

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

**STAFF REPORT:** #19-10

**AGENDA ITEM:** 4.1

**FROM:** Kim Espinosa,  
Planning Manager

**PLANNING COMMISSION**  
**MEETING DATE: April 3, 2019**

**PREPARED BY:** Francisco Mendoza-Gonzalez,  
Associate Planner

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**SUBJECT:** **Conditional Use Permit #1229**, initiated by 59 Petroleum, LLC, on behalf of Louann Bianchi, property owner. This application involves a request to sell beer and wine for off-site consumption for a new gas station (Arco AM/PM), generally located at the northwest corner of Santa Fe Drive/Olive Avenue and N. Highway 59 (3297 Santa Fe Drive), within a zoning classification of Thoroughfare Commercial (C-T), and a General Plan designation of Thoroughfare Commercial (CT) once the annexation to the City is completed. \*PUBLIC HEARING\*

**ACTION:** Approve/Disapprove/Modify

- 1) Environmental Review #19-05 (Categorical Exemption)
- 2) Conditional Use Permit #1229

**SUMMARY**

Arco AM/PM is requesting approval to sell beer and wine for off-site consumption [Alcoholic Beverage Control (ABC) Type 20 Alcohol License] at 3297 Santa Fe Drive. The subject site is a vacant triangular 7.5-acre parcel located at the northwest corner of Santa Fe Drive/Olive Avenue and Highway 59 (Attachment A). This property is currently being annexed into the City, and if this permit is approved, it would not go into effect until the date the annexation is complete. Attachment B shows the overall site plan for this commercial center which includes four retail pads, a restaurant, a carwash, and the Arco AM/PM gas station (3,800 square feet). A conditional use permit is required for any business that wants to sell alcoholic beverages for off-site consumption in a building of 20,000 square feet or less. Section 20.44.010 of the Zoning Ordinance requires the Planning Commission to make specific findings related to the business' potential impacts on sensitive uses, economic/societal welfare, and crime rates. These findings are shown on the "Alcohol Sales" section of this staff report.

Because the subject site is located within an Alcoholic Beverage Control (ABC) Census Tract that is not over-concentrated with alcohol licenses for off-site consumption, this request will not require a Finding of Public Convenience or Necessity by the City Council. The Police Department has determined that they would support a Type 20 ABC License if specific conditions are included to reduce the potential for alcohol-related incidents. Staff is recommending approval of this application subject to the conditions contained in this staff report.

## **RECOMMENDATION**

Planning staff recommends that the Planning Commission approve Environmental Review #19-05 (Categorical Exemption) and Conditional Use Permit #1229 (including the adoption of the Resolution at Attachment K), subject to the following conditions:

- \*1) The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) -- Attachment D, except as modified by the conditions.
- \*2) All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
- \*3) The Project shall comply with the conditions set forth in Planning Commission Resolution #3095 for Pre-zoning Application #15-01 and General Plan Amendment #15-04, previously approved for this project (Attachment I).
- \*4) 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, 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 (with counsel selected by the City) 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.
- \*5) 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.
- 5) Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
- 6) All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
- 7) The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.

- 8) A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are prohibited.
- \*9) No beer shall be displayed or stored outside of the cooler areas.
- \*10) No display or sale of beer or wine shall be made from an ice tub.
- \*11) Employees shall be at least 21 years old to sell alcohol.
- \*12) 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.
- 13) The area within the convenience market dedicated to the display and sale of beer shall not be more than 7 cooler spaces (typical of those found in a grocery store or convenience market) or 150 square feet, in addition to 60 square feet outside the cooler area. The area dedicated to the display and sale of wine on free-standing shelves or coolers shall not exceed 20 square feet.
- 14) 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 in conformance with the procedures outlined in the Merced Municipal Code.
- 15) No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine cooler containers shall be sold as part of a pack or carton. However, wine bottles or cartons of sizes 750 ml or larger may be sold as single-serving containers.
- \*16) No alcohol shall be displayed within five feet of the cash register or the front door.
- \*17) No advertisement of alcoholic beverages shall be displayed on motor fuel islands, in landscaped areas, or outside the buildings or windows.
- \*18) No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
- \*19) No sale of alcoholic beverages shall be made from a drive-up window.
- 20) The business shall comply with all applicable requirements from the Merced County Health Department.
- 21) 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.
- 22) A permanent tamper-proof outdoor trash receptacle shall be installed near the main entrance to the convenience market.

- 23) The conditional use permit will only become valid on the date that the annexation to the City is complete. If the annexation is not completed within two years of this Planning Commission date, the approval will be null and void, and a new conditional use permit would need to be applied for.

(\*) Denotes non-discretionary conditions.

**PROJECT DESCRIPTION**

A gas station/convenience market is considered a principally permitted use in the Thoroughfare Commercial (C-T) Zone, but the applicant’s request to sell alcohol for off-site consumption requires Planning Commission approval of a Conditional Use Permit. This request would not require a Finding of Public Convenience or Necessity from the City Council, because the subject site is located within a Census Tract that is not considered over-concentrated by Alcoholic Beverage Control standards. Approval of this conditional use permit would allow Arco/AMPM to sell a maximum of 230 square feet of beer and wine (Condition #13) or 6.1% of the floor space. As shown on the floor plan at Attachment D, alcohol would be stocked on the eastern portion of the convenience market. Beer would be located within 7 coolers and on 3 shelves. Wine would be stored on one shelf near the beer shelves. Police staff has reviewed this proposal and they do not anticipate this request to cause a significant adverse effect on the socio and economic well-being of the neighborhood, or to have a significant adverse effect on police resources.

Surrounding Uses  
(Attachment A)

<b>Surrounding Land</b>	<b>Existing Use of Land</b>	<b>City Zoning Designation</b>	<b>City General Plan Land Use Designation</b>
North	Derrel’s Mini Storage/Undeveloped Land (across Farhens Creek)	N/A (County Jurisdiction)	Regional/Community Commercial (RC)
South	Horizon Distributors (across Santa Fe Drive)	N/A (County Jurisdiction – Currently in the Annexation Process)	Manufacturing /Industrial (IND)
East	Quad Graphics (across Santa Fe Drive)	Light Industrial (IL)	Manufacturing /Industrial (IND)
West	Vacant 14.4-Acre Lot (across N. Highway 59)	Planned Development (P-D) #12	Office Commercial (CO)/Manufacturing/ Industrial (IND)

## **BACKGROUND**

### **Subject Site:**

The Planning Commission recommended approving the annexation of the subject site in 2018, which was subsequently approved by the City Council. The annexation would absorb the 7.4-acre subject site and apply a zoning classification of Thoroughfare Commercial (C-T). The annexation application included a proposed site plan with four retail pads, a restaurant, a carwash, and a gas station (Arco AM/PM). The annexation has yet to be finalized as it requires approval from the Local Area Formation Commission (LAFCO). LAFCO is scheduled to take action on April 18, 2019. Approval of the permit would not go into effect until the date that the annexation is officially complete.

