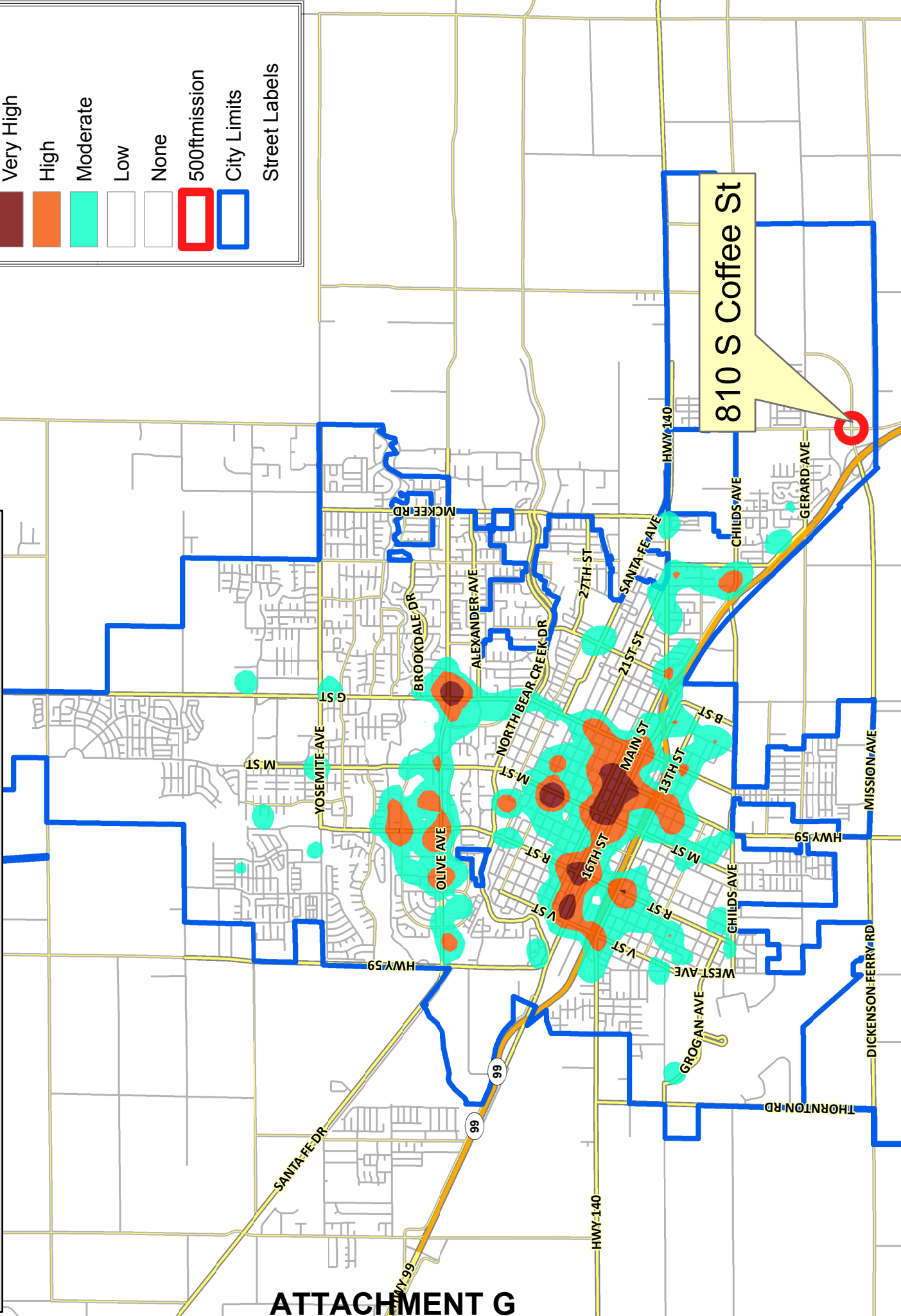
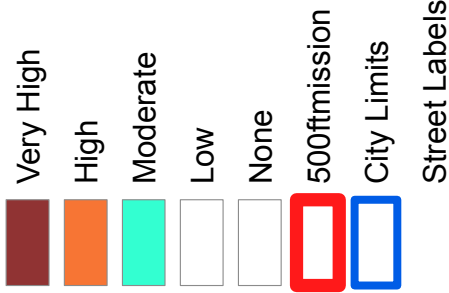
**Legend**

