

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #19-20

AGENDA ITEM: 4.2

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: July 17, 2019

PREPARED BY: Julie Nelson,
Associate Planner

SUBJECT: **Minor Use Permit #19-01**, initiated by Golden Valley Engineering and Juan Gama on behalf of Merced OKR, LLC, property owners. This application involves a request to convert an existing office building into a preschool for approximately 200 children, including outdoor play areas. The site is generally located on the south side of Loughborough Drive, approximately 500 feet west of M Street (750 Loughborough Dr.), within Planned Development (P-D) #1, with a Commercial Office (CO) General Plan designation.* PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #19-15 (Categorical Exemption)
- 2) Minor Use Permit #19-01

SUMMARY

The project site is located on the south side of Loughborough Drive, west of M Street (Attachment A) within Planned Development (P-D) #1 and has a General Plan designation of Commercial Office (CO). The proposed project would allow a day care center (Buhach Preschool) for approximately 200 children to locate within the existing building on the site. The building has historically been used for office purposes.

The proposed preschool would make minor modifications to the interior of the building to accommodate their use (refer to the floor plan at Attachment B). In order to provide outdoor play areas for this children, a fenced area would be added at the front of the building along Loughborough Drive and a second fenced area would be added at the back of the building (also shown on the plan at Attachment B).

Although the project site is zoned Planned Development (P-D) #1, allowed uses that are not specifically defined by the Planned Development are determined by the General Plan designation. In this case, the General Plan designation is Commercial Office (CO), which would allow a Day Care Center with a Minor Use Permit. According to the Zoning Ordinance, the definition of a Day Care Center includes nursery schools (which have been determined to be the same as preschools). A Minor Use Permit is typically approved by the Director of Development Services. However, the Zoning Ordinance provides the Director of Development Services the discretion to refer a project to the Planning Commission for action if he/she deems it appropriate. In this case, given the nature of the use, the outdoor play areas, and the proximity of the location to neighboring

office and residential uses, the Director of Development Services determined it would be appropriate to allow for a public hearing before the Planning Commission to allow any neighboring property owners the opportunity to voice any concerns. Public hearing notices were sent to all property owners within 300 feet of the site.

City staff has reviewed the proposal and is recommending approval of the Minor Use Permit subject to the conditions below.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #19-15 (Categorical Exemption) and Minor Use Permit #19-01 (including the adoption of the draft Resolution at Attachment D) subject to the following conditions:

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and, - Attachment B, except as modified by the conditions.
- *2) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- *3) All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
- *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 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) Fire sprinklers shall be required as determined by the Fire Department in compliance with the Merced Municipal Code and California Fire Code.
- *7) Panic hardware shall be installed on gates to the fenced play areas as required by the Fire Department in compliance with the California Fire Code.
- *8) All signs shall comply with the North Merced Sign Ordinance. No temporary freestanding or moveable signs shall be allowed.
- *9) The preschool shall obtain all necessary CA State licenses and inspections prior to opening for business. All licenses shall be maintained in good standing with the state and local authorities.
- *10) As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$85,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
- 11) To ensure vehicles do not block the shared drive aisle on the east side of the property and that adequate access is provided for emergency vehicles, the curb in front of the eastern-most parking spaces identified as Spaces 15 through 26 on the site plan at Attachment B of Staff Report #19-20, shall be painted red and “no parking” signs shall be placed in this area. The preschool operators shall immediately notify anyone parking in the drive aisle area to move their vehicle.
- 12) The fencing used to enclose the outdoor play areas shall be wrought-iron. Gates shall be installed as required by the Fire Department.
- 13) Required parking has been calculated using a maximum of twelve employees. If additional employees are hired and are on-site at the same time, additional parking spaces may be required.
- 14) The outdoor play ground areas shall be maintained in an aesthetically pleasing manner.
- 15) Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the site.
- 16) All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
- 17) The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.

(* Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The proposed project would allow a preschool with approximately 200 children to locate within an existing building at 750 Loughborough Dr. (Attachment A). The building would undergo interior modifications to accommodate the preschool (Attachment B). Two outdoor play areas would be created on the site to allow space for children to play outdoors. The outdoor play areas would be enclosed with wrought-iron fencing. The preschool would be open from 6:30 a.m. to

6:00 p.m. The expected peak hours for drop-off and pick-up would be 7:30 to 8:45 a.m. and 4:30 to 5:30 p.m. Drop off for each child requires the person dropping them off to sign them into the facility. This is done electronically and typically only takes a few minutes. Picking children up may take slightly longer in order to allow time for the child to gather their belongings and the person picking the child up to sign them out for the day.

