CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #12-02 | **AGENDA ITEM: 4.1**

FROM: Kim Espinosa, Planning Manager | **PLANNING COMMISSION MEETING DATE: Feb. 22, 2012**

PREPARED BY: Julie Nelson, Planner

SUBJECT: **Conditional Use Permit #1164**, initiated by Golden Valley Engineering, applicant for Plaza at El Portal Group, LLP, property owners. This application involves a request to allow the construction of a 23,242-square-foot, single-story office building at the southwest corner of G Street and El Portal Drive within Planned Development (P-D) #44 with a General Plan designation of Commercial Office (CO). *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

1) Environmental Review #12-03 (CEQA Section 15162 Findings)
2) Conditional Use Permit #1164

SUMMARY

The project site is located within the Plaza at El Portal on the southwest corner of G Street and El Portal Drive (Attachment A). The applicant is proposing to construct a 23,242 square-foot single-story office building. The project also includes the addition of 16 parking spaces along the north side of the proposed building (Attachment B).

The site is zoned Planned Development (P-D) #44. Uses allowed within this zone include professional and medical office uses. A dialysis center is planned to occupy approximately one-half (approximately 11,500 square feet) of the building. The remainder of the building will be available for either medical or professional office uses. Parking for the site is provided through shared parking within the Plaza at El Portal. In order to insure there is sufficient parking for the proposed uses and the other uses within the Plaza, the applicant has requested a reduction in parking for the dialysis center. Details on this request can be found under the "Parking" section of this report. Staff is recommending approval of this project.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #12-03 (CEQA Section 15162 Findings) and Conditional Use Permit #1164, subject to the following conditions:

*1) The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) -- Attachments B and C, 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in Resolution #1249 - Amended ("Standard Conditional Use Permit Conditions"—except for Condition #16 which has been superceded by Code) shall apply.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 Resolution #2651 for General Plan Amendment #00-03, Resolution #2890 for General Plan Amendment #06-11 and Site Utilization Plan Revision #2 to Planned Development (P-D) #44, and all other applicable conditions 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, 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.

*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) A detailed landscape/irrigation plan shall be submitted at the Building Permit stage. This plan shall include the installation of parking lot trees at a ratio of 1 tree for every 6 spaces.

*9) Appropriate turning radius shall be provided within the parking area to allow Fire Department access.

*10) Prior to or concurrent with building permit submittal, a lighting plan shall be reviewed and approved. Proposed lighting shall be oriented in a way to reduce any impacts on the residential uses in the area. All lighting shall comply with the California Energy Code.

*11) As part of this approval, this project shall be subject to the sign program for the Plaza at El Portal previously approved and shall comply with the North Merced Sign Ordinance.

12) A 50% reduction in the number of parking spaces required for the area of the building dedicated to the dialysis center (up to a maximum of 11,500 square feet) is granted. This reduction shall apply to any other outpatient procedural medical use within this building that takes a minimum of three hours or more per patient visit, but specifically excluding medical and dental offices and clinics and/or medical, optical, and dental laboratories that involve patients and/or customers coming to and from the facility.

13) If the portion of the building occupied by the dialysis center (or other similar use) is vacated and medical or general office uses wish to occupy that portion of the building, sufficient parking shall be provided prior to any other use occupying this portion of the building.

14) Bicycle parking shall be provided at a minimum ratio of 5% of the vehicle parking spaces for this building. The bicycle rack shall be designed with at least two, preferably three, contact points on at least one wheel and the bicycle frame to provide stability to the parked bicycle, such as the "inverted-U" rack design.

15) Prior to or concurrent with building permit submittal, a landscaping plan shall be reviewed and approved. The landscaping plan shall include street trees, parking lot trees, and on-site landscaping compatible with the existing landscaping for the Plaza at El Portal.

16) All mitigation measures required under previous approvals for the Plaza at El Portal shall be implemented under this approval.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The request is to allow the construction of a 23,242 square-foot office building at the corner of G Street and El Portal Drive within the Plaza at El Portal. The building will be single story with a design consistent with the other buildings within the Plaza (Attachment C). Along with the construction of the new building, an additional 16 parking spaces will be added to serve the Plaza tenants.

The uses allowed within the building will be professional or medical office uses. The uses will primarily be determined by the available parking spaces able to serve the tenants of this building and the Plaza as a whole. Currently, the proposed tenant for approximately half of this building will be a dialysis center. It is unknown who will occupy the remainder of the building.