### **Ordinance:**

Zoning Ordinance #94-01 was adopted by the City Council on June 19, 1995. This amended the Merced Municipal Code by requiring a conditional use permit prior to obtaining a license from ABC for the sale of alcoholic beverages for off-site consumption (for businesses under 20,000 square feet). City records show that the ordinance was primarily directed at the proliferation of alcoholic beverage establishments, such as liquor stores and convenience markets throughout central and south Merced. In addition, Zoning Ordinance #94-01 established a criteria by which to evaluate requests to sell alcoholic beverages for off-site consumption. The details of those criteria are described in the Findings section of this staff report. These findings and procedures were not changed in the Zoning Ordinance Update in 2016.

## **FINDINGS/CONSIDERATIONS:**

### **General Plan/Zoning Compliance and Policies Related to This Application**

- A) The proposed project complies with the General Plan designation of Thoroughfare Commercial (CT) and the zoning classification of Thoroughfare Commercial (C-T) with approval of a Conditional Use Permit. This approval would not be effective until the date the annexation of the subject site into the City is complete.

### **Alcohol Sales**

- B) This request requires a Conditional Use Permit because Arco/AMPM will be less than 20,000 square feet in size. In order for the Planning Commission to approve or deny a request for the sale of alcoholic beverages for off-site consumption, it must consider the following criteria and make findings to support or deny each criteria per MMC 20.44.010:

#### **Criteria #1**

The proposed use will not result in an "undue concentration" of establishments dispensing alcoholic beverages as defined by Section 23958 and 23958.4 of the California Business and Professional Code and giving consideration to the California Department of Alcoholic Beverage Control's guidelines related to number and proximity of such establishments within a 500-foot radius of the site.

Finding #1:

The subject site is located within Alcoholic Beverage Control Census Tract #10.02, in checking with the State of California Alcoholic Beverage Control, this census tract is not over concentrated with business selling alcohol (see map at Attachment F).

Criteria #2

The proposed use will 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 buildings, churches, schools, hospitals, public playgrounds, and other similar uses; and other establishments dispensing, for sale or other considerations, alcoholic beverages including beer and wine.

Finding #2:

Residential uses (multi-family) are located over 1,000 feet east of the subject site, across Highway 59 (Attachment A). There are no other sensitive uses located within 1,000 feet of the subject site. The nearest sensitive use (besides residential properties) is Fahrens Park, which is located approximately half a mile away from the subject site with the main entrance to the park being approximately one mile away from the subject site, at the southwest intersection of R Street and Buena Vista.

Criteria #3

The crime rate in the area of the proposed site with particular attention given to those crimes involving public intoxication, the illegal sale of narcotics, disturbing the peace, and disorderly conduct.

Finding #3:

Between March 1, 2018, and March 22, 2019, the Merced Police Department recorded 46 incidents within a 500-foot radius of the subject site. The table on the following page shows the number of incidents within that area involving public intoxication, assaults, MMC violations, and narcotics violations (totaling 16 incidents during the 12-month period). As shown on the attached Incident Maps (Attachments H), the majority of those incidents occurred east of the subject site at the intersection of Olive Avenue and N. Highway 59 (many of which were traffic related incidents). The number of incidents reported City-wide for the same time period was 80,472. Based on the total number of calls within the City, the 46 calls to this area equals 0.057% of the overall calls for service within the City. As shown on the attached Crime Hot Spot Map for the City of Merced (Attachment G), crime rates in this area are considered low compared to the rest of the City.

**Incidents and Cases Reported (March 1, 2018 – March 22, 2017)**

<b>Incident/Case Type</b>	<b>Number of Incidents</b>
Public Intoxication	0
Disturbance (assaults)	6
MMC*	10
Narcotics violations	0

\*Municipal Code Violations regarding open containers, drinking in public, etc.

Planning staff consulted with the Merced Police Department regarding alcohol sales at this location; the Police Department did not have any significant concerns with this request and is not requiring any conditions of approval not normally associated with alcohol sales for off-site consumption. Based on the information provided by the Police Department, staff does not anticipate that the approval of this request would adversely affect the economic and social welfare of the surrounding area.

**Neighborhood Impact/Interface**

- C) The subject site is surrounded by vacant parcels and light industrial uses. Residential uses (multi-family) are located over 1,000 feet east of the subject site, across Highway 59 (Attachment A). There are no sensitive uses located within 1,000 feet of the subject site. The nearest sensitive use (besides residential properties) is Fahrens Park, which is located approximately half a mile away from the subject site with the main entrance to the park being approximately one mile away from the subject site. The subject site is isolated and surrounded by barriers such as major roads like Highway 59, Santa Fe Drive/Olive Avenue, and natural barriers like Fahrens Creek. These barriers would reduce the impact that this development would have on the neighborhood. Given the context of the site and the fact that there are no sensitive uses within 1,000 feet of the site, staff believes that approval of this request should not have a significant impact in the surrounding area.

A public hearing notice was circulated in the Merced County Times and mailed to property owners within 300 feet of the subject site three weeks prior to this public hearing. As of the date that this report was prepared, staff did not receive any comments from the community about this project.

**Signage**

- D) The applicant is not proposing any signage at this time. However, staff is recommending that certain restrictions regarding the advertisement of alcohol be included with this permit. Said restrictions would prohibit the advertisement of beer, wine, and distilled spirits on the building walls, windows, and in the parking lot (Conditions #17 and #18). A formal request for permanent signage shall be reviewed with a building permit application and shall require compliance with the North Merced Sign Ordinance.

**Environmental Clearance**

- E) Planning staff has conducted an environmental review (Environmental Review #19-05) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (no further environmental review is required) is being recommended (Attachment K).

**Attachments:**

- A) Location Map
- B) Commercial Center Site Plan
- C) Gas Station Site Plan
- D) Floor Plan
- E) ABC License Types
- F) ABC Licenses Issued Around the Subject Site
- G) Crime Hot Spot Map for the Entire City
- H) Incident Map Near Subject Site (500-foot Radius)
- I) Resolution #3095 for Pre-zoning #15-01 and GPA #15-01
- J) Categorical Exemption
- K) Draft Planning Commission Resolution





ATTACHMENT A

**PROPERTY DESCRIPTION**  
 A PORTION OF LOT 58 AND A PORTION OF THE WEST 40 FEET OF THE 100 FOOT WIDE SOUTHERN PACIFIC RAILROAD BRANCH RIGHT-OF-WAY (NOW ABANDONED) AS SHOWN ON THE MAP ENTITLED, MAP OF THE CROCKER COLONY, RECORDED IN VOLUME 5 OF OFFICIAL PLATS, PAGE 6, MERCED COUNTY RECORDS

**APPLICANT**  
 59 PETROLEUM, LLC  
 CONTACT: SURINA MANN  
 2190 MERIDIAN PARK BLVD., SUITE G  
 CONCORD, CA 94520  
 PHONE: (925) 446-6806

