

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #11-07

AGENDA ITEM: 4.1

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: June 8, 2011

PREPARED BY: Mark Hamilton,
Planner

SUBJECT: **Conditional Use Permit #1159**, initiated by David Dutra, applicant for Charlie Parrish, property owner. The application involves a request to allow a Paint Booth and major auto repair services within an existing building, on a 7,500-square-foot site, generally located on the south side of West 15th Street, 150 feet west of M Street within Planned Development (P-D) #14. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #11-11 (Categorical Exemption)
- 2) Conditional Use Permit #1159

SUMMARY

The applicants are requesting approval for a major automotive repair and paint shop within an existing building. The proposed use would be performing minor and major automotive repairs, in addition to painting vehicles on site. In staff's opinion, the proposed paint booth within an automotive shop should be considered appropriate for the project site. To date, there have not been any letters or calls in opposition to this project. Staff is recommending approval with the conditions listed in the staff report.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve: A) Environmental Review #11-11 (Categorical Exemption); and B) Conditional Use Permit #1159, in accordance with the Resolution at Attachment F and subject to the following conditions:

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) -- Attachment B.
- *2) All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions") shall apply.
- *3) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- *4) All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.

- *5) 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.
- *6) 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.
- *7) The project shall comply with all applicable local, state laws, codes and regulations of the current Edition of the California Building, Plumbing, and Mechanical Codes; National Electrical Codes; and State Accessibility (ADA) requirements including, but not limited to, site accessibility.
- *8) The project shall comply with the current Edition of the California Fire Codes including, but not limited to, fire sprinklers for all buildings over 5,000 square feet; supervisory fire alarms, key box(s), fire department connection location(s), panic hardware, emergency lighting, illuminated exit signs, etc. Adequate turning radius for fire vehicles shall be provided throughout the project.
- *9) All signage shall comply with the Merced Sign Ordinance and Zoning Code and be subject to building permits.
- 10) No temporary signs or advertising banners shall be placed in the project landscape areas, on the architectural features and walls in front of the buildings, etc., at any time. The placement of temporary signs on the building walls is subject to City review and approval.

- 11) Any change of the building colors are subject to staff review and approval prior to building permit issuance.
- *12) There shall be no outdoor storage permitted on the project site unless staff approves adequate screening and surface requirements. An adequate type of screening would be slats to be placed within the existing chain link fence.
- 13) All portions of the property not occupied by paving or building shall be maintained to acceptable standards for health, fire safety, and aesthetic reasons. Grasses and weeds shall be kept to a maximum of six inches, or as otherwise required by the Fire Department and County Health Department.
- *14) As proposed, the modifications to the facility will maintain its previous occupancy; a building permit will be required to be submitted to the City of Merced by a qualified design professional. The design professional will ensure all improvements made to the building are performed to California Building Codes for an "S-1" and "Paint Booth" occupancy classification.
- 15) The applicant is encouraged to contact the Merced County Environmental Health Department at (209) 381-1100 and the San Joaquin Valley Air Pollution Control Board at (559) 230-6000 for further information regarding regulations regarding the installation of a new Commercial Auto Paint Booth Facility.
- 16) The applicant and or property owner will be responsible for replacing and/or repairing any missing, dead, or dying landscaping material and for the installation of a handicapped parking space to current City and ADA design standards.
- *17) As required by California Fire Code, a fire suppression system within the paint booth shall be required.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

This application is for the use of an existing building located on the project site. The building has been predominantly used by various automotive businesses, for many years, and the site was used by automotive businesses prior to being rezoned by the City of Merced. The applicant would like to add a complimentary use to the minor automotive repair business currently located within this building. To allow for major automotive repair and a paint booth within this zone designation, a Conditional Use Permit is required. When this building was originally constructed, automotive uses were principally permitted uses within a General Commercial (C-G) Zone, but when the parcel was rezoned to Planned Development #14 and the General Plan Designation was changed to "Central Commercial," any new major automotive repair and painting booths now require a Conditional Use Permit.