Surrounding Uses (Attachment A)

Surrounding Land	Existing Use of Land	Zoning Designation	City General Plan Land Use Designation
North	Commercial Offices	P-D #44	Commercial Office (CO)
South	Commercial Offices	P-D #44	Commercial Office (CO)
East	Multi- & Single-Family Residential (across G Street)	P-D#11	Low Density Residential (LD) & High/Medium Density Residential (HMD)
West	Single-Family Residential	R-1-5	Low Density Residential (LD)

BACKGROUND

On May 7, 2001, the Merced City Council approved *"The Plaza at El Portal,"* a 155,000-square-foot office/hotel development at the southwest corner of West El Portal Drive and G Street. Since that time, Conditional Use Permit #976 was approved allowing the construction of the first phase of the project. Subsequently, Conditional Use Permit #1002 was approved modifying the previously approved site design and modifying the ratio of medical and general office space. Over the past few years, the site has continued to develop with the construction of nearly all the buildings.

In 2006, General Plan Amendment #06-11 and Site Utilization Plan Revision (SUP) #2 to Planned Development (P-D) #44 were approved for this site changing the General Plan Designation from Thoroughfare Commercial to Commercial Office and the Site Utilization Plan designation from "hotel" to "commercial office." Conditional Use Permit (CUP) #1094 was also approved allowing the construction of a 4-story, 30,000 square-foot office building at the corner of G Street and El Portal Dr. However, due to the economic downturn, this building was never constructed.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

A) The project, as proposed, would comply with the General Plan designation of Commercial Office and the Site Utilization Plan Designation of Commercial Office within Planned Development (PD) #44.

The following General Plan policies apply to this project:

Land Use 1.1.a Promote mixed use development combining compatible employment, service, and residential elements.

Land Use 2.7.b Commercial centers shall be designated to provide direct vehicular and pedestrian access from surrounding neighborhoods. In no case shall trips which could be internal (from adjacent neighborhoods to center) be forced onto an arterial street.

Land Use – 3.2.a Encourage infill of vacant parcels.

Traffic/Circulation

B) According to the *Institute of Traffic Engineers Trip Generation (8th Edition)* for "Peak Hour Trips (PHT) for adjacent street traffic, p.m. peak hour, weekdays" is 1.49 trips per 1,000 square-feet of "General Office" space. Using this rate, 35 peak hour trips would be generated if the entire building were general office uses. Average daily trips are based on the average rate of 11.01 trips on a weekday per 1,000 square feet of floor area which equates to 256 Average Daily Trips (ADT). If the building was devoted entirely to medical uses, the Peak Hour Trips would be calculated at a rate of 3.46 trips per 1,000 square-feet resulting in 80 Peak Hour Trips and 840 Average Daily Trips. It is unlikely that the entire building will be devoted to medical office uses, but would most likely be a combination of general and medical or possibly medical office and an outpatient treatment center such as a dialysis center where the patients stay for a minimum of 3 hours at a time.

As part of the mitigation for the construction of the Plaza at El Portal, a neighborhood traffic management study was done. Through this study, mitigation measures were installed to help reduce the amount of cut-through traffic and help reduce the speed of the traffic through the area. In addition, mitigation measures were implemented with the approval of the General Plan Amendment and Site Utilization Plan Revision in 2006. All of these measures have been installed.

Parking

C) Parking for general office uses is calculated at 1 space for every 250 square feet of office space. Parking for medical office uses is calculated at 1 space for every 200 square feet of office space. As noted previously in this report, the parking area for the Plaza at El Portal is shared among all the tenants through a private association. Currently there are 624 parking spaces provided throughout the Plaza. An additional 16 spaces will be provided with the construction of this project bringing the total to 640 spaces.

Merced Municipal Code Section 20.58.410 – Units of Measurement defines what areas should be considered "floor area" when calculating parking requirements and allows areas not intended for public use (i.e., storage areas, break rooms, etc.) to be deducted from the overall floor area. It has been staff's practice to allow a 15% deduction in the total square footage of a building for all non-medical uses.

A parking analysis (Attachment D) was done to determine the number of spaces needed to serve all the existing tenants. The 15% reduction was given to all non-medical office uses. This resulted in a parking demand of 535 spaces to serve the existing tenants. This is well below the 624 parking spaces currently provided.

Because the proposed tenant for approximately one-half of the building will be a dialysis center where the patients are typically dropped off and stay for at least three hours, the applicant is asking for a 50% reduction in the number of required parking spaces for this use. This would reduce the parking requirement for the dialysis center from 58 to 29. This reduction would also allow more flexibility in allowing other tenants to occupy the

other buildings because there would be more parking spaces available for other uses. However, if the dialysis center no longer occupies the building, the parking demand may be greater than the number of spaces provided. Therefore, staff has included Condition #9 requiring sufficient parking be provided in the event the dialysis center vacates the building and other uses wish to move in.