**PROVIDED BY:**  
 CITY  
 CITY  
 CITY

**SITE UTILITIES:**  
 SEWAGE DISPOSAL:  
 WATER SUPPLY:  
 DRAINAGE:

**LOT DATA:**  
 A.P.N.: 57-200-067 & 57-200-029  
 TOTAL ACREAGE: 341,075 SF (7.83 AC)  
 EXISTING PARCELS: 2  
 PROPOSED PARCELS: 4

**EXISTING ZONE:**  
 INDUSTRIAL (COUNTY)  
 C-T DISTRICT  
 COMMERCIAL (CITY)

**EXISTING USE:**  
 VACANT

**PROPOSED USE:**  
 RETAIL, AMPM CONVENIENCE STORE  
 WITH FUEL SALES, AND CAR WASH

PARCEL	BLDG. SQ. FT.	ACREAGE
1	AMPM 1,26	1.26
2	FUTURE DEVELOPMENT 4,68	4.68
3	FUTURE DEVELOPMENT 0,43	0.43
4	CAR WASH 2,20	2.20
<b>TOTAL</b>	<b>43,393</b>	<b>7.57</b>

**PARCEL 1 PARKING DATA:**  
 REQUIRED:  
 AMPM (3,800 SF / 250) + 3 SPACES: 19 SPACES

**REQUIRED:**  
 19 SPACES

**PROVIDED:**  
 28 SPACES

STANDARD SPACE (9x20')  
 ACCESSIBLE SPACE (9x20')  
 SPACES AT FUEL PUMPS  
 16 SPACES  
 47 SPACES

**PARCEL 2 PARKING DATA:**  
 REQUIRED:  
 FUTURE RETAIL (2,226 SF / 300):  
 FUTURE GSR (2,895 SF / 100):

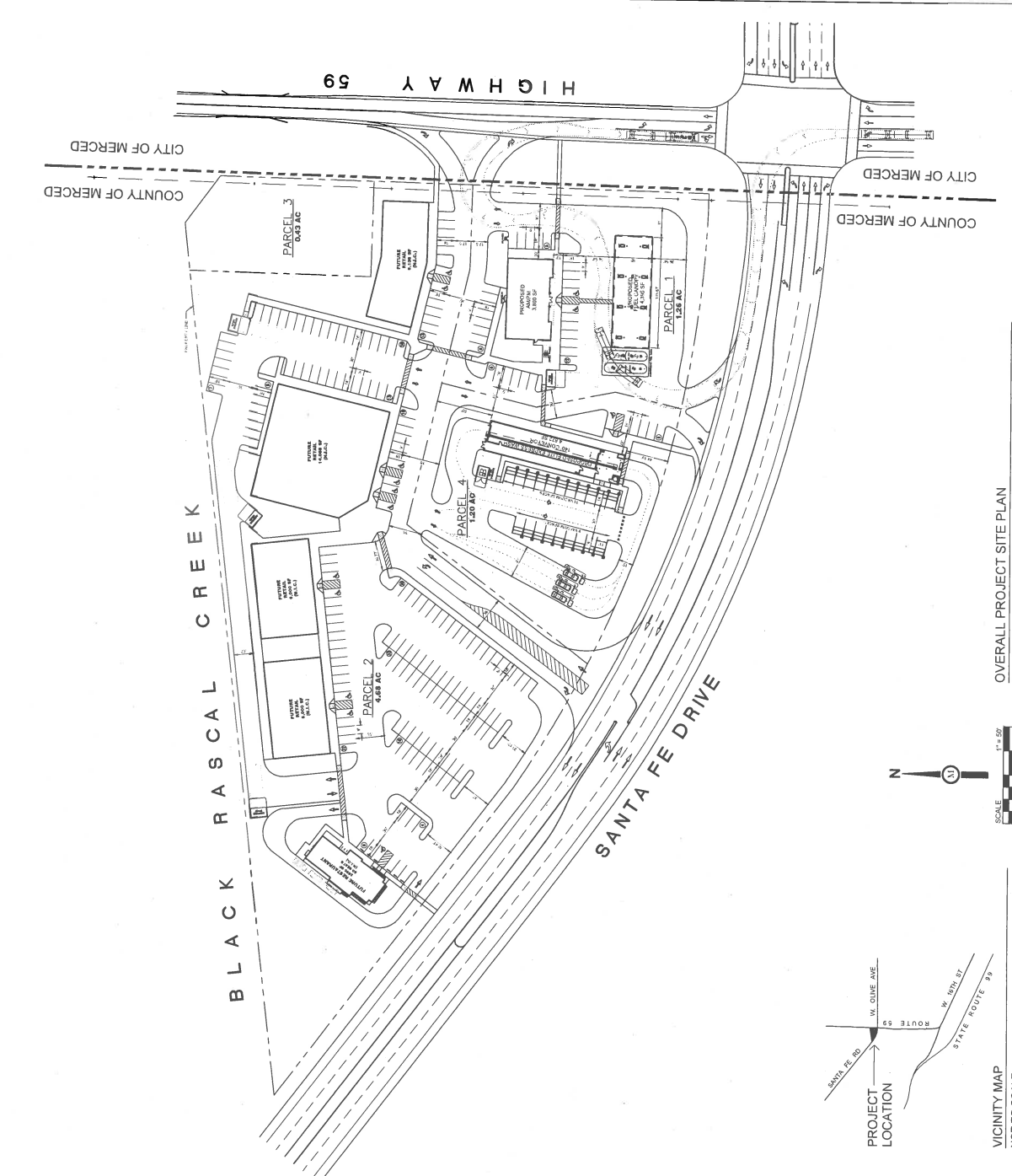
**REQUIRED:**  
 108 SPACES  
 27 SPACES  
 135 SPACES

**PROVIDED:**  
 162 SPACES  
 2 SPACES  
 ACCESSIBLE SPACE (9x20')  
 173 SPACES

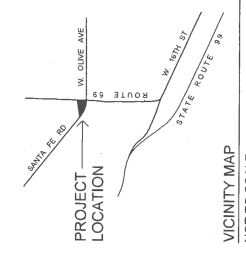
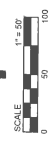
**PARCEL 4 PARKING DATA:**  
 REQUIRED:  
 CARWASH (2 EMPLOYEES):

**REQUIRED:**  
 2 SPACES  
 2 SPACES

**PROVIDED:**  
 5 SPACES  
 STANDARD SPACE (9x20')  
 ACCESSIBLE SPACE (9x20')  
 6 SPACES



OVERALL PROJECT SITE PLAN  
 SCALE: 1" = 50'