Surrounding uses are noted at Attachment A

Surrounding Land	Existing Use of Land	City Zoning Designations
North	Boys and Girls Club (across 15 th Street)	Central Commercial (C -C)
South	PG & E	Planned Development #14 (C-C)
East	PG & E (across M Street)	General Commercial (C-G)
West	Senior Assisted Living	Planned Development #14 (C-C)

BACKGROUND

The property is zoned Planned Development #14 (Central Commercial) and currently has an approximate 5,000 square-foot building with a fenced area along the southern area of the parcel. The site has historically been used for various types of automotive repair shops. The parcel was part of a General Plan Amendment that was approved by the City in 1994 which changed the site from General Commercial to Central Commercial. Since that time the parcel has been used by many different automotive uses involving minor repair. The current tenant has been operating as a minor automotive repair shop as they await the Planning Commission’s determination as it pertains to allowing the existing business to perform major automotive repair and the painting of vehicles at this location.

FINDINGS/CONSIDERATIONS:

General Plan/Zoning Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan and Zoning designations of Central Commercial (C-C) with a conditional use permit. The following General Plan Policy applies to this application:

L-1.1 Promote balanced development which provides jobs, services and housing.

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

Traffic/Circulation

- B) The project is located on the south side of West 15th Street. There are two driveways existing on site, one on West 15th Street and the other on the alley between West 15th Street and West 14th Street. In terms of trip generation/traffic impacts, according to the Institute of Transportation Engineers (ITE) 7th Edition, for an "Automobile Care Center" for adjacent street traffic, the amount of traffic generated would be approximately 10.14 Peak Hour Trips (PHT) and 47.58 Average Daily Trips (ADT).

Site Design

- C) The current design of the building, including the exterior façade will not be changed with the approval of this application (Condition #11). The applicant is proposing minor exterior modifications and the proposed customers would enter through the existing entrance of the building that currently faces West 15th Street. The remaining area to the south of the building would be required to be properly screened with a chain-link fence with slats (Condition #12).

- D) The current floor design of the building will not be changed with the approval of this application. The proposed installation of a paint booth and associated equipment would require the approval of a building permit by the Inspection Services Division (Conditions #14 and #15).

Neighborhood Impact/Interface

- E) The project site design and recommended conditions are intended to facilitate integration of the facility into the adjacent commercial and residential areas. The project may generate an insignificant amount of construction-related impact (noise, dust, etc.) while the suite is being remodeled. Staff would encourage the applicant to install or repair the landscaping around the existing building (Conditions #13 and #16).

Signage

- F) A sign package has not been proposed at this time; however, any signing will need to comply with the Sign Ordinance and will require a sign permit (Conditions #9 and #10).

Minor vs. Major Automotive Repair

- G) “Minor” and “Major” automotive repair are two distinct uses defined within the Zoning Ordinance, MMC 20.04.050 and 20.04.060. Over the years, staff developed further distinctions between major and minor automotive repair. Please see Attachment D for those definitions.