To insure there will be enough parking for the site, staff assumed the remainder of the building would be used for medical offices using the higher requirement for parking calculations. As such, the number of spaces required for the remainder of the building would be 59 spaces.

Based on the above analysis, if the Planning Commission grants a 50% reduction in the parking requirements for the dialysis use, there is ample parking to serve all the uses within the Plaza at El Portal.

Building Design

D) The building design is consistent with the other buildings in the Plaza. The building will have a stucco finish with an earth-tone color pallet with green accents and trim (Attachment C). The main portion of the building will be 21' 4" tall and the four "pinnacles" on the building will be 31' 10" tall.

Site Design

E) The site can be accessed from G Street or El Portal Drive. Traffic circulation within Plaza has functioned nicely since it was constructed. The construction of this building will not change the overall site design or traffic circulation, but will only add 16 additional parking spaces.

Landscaping

F) The Plaza at El Portal has done a nice job providing landscaping throughout the area. Additional landscaping around the proposed building and in the parking area will be required with the construction of the proposed building. The landscaping for this site shall be comparable to the rest of the Plaza, including parking lot trees, street trees, and on-site landscaping. Condition #10 requires a detailed landscape and irrigation plan to be submitted at the building permit stage.

Neighborhood Impact/Interface

G) Because the building size and height has been greatly reduced from the previous approval (4-story, 30,000 s.f. building), the impact on the neighborhood will be substantially less. The proposed uses should not generate any excess noise or other disturbances for the residential uses in the area. All lighting will be required to meet the California Energy Code requirements and will be required to be shielded to prevent any spill-over onto the residential uses.

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

Signage

H) The Plaza at El Portal has an approved sign program to help insure the compliance with the North Merced Sign Ordinance and the developer's desire to have an attractive and tasteful office complex. The proposed building will be included in this sign program and shall comply with the North Merced Sign Ordinance (Condition #14).