The preschool offers care for infants and toddlers through 4 years old as well as a pre-kindergarten program and before and after school care for older children. This location would be the third location for the Buhach Preschool. The original location at 2606 Buhach Road in Atwater and the location at 3190 Collins Drive in Merced would remain open.

Surrounding uses are noted at Attachment A.

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Saratoga Apartments and Laurel Glen Apartments (across Loughborough Dr.)	Planned Development (P-D) #1	High/Medium Density Residential (HMD)
South	Merced Mall	Planned Development (P-D) #1	Regional/Community Commercial (RC)
East	Law Offices/Alpha Pregnancy Center	Planned Development (P-D) #1	Commercial Office (CO)
West	Milan Institute	Planned Development (P-D) #1	Commercial Office (CO)

BACKGROUND

The building on this site was constructed in the 1970’s and has been used for general office uses in the past.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

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

Traffic/Circulation

- B) The project site shares access with the property to the east at 700 Loughborough Drive. Additionally, there is access from the project site to the Merced Mall/Big Lots property to the south.

It is expected that the highest traffic volumes for the preschool would occur between 7:30 and 8:45 a.m. and between 4:30 and 5:30 p.m.

Parking

- C) The site currently provides 53 parking spaces; however, with the current proposal, 7 spaces would be lost to the outdoor play area at the rear of the building. Based on the size of the building and the estimated number of employees (12), the proposed preschool would be required to provide 42 parking spaces.

In order to ensure the shared drive access and drive aisle remains clear for emergency vehicles, Condition #11 requires the drive aisle be posted as no parking.

Public Improvements/City Services

- D) Per Condition #10, Merced Municipal Code Section 17.04.050 and 17.04.060, requires full public improvements to be installed/repared if the permit value of the project exceeds \$85,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations. The need for any new improvements or repairs to existing improvements would be determined by the Engineering Department at the building permit stage.

Building Design

- E) There are no changes proposed to the actual design of the building. However, the outdoor play areas are being added to the site.

Site Design

- F) The addition of the outdoor play area at the rear of the building would eliminate 7 parking spaces. Otherwise, the site design would be unchanged.

Neighborhood Impact/Interface

- G) The change in use for this site from an office use to a preschool could generate higher volumes of traffic during the peak drop-off and pick-up hours. However, it is not expected that the overall traffic generation would be greater for the change in use. Additionally, with the outdoor play areas, additional noise may be added to the area during the times the children are outdoors playing.

Although the project site is zoned Planned Development (P-D) #1, allowed uses that are not specifically defined by the Planned Development are determined by the General Plan designation. In this case, the General Plan designation is Commercial Office (CO), which would allow a Day Care Center with a Minor Use Permit. According to the Zoning Ordinance, the definition of a Day Care Center includes nursery schools (which has been determined to be the same as preschools). A Minor Use Permit is typically approved by the Director of Development Services. However, the Zoning Ordinance provides the Director of Development Services the discretion to refer a project to the Planning Commission for action if he/she deems it appropriate. In this case, given the nature of the use, the outdoor play areas, and the proximity of the location to neighboring office and residential uses, the Director of Development Services determined it would be appropriate

to allow for a public hearing before the Planning Commission to allow any neighboring property owners the opportunity to voice any concerns. Public hearing notices were sent to all property owners within 300 feet of the site.

As previously noted, public hearing notices were sent to all property owners within 300 feet of the project site. Staff was contacted by the property owner to the east regarding the project and concerns regarding the shared access. He indicated he was not opposed to the use, but wanted to make sure the access wouldn't be blocked by people dropping off and picking up children. Condition #11 requires "no parking" signs to be installed to prevent vehicles blocking the shared access and drive aisle.

Signage

- H) All signs would be required to comply with the North Merced Sign Ordinance (Condition #8). No temporary, moveable, or free-standing signs would be allowed. The site would be eligible for a monument sign in compliance with the North Merced Sign Ordinance as well as wall-mounted signs. Building permits are required prior to the installation of all signs.

Environmental Clearance

- I) Planning staff conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no significant adverse environmental effects have been found) is being recommended (Attachment C).