Environmental Clearance

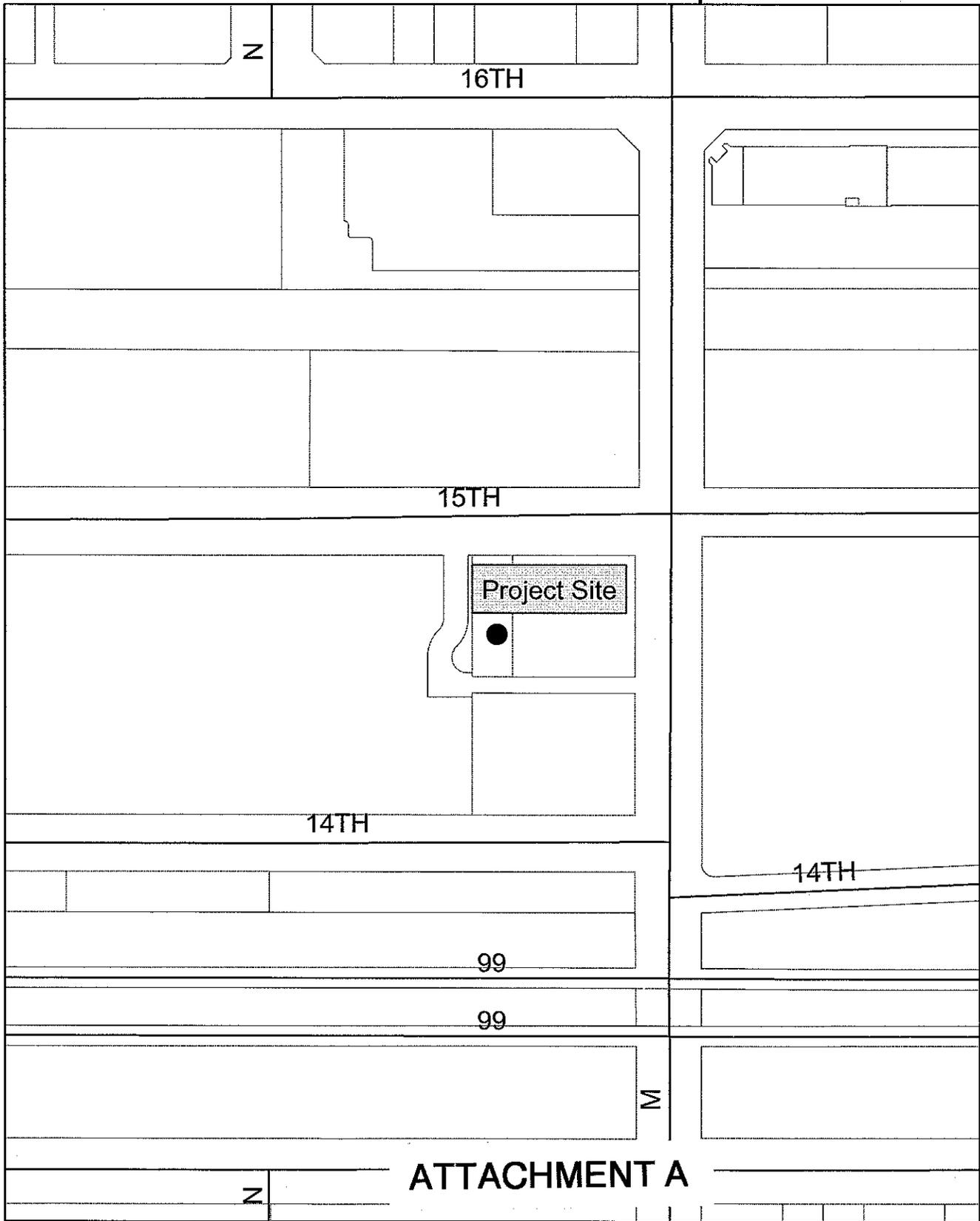
- H) The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no significant adverse environmental effects have been found) is being recommended (see Attachment E).

Attachments:

- A) Location Map
- B) Floor Plan
- C) Business Plan
- D) Minor vs. Major Automotive Repair
- E) Categorical Exemption #11-11
- F) Draft Planning Commission Resolution