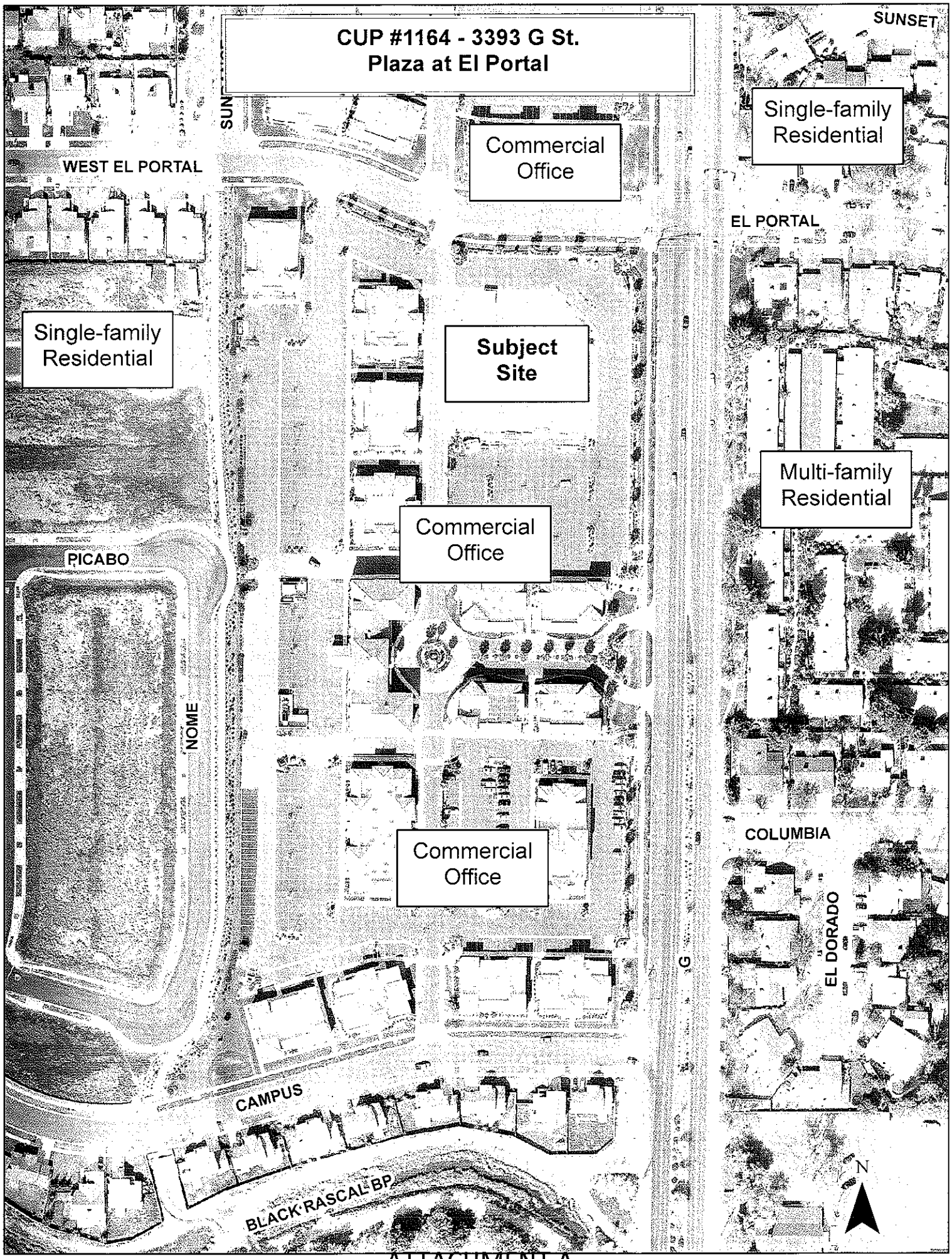
Environmental Clearance

I) The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and concluded that Environmental Review #12-03 is a second tier environmental document, based upon the City's determination that the proposed development remains consistent with the current general plan and provisions of CEQA Guidelines, Section 15162 (Initial Study #06-41 – Mitigated Negative Declaration). A copy of the Section 15162 Findings can be found at Attachment E.

Attachments:

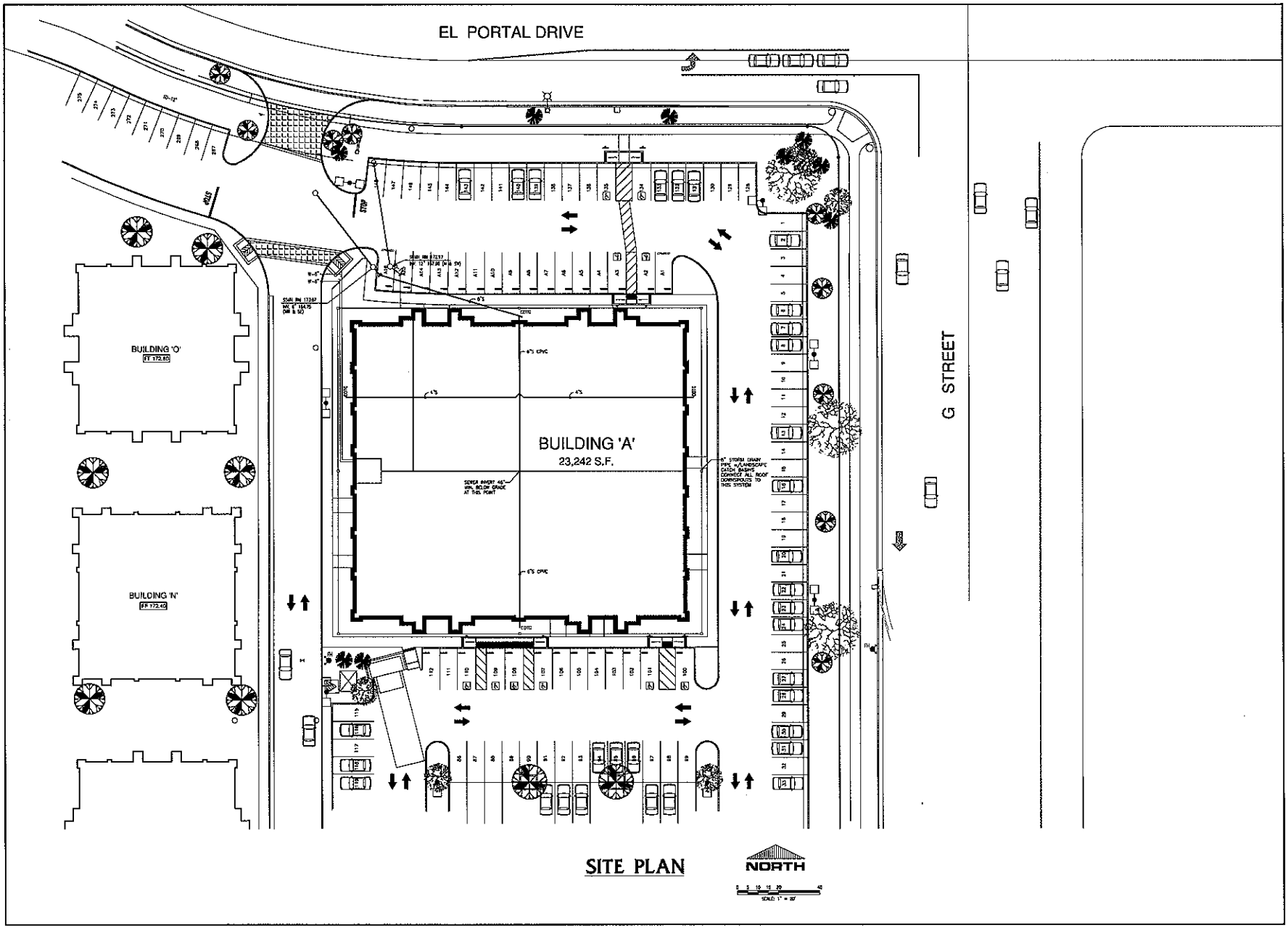
A) Location Map
B) Site Plan
C) Elevations
D) Parking Analysis
E) Section 15162 Findings
F) Draft Planning Commission Resolution