**PROPERTY DESCRIPTION**  
 A PORTION OF LOT 66 AND A PORTION OF THE WEST 40 FEET OF THE 100 FOOT WIDE SOUTHERN PACIFIC RAILROAD RIGHT-OF-WAY BRANCH RIGHT-OF-WAY (NOW ABANDONED) AS SHOWN ON THE MAP ENTITLED, MAP OF THE CROCKER COLONY, RECORDED IN VOLUME 5 OF OFFICIAL PLATS, PAGE 6, MERCED COUNTY RECORDS

**APPLICANT**  
 59 PETROLEUM, LLC  
 CONTACT: SURINA MANN  
 2190 MERIDIAN PARK BLVD., SUITE G  
 CONCORD, CA 94520  
 PHONE: (925) 446-5806

**SITE UTILITIES:**  
 SEWAGE DISPOSAL:  
 WATER SUPPLY:  
 DRAINAGE:

**PROVIDED BY:**  
 CITY  
 CITY  
 CITY

**LOT DATA:**  
 A.P.N.: 57-200-067 & 57-200-029  
 TOTAL ACREAGE: 341,075 SF (7.83 AC)  
 EXISTING PARCELS: 2  
 PROPOSED PARCELS: 4  
 EXISTING ZONE: INDUSTRIAL (COUNTY)  
 C-T DISTRICT  
 COMMERCIAL (CITY)  
 EXISTING USE: VACANT  
 PROPOSED USE: AMP/M CONVENIENCE STORE WITH FUEL SALES AND CAR WASH

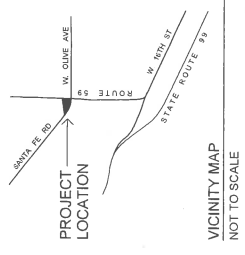
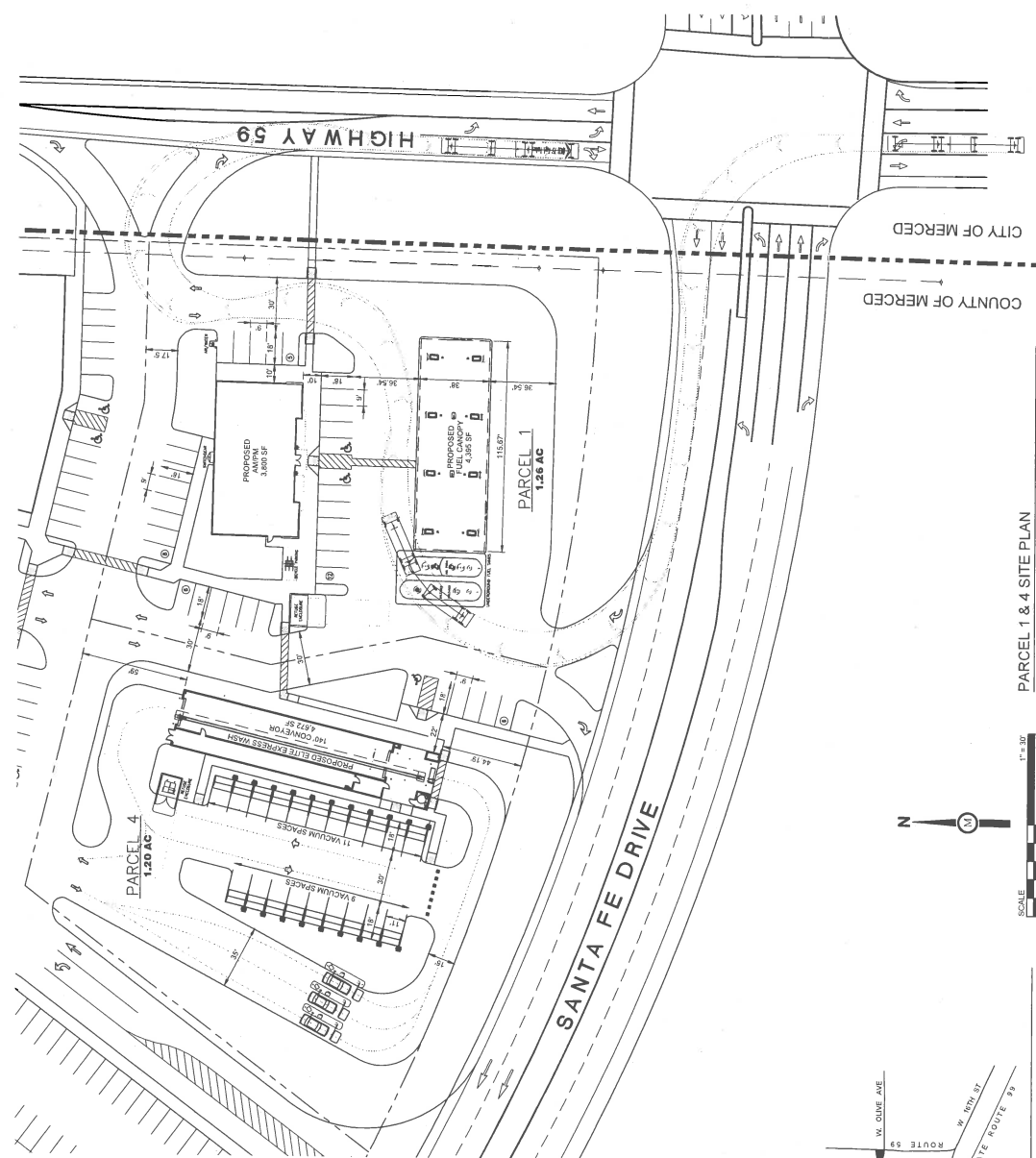
PARCEL	BLDG. SQ. FT.	ACREAGE
1	AMP/M	1.26
2	FUTURE DEVELOPMENT	4.68
3	FUTURE DEVELOPMENT	0.43
4	CARWASH	1.70
<b>TOTAL</b>		<b>7.57</b>

**PARCEL 1 PARKING DATA**  
 REQUIRED: AMP/M (3,800 SF / 250) + 3 SPACES: 19 SPACES  
 PROVIDED: 19 SPACES

**PROVIDED:**  
 STANDARD SPACE (9'x20') 29 SPACES  
 ACCESSIBLE SPACE (9'x20') 2 SPACES  
 SPACES AT FUEL PUMPS 16 SPACES  
 PROVIDED: 47 SPACES