- 1,000 FT Buffer
- 600 FT Buffer
- Project Site

# CITY OF MERCED 2018 HOT SPOTS of ALL INCIDENTS

## Legend

### Incident Hot Spots



**NOTICE OF EXEMPTION**

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

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

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

**Project Title:** Conditional Use Permit #1228

**Project Applicant:** Gateway Park Development Partners, LLC

**Project Location (Specific):** 810 S. Coffee St. **APN: 061-250-052**

**Project Location - City:** Merced **Project Location - County:** Merced

**Description of Nature, Purpose, and Beneficiaries of Project:**

**Name of Public Agency Approving Project:** City of Merced

**Name of Person or Agency Carrying Out Project:** Mark Patterson for Gateway park  
Development Partners, LLC

**Exempt Status:** (check one)

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

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

**Lead Agency:** City of Merced

**Contact Person:**  Julie Nelson, Planner

**Area Code/Telephone:** (209) 385-6858

**Signature:**  \_\_\_\_\_ **Date:**  1-8-2019  **Title:**  Associate Planner

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

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



**CITY OF MERCED**  
**Planning Commission**

**Resolution #4016**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of February 6, 2019, held a public hearing and considered **Conditional Use Permit #1228**, initiated by Mark Patterson, on behalf of Gateway Park Development Partners, LLC, property owner. This application involves a request to allow the sale of beer and wine for off-site consumption within an ARCO convenience market, generally located at the southeast corner of Campus Parkway and Coffee Street (810 S. Coffee Street). The subject site has a General Plan designation of Regional Commercial (RC) and is zoned Planned Development (P-D) #74; also known as Assessor's Parcel Number 061-250-092; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through E of Staff Report #19-06; and,

**NOW THEREFORE**, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #18-68, and approve Conditional Use Permit #1228, 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 #4016

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February 6, 2019

Adopted this 6<sup>th</sup> day of February 2019

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Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

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Secretary

Attachment:

Exhibit A – Conditions of Approval

n:\shared\planning\PC Resolutions: CUP#1228 (Alc sales for off-site consumption at new gas station)

**Conditions of Approval**  
**Planning Commission Resolution # 4016**  
**Conditional Use Permit #1228**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan), Attachment C of Planning Commission Staff Report #19-06, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions” shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. The Project shall comply with the conditions set forth in Planning Commission Resolution #3084 for the Merced Gateway Project [General Plan Amendment #15-03, Zone Change #422, and Establishment of Planned Development (P-D) #74] and Site Plan Review Resolution #426 previously approved for this project.
5. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
6. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the

action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

7. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
8. No sales of alcoholic beverages shall be allowed between the hours of 2:00 a.m. and 6:00 a.m.
9. No beer or wine shall be displayed within five (5) feet of the cash register or the front door.
10. No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
11. No sale of alcoholic beverages shall be made from a drive-through window.
12. No display or sale of beer or wine shall be made from an ice tub.
13. No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.
14. Employees shall be at least twenty-one (21) years of age to sell alcohol.
15. No single-serving containers smaller than 20 ounces shall be sold individually, unless otherwise approved by the Police Chief or designee. Any containers smaller than 20 ounces shall be sold as part of a larger pack (i.e., 6-pack or 12-pack).
16. "No Loitering" signs shall be placed on the building along the alley and the front of the store.
17. The proprietor and/or successors in interest and management shall be prohibited from externally advertising or promoting beer & wine and/or distilled spirits including, but not limited to, window and wall signage.
18. This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.

19. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
20. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.
21. Sufficient lighting shall be provided throughout the site to provide a safe environment for patrons of the market. Details to be worked out with staff.
22. The premises shall remain clean and free of debris at all times.

n:shared:planning:PC Resolutions: CUP #1228 Exhibit A