Ref: *[insert document name, include folders or subfolders]*



ATTACHMENT A

ATTACHMENT B



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BUILDING "A" SHELL ONLY AT

THE PLAZA AT EL PORTAL

SECTION 18, T.7S., R.14E., M.D.B.&M.

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PREPARED FOR:
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SHEET CONTENTS:
- SITE PLAN
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DESIGNER: G.V.E.& S.
DRAWN BY: PRL
CHECKED: JKU
DATE: FEBRUARY 2012
JOB NO.: 10-042.00

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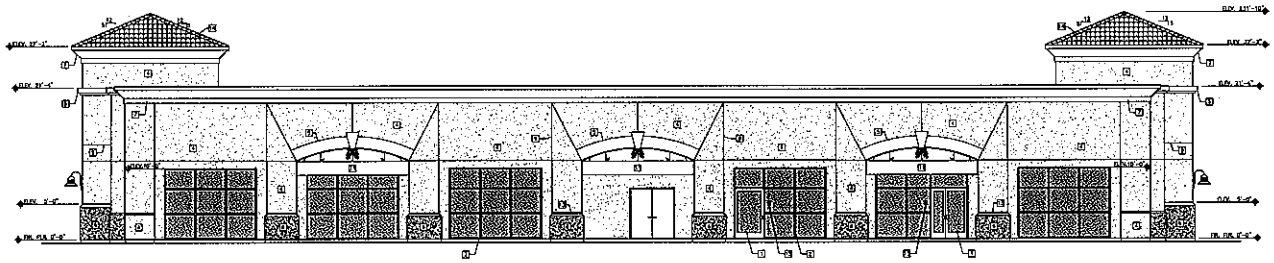
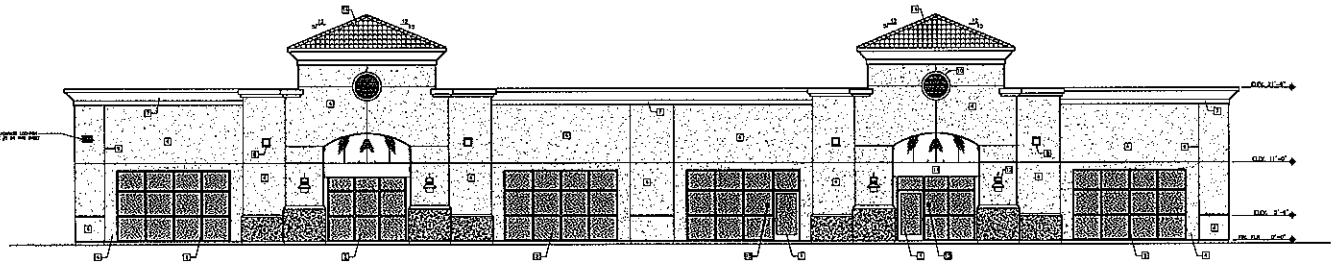
ATTACHMENT C