Conditional Use Permit #1159

David Dutra - Paint Shop



ATTACHMENT A

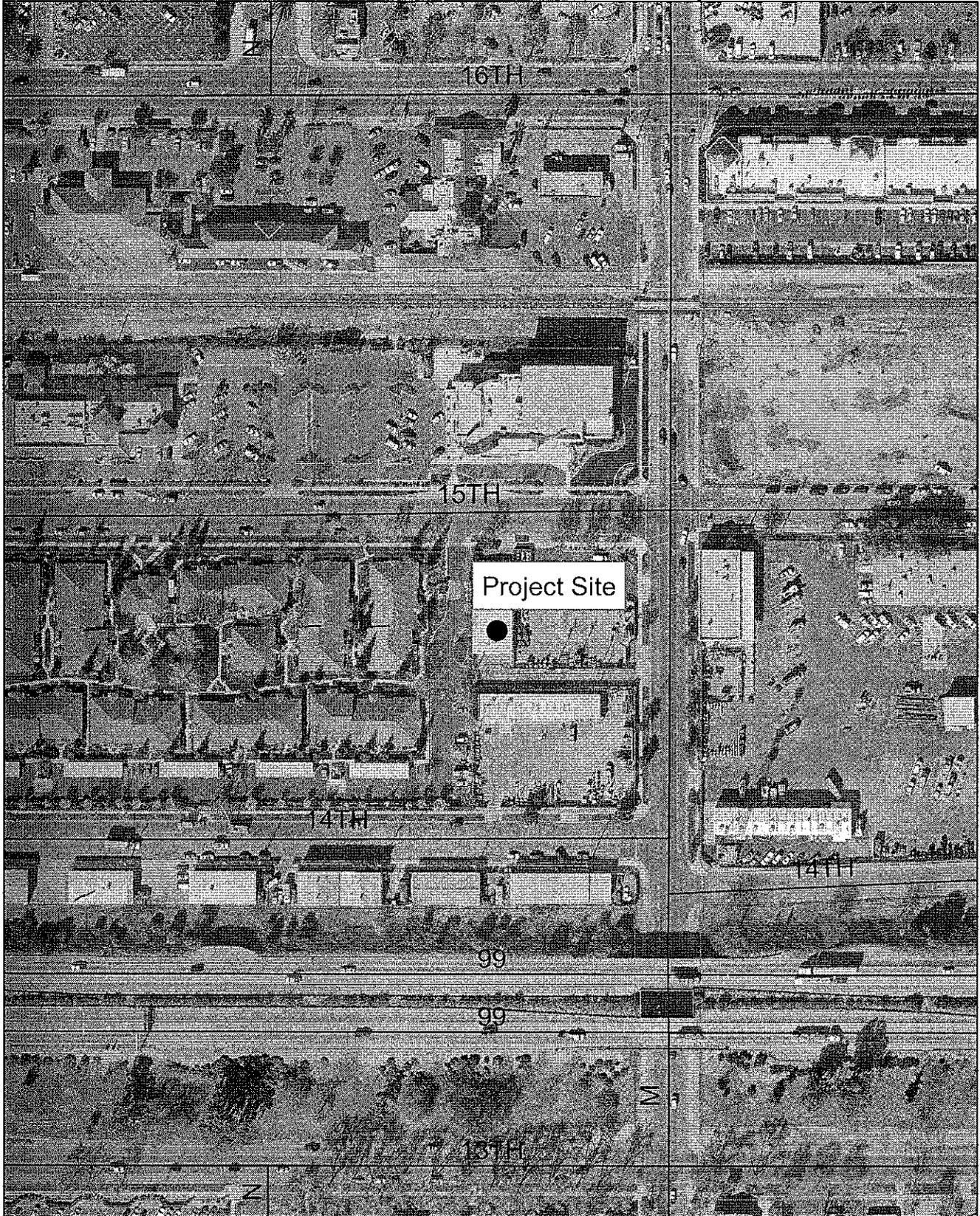
Disclaimer: This document was prepared for general inquiries only. The City of Merced makes no warranty, representation, or guarantee regarding the accuracy of this map. The City of Merced is not responsible for errors or omissions that might occur. Official information regarding specific parcels should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

APN: 031-223-004
626 W. 15th Street



Conditional Use Permit #1159

David Dutra - Paint Shop



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APN: 031-223-004
626 W. 15th Street



BUISNESS PLAN FOR MERCED BUMPER FENDER & AUTO

**DAYS AND HOURS OF OPERATION:M-F 8:00 AM-5:00PM SAT
9:00AM-2:00PM**

**NUMBER OF EMPLOYEES:ANTICIPATE 4-5 TECHS-1 OFFICE
PERSON**

**TYPE OF WORK:DENT REPAIR,BUMPER REPAIR AND
REPLACEMENT,AUTO PAINTING**

**PAINT STORAGE:SHALL BE CONTAINED TO MEET LOCAL
AND FEDERAL GUIDELINES,IN AN EXPLOSION PROOF
SEALED STEEL CONTAINER,APPROX.10-15 GALLONS OF
PAINT TO BE ON HAND,MOST OF WHICH WILL BE
WATERBASED,ECO-FRIENDLY PAINT MATERIALS.**

**OUR GOAL FOR MERCED:WE WANT TO MAKE IT
AFFORDABLE FOR EVERONE TO BE ABLE TO PAINT THEIR
VEHICLE,A NICELY PAINTED VEHICLE MAKES OUR
STREETS AND NIEGHBORHOODS LOOK NICER.WHEN YOUR
CAR GETS PAINTED YOU TEND TO TAKE CARE OF IT
MORE,TIRES,BRAKES,ACCESSARIES,CAR WASHING,TUNE-
UPS,WHICH WILL ALL RESULT IN SALES AND REVENUE FOR
THE CITY.I HAVE BEEN REPAIRING AND PAINTING
VEHICLES FOR MERCED COUNTY FLEET DEPARTMENT
SINCE 2003 AND HAVE DONE ESTIMATES ON DOZENS OF
MERCED CITY POLICE VEHICLES.HAVING THESE VEHICLES
IN OUR FACILITY WILL HELP KEEP OUR EMPLOYEES
WORKING.WE WILL BE PLACING AN ADD WITH WORKNET
AND OUR LOCAL UNEMPLOYMENT OFFICE.**