Attachments:

- A) Location Map
- B) Site/Floor Plan
- C) Categorical Exemption
- D) Draft Planning Commission Resolution



LOUGHBOROUGH DR

Law Offices/Alpha
Pregnancy Center

Big Lots

Milan
Institute

Fire Station
No. 53

Merced Mall

ATTACHMENT A

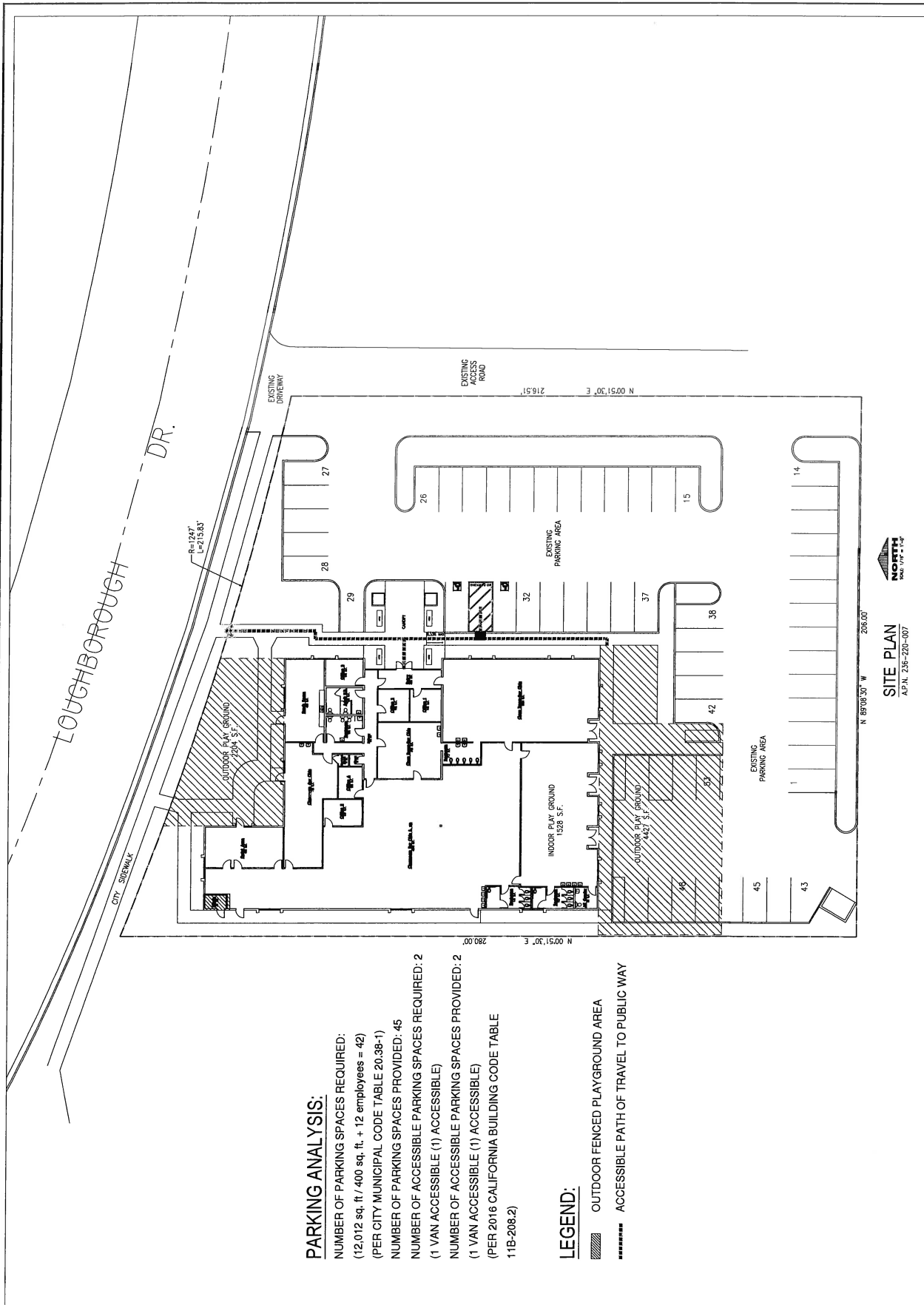
ATTACHMENT B

PARKING ANALYSIS:

- NUMBER OF PARKING SPACES REQUIRED:
(12,012 sq. ft. / 400 sq. ft. + 12 employees = 42)
(PER CITY MUNICIPAL CODE TABLE 20.38-1)
- NUMBER OF PARKING SPACES PROVIDED: 45
- NUMBER OF ACCESSIBLE PARKING SPACES REQUIRED: 2
(1 VAN ACCESSIBLE (1) ACCESSIBLE)
- NUMBER OF ACCESSIBLE PARKING SPACES PROVIDED: 2
(1 VAN ACCESSIBLE (1) ACCESSIBLE)
(PER 2016 CALIFORNIA BUILDING CODE TABLE 11B-208.2)