WEST ELEVATIONS



SOUTH ELEVATIONS

EXTERIOR MATERIAL LEGEND

1. ALUMINUM STOREFRONT DOOR, 3'x7', NARROW STILE WITH 10" BOTTOM RAIL, SELF-CLOSING– COLOR: BRONZE ANODIZED ALUMINUM & TENTED SAFTY GLAZING
2. ALUMINUM STOREFRONT SYSTEM WITH TENTED GLAZING–TEMPERED GLAZING WITHIN 24" OF DOORS AND WITHIN 18" ABOVE FINISHED FLOOR– COLOR: BRONZE ANODIZED ALUMINUM – SEE DETAILS ON SHEET A3 & A6
3. ALUMINUM STOREFRONT SYSTEM WITH SOLID DARK COLORED PANELS– COLOR: BRONZE ANODIZED ALUMINUM
4. MAIN WALL SECTIONS – ONE COAT STUCCO SYSTEM, SEE NOTE 4 BELOW COLOR: BEIGE
5. HORIZONTAL, VERTICAL & ARCHED STUCCO ACCENT BANDING – COLOR: OFF-WHITE SEE DETAIL 3, ON SHEET S7
6. 4" FRAMED ACCENT POP-OUT AT BOTTOM OF WALL SECTIONS – COLOR: MEDIUM BROWN SEE DETAIL 1, ON SHEET A6
7. FOAM FORMED STUCCO EAVE ACCENT BANDING – COLOR: OFF-WHITE SEE DETAIL 2, ON SHEET S7
8. 12"x12" TILED ACCENT INSET PANELS – COLOR: HUNTER GREEN SEE DEATIL 10, ON SHEET A6
9. STUCCO CRACK CONTROL JOINTS – COLOR: VARIES TO MATCH LOCATIONS SEE DEATIL 9, ON SHEET A6
10. ATTIC VENT WITH STUCCO ACCENT BANDING – REFER TO DETAIL 12/A6
11. CANVAS AWNING SYSTEM w/METAL FRAMING – COLOR: HUNTER GREEN
12. SURFACE MOUNTED ACCENT LIGHTING FIXTURES ON HUNTER GREEN RAISED ACCENT PANELS, VERIFY FIXTURE TYPES w/OWNERS
13. 2" WIDE METAL ACCENT REVEAL STUCCO JOINT – COLOR: MEDIUM BROWN SEE DETAIL 5, ON SHEET A6
14. LIGHT WEIGHT SPANISH TILE ROOFING – COLOR: TERRA COTA
15. INTERNATIONAL SYMBOL OF ACCESSIBILITY: INSTALL ON WINDOW TO THE RIGHT OF DOUBLE LEAF DOORS, AS SHOWN, 60" A.F.F. TO CENTER LINE OF SIGN. LOCATION SHALL BE SO THAT A PERSON MAY APPROACH WITHIN 3" OF SIGN WITHOUT ENCOUNTERING PROTRUDING OBJECTS OR STANDING WITHIN THE SWING OF DOOR

NOTES:

1. VERIFY ALL MATERIALS AND COLORS WITH OWNERS
2. PROVIDE TEMPERED GLAZING AT ALL LOCATIONS WITHIN 24" HORIZONTAL OF DOORS AND 18" VERTICALLY ABOVE THE FINISHED FLOOR, TYPICAL.
3. PROVIDE ADDRESS NUMBERS, 6" TALL & 1" THICK LETTERS ON A CONTRASTING BACKGROUND, VISIBLE FROM THE STREET FRONTING THE PROPERTY, VERIFY THE LOCATION WITH THE FIRE DEPT. AND VERIFY THE STYLE AND COLORS OF THE NUMBERS AND BACKGROUND WITH THE OWNERS.
4. ONE COAT STUCCO SYSTEM PER ICC REPORT #ER-4658

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SHEET CONTENTS:
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DESIGNER: G.V.E.& S.
DRAWN BY: PRL
CHECKER: JXU
DATE: FEBRUARY 2012
JOB NO.: 10-042.00