**PARCEL 4 PARKING DATA**  
 REQUIRED: CARWASH (2 EMPLOYEES): 2 SPACES  
 PROVIDED: 2 SPACES

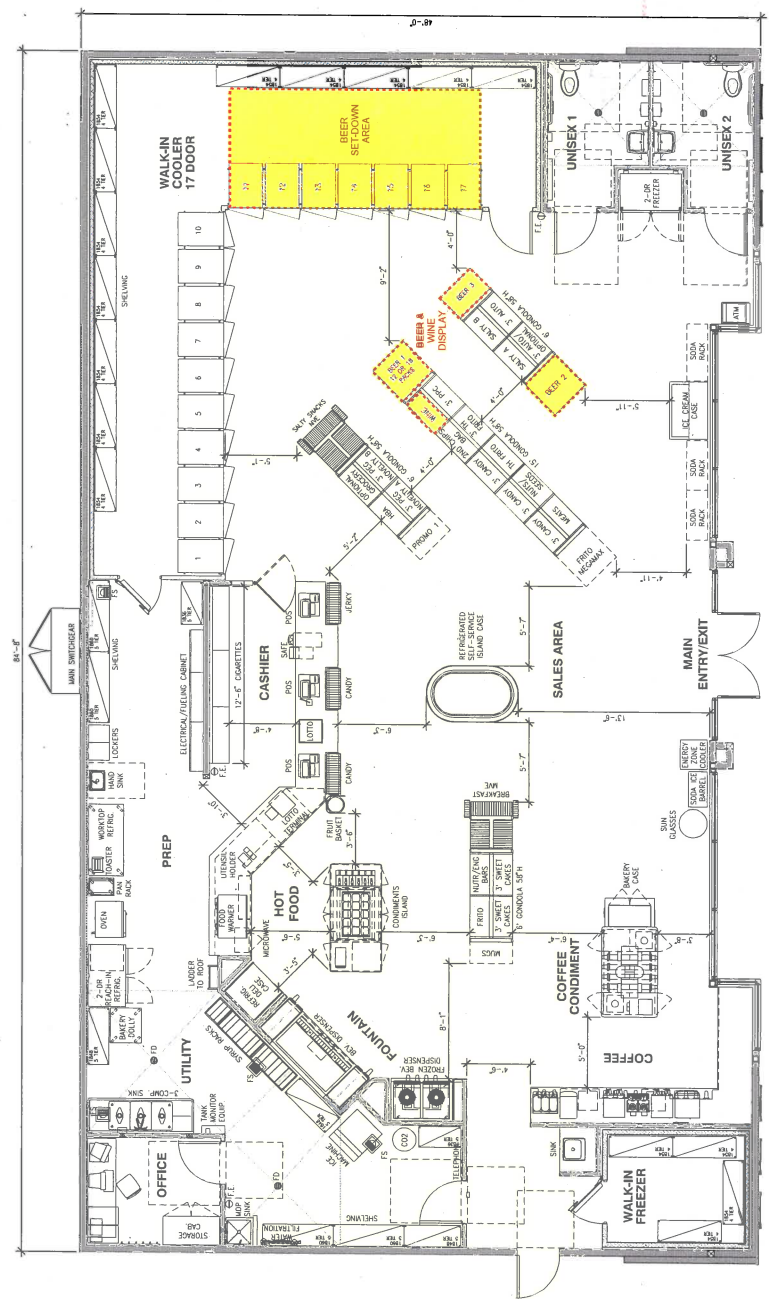
**PROVIDED:**  
 STANDARD SPACE (9'x20') 5 SPACES  
 ACCESSIBLE SPACE (9'x20') 1 SPACES  
 PROVIDED: 6 SPACES



PARCEL 1 & 4 SITE PLAN  
 SCALE: 1" = 30'