ATTACHMENT C

MAJOR VS. MINOR AUTOMOBILE REPAIR

Definitions from Merced Zoning Ordinance:

Definitions from elsewhere:

I. MAJOR REPAIRS

- general repair, rebuilding or reconditioning of engines, motor vehicles or trailers
- collision service, including body, frame, or fender straightening or repair
- overall painting or paint shop
- *-radiator repairs (Staff determination of 5/79--"not a PPU in C-T zone" thus not included under "minor repairs")
- transmission (automatic) repairs (determined PPU in C-G zone, thus CUP in C-T zone, under CUP #333)

II. MINOR REPAIRS

- not including any operation named under Automobile Repair, Major
- replacement of parts and motor service to passenger cars and trucks not exceeding one-and-one-half (1½) tons capacity
- upholstering (upholstery cleaning)
- tune-ups (staff determination of February '79)

- *-radiator cleaning & flushing (but not including repairs or steam cleaning)
- lubrication, brake & battery service (charging & replacement of batteries but not including repairs or rebuilding)
- tire changing & repairing (but not including recapping)
- front-end & wheel alignment when located w/in enclosed bldg. (but not including straightening of automobile frames)
- testing, adjustment & replacement of
 - carburetors
 - coils
 - condensers
 - distributor caps
 - fan belts
 - filters
 - generators
 - points
 - rotors
 - spark plugs
 - voltage regulators
 - rel pumps

NOTICE OF EXEMPTION

Appendix I

To: _____ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: City of Merced
678 West 18th St.
Merced, CA 95340

X County Clerk
County of Merced



Project Title: Conditional Use Permit #1159/Environmental Review #11-11

Project Location: Generally located on the south side of West 15th Street, 150 feet west of M Street within a Planned Development (P-D) #14 (APN #031-223-004).

Project Location - City: Merced

Project Location - County: Merced

Description of Project: To allow major auto repair and a paint shop to be located within an existing building that is being used for minor auto repair.

Name of Public Agency Approving Project: City of Merced

Name of Person Carrying Out Project: David Dutra, applicant.

Exempt Status: (check one)

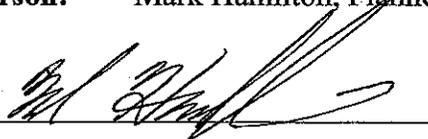
- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption: Class 32, Section 15303
- Statutory Exemptions.
- General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: As defined under the above referenced Section, the proposed project is the construction of a small commercial facility in an urbanized area where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive. The proposed use within the facility would be located within a portion of the existing building, which is below the 10,000 square foot allowance cited in Section 15303 above.

Lead Agency: City of Merced

Contact Person: Mark Hamilton, Planner

Area Code/Telephone: (209) 385-6858

Signature: 

Date: May 13, 2011

X Signed by Lead Agency

N:\SHARED\PLANNING\Mark\Applications\Environmental Determinations\Notice of Exemptions\CUP 1159 - 626 W. 15th Street - David Dutra Paint Shop.docx

ATTACHMENT E

**CITY OF MERCED
Planning Commission**

Resolution # _____

WHEREAS, the Merced City Planning Commission at its regular meeting of June 8, 2011, held a public hearing and considered **Conditional Use Permit #1159**, initiated by David Dutra, applicant for Charlie Parrish, property owner. The application involves a request to allow a Paint Booth and major auto repair services within an existing building, on a 7,500-square-foot site, generally located on the south side of West 15th Street, 150 feet west of M Street within Planned Development (P-D) #14; also known as Assessor's Parcel No. 031-223-004; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through H of Staff Report #11-07; and,

WHEREAS, 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 #11-11, and approve Conditional Use Permit #1159, 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

PLANNING COMMISSION RESOLUTION # _____

Page 2

June 8, 2011

Adopted this 8th day of June 2011

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:CUP#1159 Dutra

Conditions of Approval
Planning Commission Resolution # _____
Conditional Use Permit #1159

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) -- Attachment B of Staff Report #11-07.
2. All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions") shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. 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

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17. As required by California Fire Code, a fire suppression system within the paint booth shall be required.

n:shared:planning:PC Resolutions:CUP#1159 Exhibit A