SHEET
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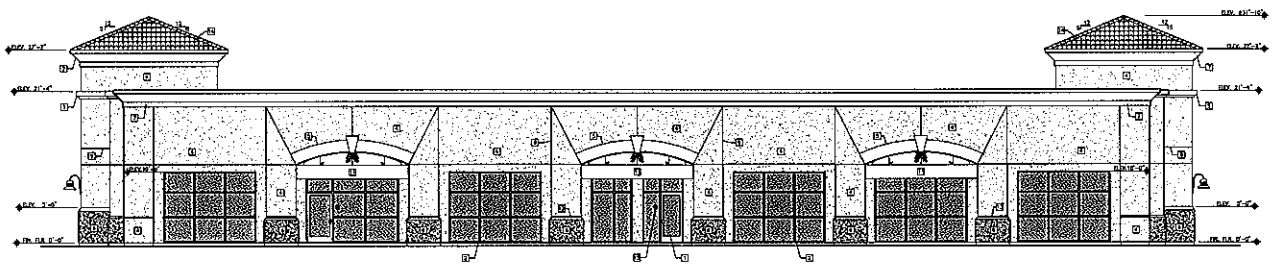
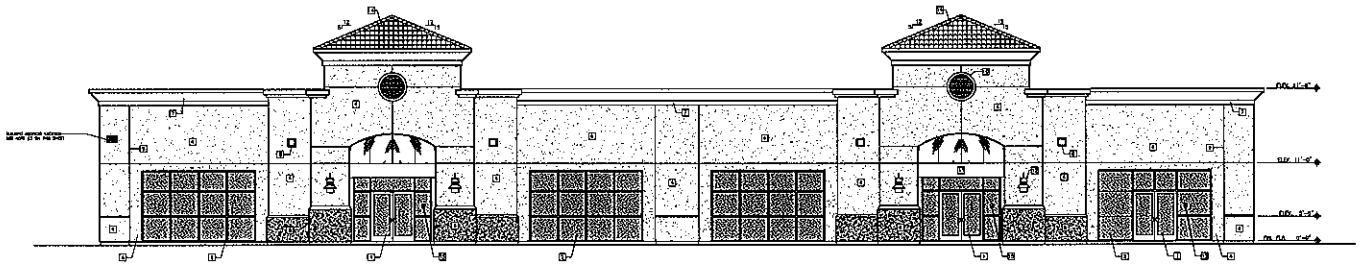


EAST ELEVATIONS



NORTH ELEVATIONS

EXTERIOR MATERIAL LEGEND

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SHEET CONTENTS
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DESIGNED: G.V.E.& S.
DRAWN BY: PRL
CHECKED: JDU
DATE: FEBRUARY 2012
JOB NO.: 10-042.00

SHEET
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Plaza at El Portal
Parking Calculations

Building	Use	Square Feet	S.F. less 15% reduction*	Parking Required
A	Medical	11742		59
	Dialysis	11500		29
B	Medical	4323		22
C				
Ste A	Medical/Lab	2503		13
Ste B	General Office	1820		7
D				
Ste A	General Office	2132		9
Ste B	Café	52 seats		21
E	Restaurant	165 seats		66
F				
Ste A	General Office	1136		5
Ste B	General Office	3013		12
Ste C	General Office	2980		12
G	General Office	4800	4080	16
H				
Ste A	General Office	3290	2797	11
Ste B	General Office	1610	1369	5
I				
Ste A	General Office	2833	2408	10
Ste B	General Office	1967		10
J	Medical	4900		25
K	Medical	12000		60
L	Medical (does not include basement)	24475		122
M	Medical	6000		30
N	Medical	6000		30
O	Medical	6000		30
P	Educational	4900	4165	21

Total Required	623
Total Provided	624
Added with Building A	16
Total after construction of Building A	640

*15% reduction allowed for non-public space (i.e., restrooms, storage,

ATTACHMENT D

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

Application: Conditional Use Permit #1164

Assessor Parcel Number or Location: Southwest corner of G Street and El Portal Drive; Assessor's Parcel Number (APN): 236-280-005.

Previous Initial Study/EIR Reference: This site was previously reviewed through Initial Study #06-41, resulting in a Mitigated Negative Declaration. Because the proposed changes to the project reduce the building size and height, but maintain the same uses, the changes reduce the impacts and are considered minor. The project remains in conformance with the City's *Merced Vision 2030 General Plan.*

Original Project Date: Mitigated Negative Declaration #06-41 adopted on September 5, 2006 by the Merced City Council.

Section A - Previous Studies

	Yes	No
1. Substantial changes are proposed in the project that will require major revisions of the previous project EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects?		X

Comment/Finding: The proposed changes to the project reduce the size and height of the building. The previous environmental review evaluated a 30,000 square-foot, four-story office building. The currently proposed project is for a 23,242-square-foot, single-story office building. The reduction in size and height reduces the number of parking spaces required, the number of trips generated, the visual impact, and other environmental impacts.

	Yes	No
2. Substantial changes have occurred with respect to the circumstances under which the project is undertaken that will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects?		X

Comment/Finding: There have been no changes in the circumstances under which the project is undertaken that would require major revisions in the previous Negative Declaration. There are no new significant environmental effects or substantial increases in the severity of previously identified environmental effects, and the area under consideration remains the same area previously evaluated.