VICINITY MAP  
 NOT TO SCALE



**C-STORE FLOOR PLAN**  
 SCALE: 1/4" = 1'-0"  
 3,799 INTERIOR GROSS SQUARE FEET

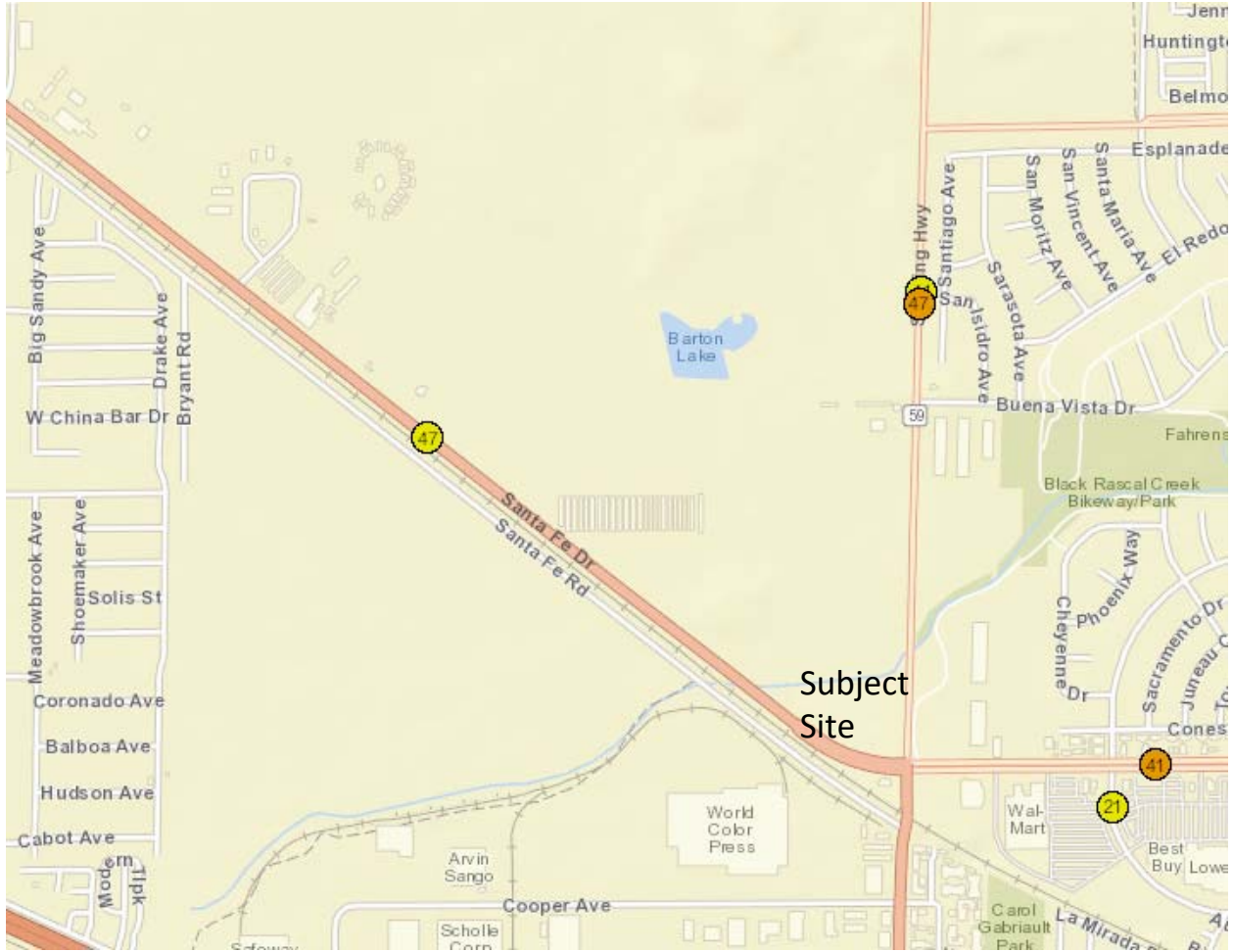


**COMMON ABC LICENSE TYPES  
AND THEIR BASIC PRIVILEGES**

LICENSE TYPE	DESCRIPTION
01	<b>BEER MANUFACTURER - (Large Brewery)</b> Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	<b>WINEGROWER - (Winery)</b> Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	<b>OFF SALE BEER &amp; WINE - (Package Store)</b> Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	<b>OFF SALE GENERAL - (Package Store)</b> Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	<b>SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery)</b> Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	<b>ON SALE BEER - (Bar, Tavern)</b> Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	<b>ON SALE BEER &amp; WINE – EATING PLACE - (Restaurant)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
42	<b>ON SALE BEER &amp; WINE – PUBLIC PREMISES - (Bar, Tavern)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	<b>ON SALE GENERAL – EATING PLACE - (Restaurant)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
48	<b>ON SALE GENERAL – PUBLIC PREMISES - (Bar, Night Club)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	<b>ON SALE GENERAL – SEASONAL -</b> Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.



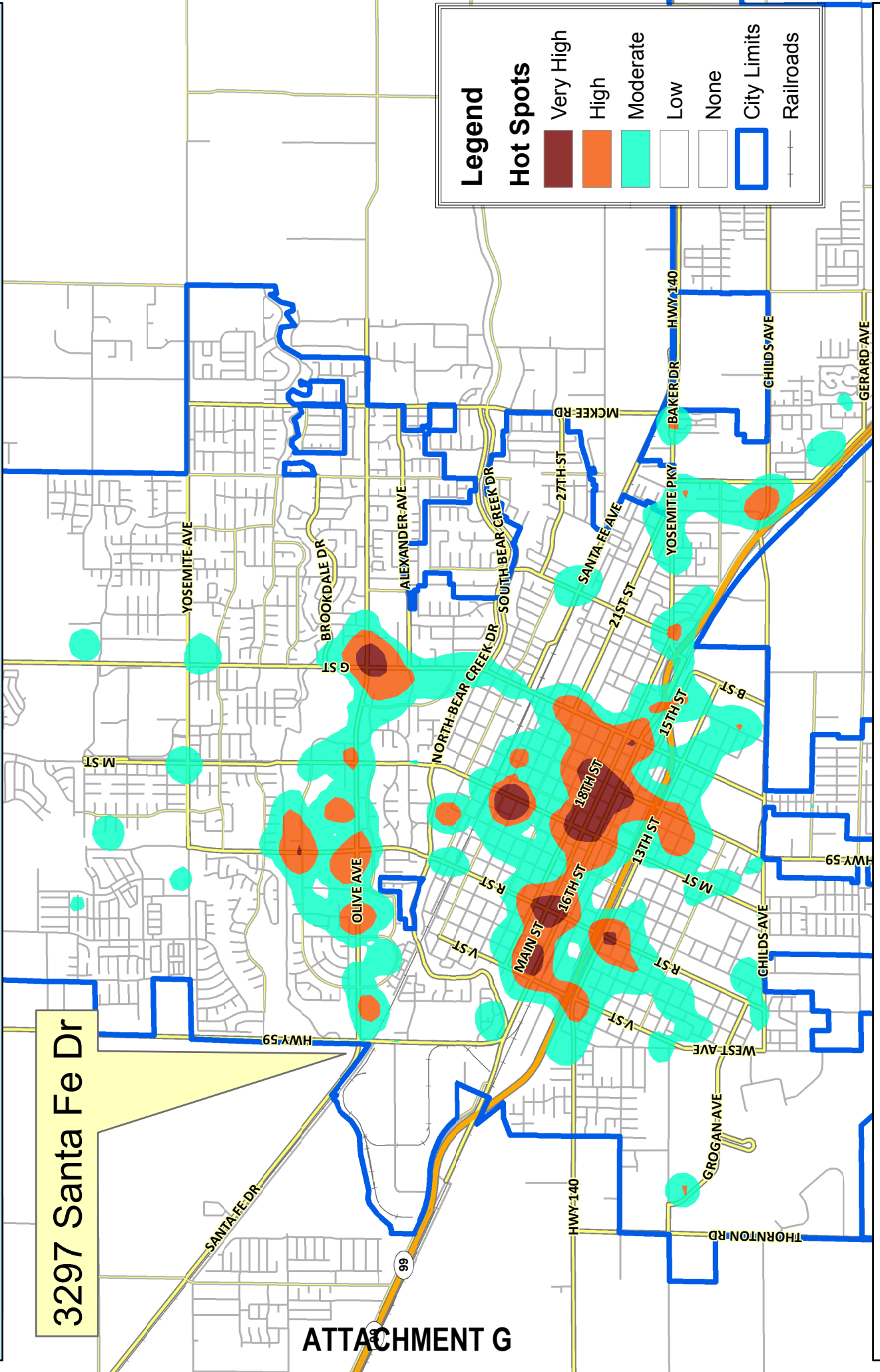
# Alcohol Licenses in the Surrounding the Subject Site