LEGEND:

- OUTDOOR FENCED PLAYGROUND AREA
- ACCESSIBLE PATH OF TRAVEL TO PUBLIC WAY



NORTH
SCALE: 1/8" = 1'-0"

SITE PLAN
A.P.N. 236-220-007

C1.0

TENANT IMPROVEMENTS FOR
Buhach Preschool
750 LOUGHBOROUGH DR.
MERCED, CA 95341

CITY OF MERCED

GOLDEN VALLEY
ENGINEERING & SURVEYING
105 West Live Street, 1804D
Merced, CA 95341
Tel: (209) 723-3254
Fax: (209) 723-3254

PREPARED BY:
DATE: 05/15/2018
DRAWN BY: J. B. BROWN
CHECKED BY: J. B. BROWN
SCALE: AS SHOWN
DATE: MAY 2018
SHEET NUMBER: 18-001-00

Site Plan / Parking Analysis

OWNER:
Buhach Preschool
2608 N. Buhach Rd.
Merced, CA 95341
Ph: (209) 398-1070

DATE: MAY 2018
SCALE: AS SHOWN
DRAWN BY: J. B. BROWN
CHECKED BY: J. B. BROWN
JOB NO.: 18-001-00
SHEET NUMBER:

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: Minor Use Permit #19-01

Project Applicant: Merced OKR, LLC

Project Location (Specific): 750 Loughborough Dr. **APN: 236-220-007**

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

Description of Nature, Purpose, and Beneficiaries of Project: Minor Modifications to the interior and exterior of building to convert an existing office building to a preschool for approximately 200 children.

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: Bob Alkema for Merced OKR, 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, Associate Planner **Area Code/Telephone:** (209) 385-6858

Signature:  _____ **Date:** 6-19-2019 **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 #4023

WHEREAS, the Merced City Planning Commission at its regular meeting of July 17, 2019, held a public hearing and considered **Minor Use Permit #19-01**, , initiated by Golden Valley Engineering and Juan Gama on behalf of Merced OKR, LLC, property owners. This application involves a request to convert an existing office building into a preschool for approximately 200 children, including outdoor play areas. The site is generally located on the south side of Loughborough Drive, approximately 500 feet west of M Street (750 Loughborough Dr.), within Planned Development (P-D) #1, with a Commercial Office (CO) General Plan designation; also known as Assessor’s Parcel Number (APN) 236-220-007; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #19-20; 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 #19-15, and approve Minor Use Permit #19-01, 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 #4023

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July 17, 2019

Adopted this 17th day of July 2019

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #4023
Minor Use Permit #19-01

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and, - Attachment B, except as modified by the conditions.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
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 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. Fire sprinklers shall be required as determined by the Fire Department in compliance with the Merced Municipal Code and California Fire Code.
7. Panic hardware shall be installed on gates to the fenced play areas as required by the Fire Department in compliance with the California Fire Code.
8. All signs shall comply with the North Merced Sign Ordinance. No temporary freestanding or moveable signs shall be allowed.
9. The preschool shall obtain all necessary CA State licenses and inspections prior to opening for business. All licenses shall be maintained in good standing with the state and local authorities.
10. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$85,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
11. To ensure vehicles do not block the shared drive aisle on the east side of the property and that adequate access is provided for emergency vehicles, the curb in front of the eastern-most parking spaces identified as Spaces 15 through 26 on the site plan at Attachment B of Staff Report #19-20, shall be painted red and “no parking” signs shall be placed in this area. The preschool operators shall immediately notify anyone parking in the drive aisle area to move their vehicle.
12. The fencing used to enclose the outdoor play areas shall be wrought-iron. Gates shall be installed as required by the Fire Department.
13. Required parking has been calculated using a maximum of twelve employees. If additional employees are hired and are on-site at the same time, additional parking spaces may be required.
14. The outdoor play ground areas shall be maintained in an aesthetically pleasing manner.
15. Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the site.

16. All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
17. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
18. n:\shared\planning\PC Resolutions\ MUP #19-01 Exhibit A

20. The details of the final design of the exterior elevations and any signage shall be approved by Planning staff prior to issuance of a Certificate of Occupancy.