	Yes	No
3. New information of substantial importance that was not known and could not have been know with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, has been revealed? (If "Yes" is checked, go to Section "B" below)		X

ATTACHMENT E

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

Section B - New Information

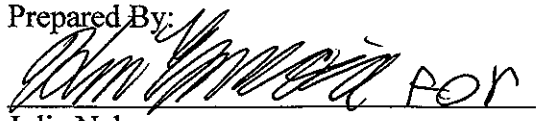
	Yes	No
A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration.		N/A
B) Significant effects previously examined will be substantially more severe than shown in the previous EIR.		N/A
C) Mitigation measures or alternatives previously found not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

Comment/Finding: The project has less impacts due to its reduced size than previously analyzed projects under the previous Mitigated Negative Declaration.

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

	1. It is found that subsequent negative declaration will need to be prepared.
	2. It is found that an addendum Negative Declaration will need to be prepared.
	3. That a subsequent EIR will need to be prepared.
X	4. No further documentation is required.

Date: January 25, 2012
Prepared By:



Julie Nelson,
Planner

CITY OF MERCED
Planning Commission

Resolution #2999

WHEREAS, the Merced City Planning Commission at its regular meeting of February 22, 2012, held a public hearing and considered **Conditional Use Permit #1164**, initiated by Golden Valley Engineering, applicant for Plaza at El Portal Group, LLP, property owners. This application involves a request to allow the construction of a 23,242-square-foot, single-story office building at the southwest corner of G Street and El Portal Drive within Planned Development (P-D) #44 with a General Plan designation of Commercial Office (CO); also known as Assessor's Parcel Numbers 236-280-005; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #12-02; 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 find that the previous environmental review [Initial Study #06-41 (Mitigated Negative Declaration) for General Plan Amendment #06-1 and Site Utilization Plan Revision #2 to Planned Development #44] remains sufficient and no further documentation is required (CEQA Section 15162), and approve Conditional Use Permit #1164, subject to the Conditions set forth in Exhibit A attached hereto.

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

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)
ABSTAIN: Commissioner(s)

ATTACHMENT F

Adopted this 22nd day of February 2012

_____
Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

_____
Secretary

Attachment:
Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:CUP#1164 Plaza at El Portal Office Bldg

Conditions of Approval
Planning Commission Resolution #2999
Conditional Use Permit #1164

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) -- Attachments B and C of Staff Report #12-02, 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 superceded by Code) 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 Resolution #2651 for General Plan Amendment #00-03, Resolution #2890 for General Plan Amendment #06-11 and Site Utilization Plan Revision #2 to Planned Development (P-D) #44, and all other applicable conditions 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, 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.

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. A detailed landscape/irrigation plan shall be submitted at the Building Permit stage. This plan shall include the installation of parking lot trees at a ratio of 1 tree for every 6 spaces.

9. Appropriate turning radius shall be provided within the parking area to allow Fire Department access.

10. Prior to or concurrent with building permit submittal, a lighting plan shall be reviewed and approved. Proposed lighting shall be oriented in a way to reduce any impacts on the residential uses in the area. All lighting shall comply with the California Energy Code.

11. As part of this approval, this project shall be subject to the sign program for the Plaza at El Portal previously approved and shall comply with the North Merced Sign Ordinance.

12. A 50% reduction in the number of parking spaces required for the area of the building dedicated to the dialysis center (up to a maximum of 11,500 square feet) is granted. This reduction shall apply to any other outpatient procedural medical use within this building that takes a minimum of three hours or more per patient visit, but specifically excluding medical and dental offices and clinics and/or medical, optical, and dental laboratories that involve patients and/or customers coming to and from the facility.

13. If the portion of the building occupied by the dialysis center (or other similar use) is vacated and medical or general office uses wish to occupy that portion of the building, sufficient parking shall be provided prior to any other use occupying this portion of the building.

14. Bicycle parking shall be provided at a minimum ratio of 5% of the vehicle parking spaces for this building. The bicycle rack shall be designed with at least two, preferably three, contact points on at least one wheel and the bicycle frame to provide stability to the parked bicycle, such as the "inverted-U" rack design.

15. Prior to or concurrent with building permit submittal, a landscaping plan shall be reviewed and approved. The landscaping plan shall include street trees, parking lot trees, and on-site landscaping compatible with the existing landscaping for the Plaza at El Portal.

16. All mitigation measures required under previous approvals for the Plaza at El Portal shall be implemented under this approval.

n:shared:planning:PC Resolutions:CUP#1164 Exhibit A