# HOT SPOTS of ALL POLICE INCIDENTS for 3/1/18 - 3/22/19

80,472 incidents city wide

3297 Santa Fe Dr



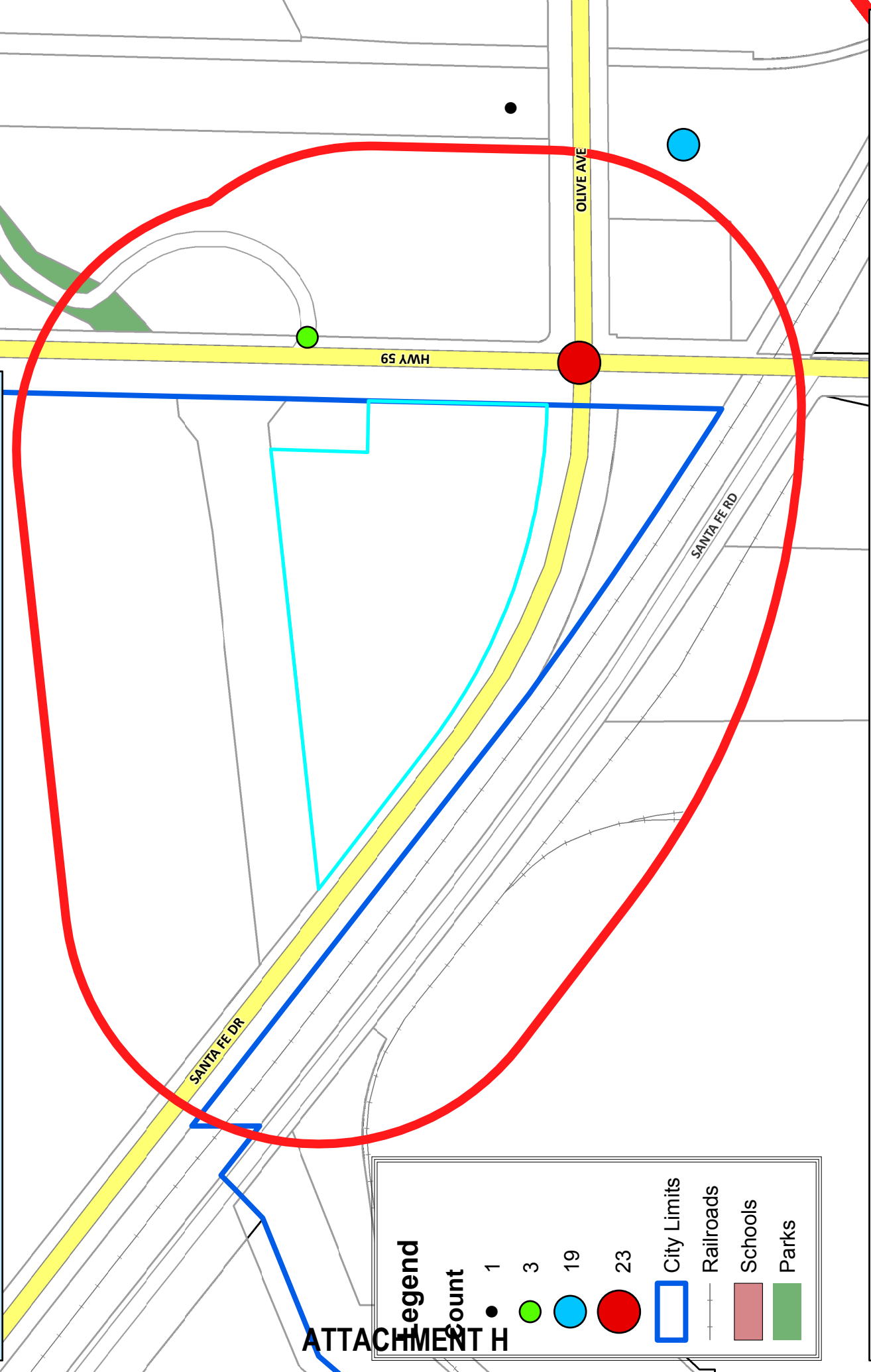
**Legend**

**Hot Spots**

- Very High
- High
- Moderate
- Low
- None
- City Limits
- Railroads

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

**46 Incidents within 500ft of 3297 Santa Fe Dr  
for period of 3/1/18 - 3/22/19**



**ATTACHMENT H**

**Legend**

- Count
- 1
- 3
- 19
- 23
- City Limits
- Railroads
- Schools
- Parks

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



**CITY OF MERCED  
Planning Commission**

Modified by City Council October 1, 2018 (see page 5 of Exhibit A)
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**Resolution #3095**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of June 6, 2018, held a public hearing and considered **Pending Annexation and Pre-zoning Applications #15-01 and General Plan Amendment #15-04**, initiated by Louann Bianchi, and Quad LLC, property owners. This application involves annexing 8.83 acres of land at the northwest and southwest corners of North Highway 59 and Santa Fe Drive into the City of Merced; changing the General Plan designation for the northwest corner from Open Space (OS) to Thoroughfare Commercial (CT) and pre-zoning the northwest corner as Thoroughfare Commercial (C-T) for the Thoroughfare Commercial development. The General Plan designation for the southwest corner would remain Industrial (IL) and this corner would be pre-zoned Light Industrial (I-L); also known as Assessor's Parcel Numbers 057-200-029, 057-200-067, and 057-200-042; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through M of Staff Report # 18-14; 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 #15-36, and approval of Pending Annexation and Pre-zoning Applications #15-01 and General Plan Amendment #15-04, subject to the Conditions set forth in Exhibit A attached hereto.

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

AYES: Commissioners Alshami, Camper, Colby, Martinez, and Chairperson Dylina

NOES: Commissioner Padilla

ABSENT: None, (One Vacancy)

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3095

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June 6, 2018

Adopted this 6<sup>th</sup> day of June, 2018

  
\_\_\_\_\_  
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 #3095**  
**Pending Annexation and Pre-zoning Applications #15-01**  
**and General Plan Amendment #15-04**

1. All new construction within the annexation area (including modifications to the developed site at the southwest corner of North Highway 59 and Santa Fe Drive) shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
2. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
3. Approval of Pre-Annexation #15-01, Pre-zoning Application #15-01, and General Plan Amendment #15-04 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.
4. 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.

5. The developer/applicant shall construct and operate all future projects within the annexation area 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.

The following conditions apply to new construction within the annexation area:

6. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, public landscaping within State rights-of-way, street trees, street lights, parks and open space. CFD procedures shall be initiated before final map or first building permit approval. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.

The following conditions apply to the future development at the northwest corner of North Highway 59 and Santa Fe Drive:

7. All development shall be subject to the Mitigation Measures outlined in the Mitigation Monitoring Program for Initial Study #15-36.

8. Site Plan Review is required prior to construction on the northwest corner, the Site Plan Review Committee shall review the site design and determine which alternative at the western driveway is best to reduce the expected impacts. The alternatives may include those alternatives included in the traffic analysis or another alternative such as moving the driveway further to the west. The developer shall provide any additional documentation or studies needed for the Site Plan Review Committee to make this determination (Mitigation Measure TRA-1).
9. The southbound left-turn lane on SR 59 shall be lengthened as determined by the City Engineer and approved by Caltrans (Mitigation Measure TRA-1a).
10. The development shall contribute its fair share to the cost of improvements for the intersection of SR 59 and Olive Avenue (Mitigation Measure TRA-1b):
  - Reconstruct westbound Olive Avenue to provide dual left turn lanes on southbound SR 59; and,
  - Reconfigure the westbound right turn lane to create a combination through and right turn lane, and extend that through lane across SR 59 along the project's frontage; and,
  - Reconstruct the existing northbound right turn lane as a "free" right turn with a median island separating eastbound and right-turning traffic. Reconstruct the eastbound Santa Fe Drive approach to provide dual left turn lanes.
11. Prior to the issuance of a building permit, the developer shall work with the Merced County Transit Authority (aka: The Bus) to determine if a bus stop is needed at this location. If a bus stop is required, the stop shall be in an area to allow the bus to move completely out of the travel lanes. The location of all bus stops shall be subject to approval by the City Engineer and Caltrans if along SR 59 (Mitigation Measure TRA-6).
12. Any outdoor dining areas or other outdoor uses shall have the following setbacks to maintain an acceptable noise level of 70 dB for outdoor uses (Mitigation Measure NOI-2):
  - Road/Railroad - Required Setback
  - Santa Fe Drive - 54 Ft.

- North Highway 59 - 89 Ft.
  - BNSF Railroad - 137 F
13. At the time of construction, all required public improvements shall be installed along the property frontage. This includes, but is not limited to, sidewalk, curb, gutter, street lights, and street trees.
  14. The developer shall work with Caltrans and obtain all necessary permits for all work done within the state right of way.
  15. All construction shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
  16. All new utilities serving the site shall be installed underground.
  17. All City sewer, water, and storm drain lines serving the site shall be extended across the full frontage of the property unless it is determined by the Public Works Director that these lines are not likely to be extended to serve any other property (consistent with Merced Municipal Code Section 15.40.030).
  18. All storm water shall be contained onsite and metered out to the City's storm water system in accordance with City Standards.
  19. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.
  20. The future commercial development shall provide pedestrian and bicycle access throughout the site. Connectivity throughout the site shall be provided by pedestrian pathways. Bicycle parking shall be provided as required by the City's Zoning Ordinance.
  21. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
  22. All landscaping shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Section 20.36 – Landscaping. This shall include the use of xeriscape landscaping as appropriate.

23. Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.
24. 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.
25. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. 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 1 tree for every 6 parking spaces. A reduced number of trees may be required where there are carports with solar panels over the parking spaces. However, if all the parking spaces are covered by a carport with solar panels, then additional trees may be required at the discretion of the Development Services Director. Trees within the PG&E easement shall comply with the regulations of this easement which limits the height of trees to a maximum of 15 feet at full maturity.
26. All mechanical equipment shall be screened from public view.

**October 1, 2018:** At their regularly scheduled meeting of October 1, 2018, the City Council considered and approved Pending Annexation and Pre-Zoning Applications #15-01 and General Plan Amendment #15-04, subject to the conditions contained within this resolution with the addition of Conditions #27, #28, and #29, and the modification of Mitigation Measure TRA-1 (by a vote of 6 ayes and 1 no) as shown below. (New language underlined, deleted language "~~strikethrough.~~")

27. The traffic signal at the western driveway and Santa Fe Drive, when warranted and required by the City Engineer, shall be synchronized with the traffic signal at the intersection of North State Highway 59 and Santa Fe Drive/Olive Avenue so as to ensure traffic stops and goes through both signals simultaneously.

28. The eastern driveway shall be an entrance-only driveway, allowing only right turns into the site.
29. With the first phase of construction, the western driveway shall be constructed with a left-turn pocket (raised median) restricting left turns out of the site, but allowing left turns into the site.

~~TRA-1: A traffic signal may be required at the western-most driveway. Traffic conditions at the western access shall be monitored and a traffic signal shall be installed if determined to be needed by the City Engineer based on warrants associated with preventable accidents. The cost of the traffic signal shall be the responsibility of the owner/developer. Prior to construction, the Site Plan Review Committee shall review the site design and determine which alternative at the western driveway is best to reduce the expected impacts. — The alternatives may include those alternatives included in the traffic analysis or another alternative such as moving the driving further to the west. The developer shall provide any additional documentation or studies needed for the Site Plan Review Committee to make this determination.~~

Upon motion by Council Member Belluomini, seconded by Council Member Blake, and carried by the following vote:

AYES: Council Members Belluomini, Blake, McLoed, Murphy, Pedrozo, Serratto

NOES: Council Member Martinez

ABSENT: None

ABSTAIN: None

n:shared:planning:PC Resolutions:ANX-PREZ#15-01 & GPA#15-04 Exhibit A



**NOTICE OF EXEMPTION**

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

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

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

**Project Title:** CUP #1229 (Environmental Review #19-05)

**Project Applicant:** 59 Petroleum, LLC for Louann Bianchi (property owner)

**Project Location (Specific):** 3297 Santa Fe Avenue APN: 057-200-067

**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:** 59 Petroleum, LLC for Louann Bianchi  
(property owner)

**Exempt Status:** (check one)

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

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

**Lead Agency:** City of Merced

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

**Signature:**  **Date:** 3-6-2019 **Title:** Planner

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

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

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

**Resolution #\_\_\_\_\_**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of April 3, 2019, held a public hearing and considered **Conditional Use Permit #1229**, initiated by 59 Petroleum, LLC, on behalf of Louann Bianchi, property owner. This application involves a request to sell beer and wine for off-site consumption for a new gas station (Arco AM/PM), generally located at the northwest corner of Santa Fe Drive/Olive Avenue and N. Highway 59 (3297 Santa Fe Drive), within a zoning classification of Thoroughfare Commercial (C-T), and a General Plan designation of Thoroughfare Commercial (CT) once the annexation to the City is completed; also known as Assessor's Parcel Number (APN) 057-200-067; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through E of Staff Report #19-10; 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 #19-05, and approve Conditional Use Permit #1229, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

**ATTACHMENT K**

PLANNING COMMISSION RESOLUTION # \_\_\_\_\_

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April 3, 2019

Adopted this 3 day of April 2019.

\_\_\_\_\_  
Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

\_\_\_\_\_  
Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions: CUP#1229 (Alc sales for off-site consumption at new gas station)

**Conditions of Approval**  
**Planning Commission Resolution # \_\_\_\_\_**  
**Conditional Use Permit #1229**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) -- Attachment D of Staff Report #19-10, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
3. The Project shall comply with the conditions set forth in Planning Commission Resolution #3095 for Pre-zoning Application #15-01 and General Plan Amendment #15-04, previously approved for this project (Attachment I of Staff Report #19-10).
4. 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, 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 (with counsel selected by the City) 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.

5. 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.
6. Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
7. All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
8. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
9. A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are prohibited.
10. No beer shall be displayed or stored outside of the cooler areas.
11. No display or sale of beer or wine shall be made from an ice tub.
12. Employees shall be at least 21 years old to sell alcohol.
13. 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.
14. The area within the convenience market dedicated to the display and sale of beer shall not be more than 7 cooler spaces (typical of those found in a grocery store or convenience market) or 150 square feet, in addition to 60 square feet outside the cooler area. The area dedicated to the display and sale of wine on free-standing shelves or coolers shall not exceed 20 square feet.
15. 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 in conformance with the procedures outlined in the Merced Municipal Code.

16. No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine cooler containers shall be sold as part of a pack or carton. However, wine bottles or cartons of sizes 750 ml or larger may be sold as single-serving containers.
17. No alcohol shall be displayed within five feet of the cash register or the front door.
18. No advertisement of alcoholic beverages shall be displayed on motor fuel islands, in landscaped areas, or outside the buildings or windows.
19. No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
20. No sale of alcoholic beverages shall be made from a drive-up window.
21. The business shall comply with all applicable requirements from the Merced County Health Department.
22. 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.
23. A permanent tamper-proof outdoor trash receptacle shall be installed near the main entrance to the convenience market.
24. The conditional use permit will only become valid on the date that the annexation to the City is complete. If the annexation is not completed within two years of this Planning Commission date, the approval will be null and void, and a new conditional use permit would need to be applied for.

n:\shared:\planning:PC Resolutions: CUP #1229 Exhibit A