

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #16-02

AGENDA ITEM: 4.2

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: Jan. 6, 2016

PREPARED BY: Julie Nelson,
Associate Planner

SUBJECT: **Conditional Use Permit #1207**, initiated by Boos Development on behalf of SEW Enterprises, LLC, property owners. This application involves a request to demolish two existing three-story office buildings and construct a new 12,900-square-foot CVS Pharmacy (with alcohol sales for off-site consumption) and a 4,000-square-foot future retail pad on two parcels containing approximately 2.19 acres, located on the north side of Olive Avenue, approximately 120 feet west of M Street (625 and 645 West Olive Avenue). These parcels are located within Planned Development (P-D) #1 and have a Regional/Community Commercial (RC) General Plan designation. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #15-35 (Categorical Exemption)
- 2) Conditional Use Permit #1207

SUMMARY

The project site is located on the north side of West Olive Avenue, approximately 120 feet west of M Street (Attachment A). There are two three-story buildings existing on the site (Attachment B). These buildings would be demolished to make way for the construction of a 12,900-square-foot CVS Pharmacy, including the sale of alcohol for off-site consumption.

The proposed CVS would be located near the center of the site and includes a drive-thru pharmacy (Attachment C). Parking would be provided on the south and east sides of the building with access remaining on Olive Avenue and Fairfield Drive. The drive-thru pharmacy would be located on the northwest corner of the building. The building design is the standard CVS Pharmacy design with a tan stucco wall and brick trim along the bottom of the building (Attachment D).

This site is located within Planned Development (P-D) #1. As such, Conditional Use Permit (CUP) approval is required for the building and site design. In addition, CUP approval is required for the sale of alcohol for off-site consumption. Subsequent to obtaining CUP approval, a Finding of Public Convenience or Necessity by the City Council would be required prior to the business being allowed to sell alcohol.

If this request is approved, the CVS located within the Merced Mall would be relocated to this new location.

In addition to the CVS Pharmacy, a future retail space is identified as well as an area for a new stealth cell tower. There are currently several cell towers placed on top of the existing three-story buildings. These towers would be removed and placed on the future stealth cell tower. The cell tower will be reviewed with Conditional Use Permit #1209 (also on this agenda). Staff has recently received an application for the future retail site. This application is for a drive-thru coffee business and will be reviewed with Conditional Use Permit #1210 on February 3, 2016.

Staff is recommending approval of this request subject to the conditions below.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #15-35 (Categorical Exemption) and Conditional Use Permit #1207 (including the adoption of the Resolution at Attachment J), 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 C and D of Staff Report #16-02, except as modified by the conditions.
- *2) All conditions contained in *Resolution* #1249-Amended (“Standard Conditional Use Permit Conditions” shall apply.
- *3) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- *4) 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) Prior to the issuance of a building permit, a Lot Line Adjustment shall be approved modifying the existing property lines and ensuring no building is constructed on top of a property line.
- *8) All driveways into the site shall meet City Standards. The easternmost driveway on Fairfield Drive shall be modified to meet City Standards. All driveways shall meet handicap accessibility requirements.
- *9) The developer shall work with the City Engineer to determine the requirements for storm drainage on the site. All storm water shall be captured on-site and metered into the City's storm water system. The developer shall provide all necessary documentation for the City Engineer to evaluate the storm drain system. All storm drain systems shall be installed to meet City Standards.
- *10) The project shall comply with all the Post Construction Standards required to comply with state requirements for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
- *11) Approval of alcohol sales shall not become effective until such time as the City Council makes a Finding of Public Convenience or Necessity to allow the sale of alcoholic beverages at this location. If no such finding is made, the approval for alcohol sales with this Conditional Use Permit becomes null and void.
- *12) As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repaired 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.
- *13) A backflow prevention device shall be provided for all water services (i.e., domestic, irrigation, and fire).
- *14) Parking lot and building lighting shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots in compliance with the California Energy Code requirements. Any lighting on the building shall be oriented to shine downward and not spill-over onto adjacent properties.
- *15) 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 at least one tree for each six parking spaces.

- *16) Concurrent with or prior to the submittal of a Building Permit Application, the applicant shall submit to the Development Services Department a detailed landscape plan that is consistent with the City's Water Efficient Landscaping & Irrigation Ordinance (Merced Municipal Code 17.60) and all state-mandated drought restrictions.
- *17) The proposed signing at Attachment H is not approved. All signing shall comply with the North Merced Sign Ordinance. Based on the proposed building design, the southern elevation would be allowed 53 square feet of signing and the eastern elevation is allowed 42 square feet of signing. A monument sign is approved subject to compliance with the North Merced Sign Ordinance Section 17.36.665. Signing allotted to a monument sign is deducted from the amounts calculated above for wall-mounted signs. The monument sign shall be located outside the ten-foot visual triangle at the driveway entrance.
- *18) 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.
- *19) The property owner shall ensure the business occupying the site complies with the City's "Shopping Cart Ordinance." (Merced Municipal Code Chapter 8.30) This includes marking all shopping carts, posting all required signs, and implementing a cart retrieval system.
- *20) Prior to any demolition work being done (interior or exterior), the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Department if required.
- *21) All mechanical equipment shall be screened from public view.
- *22) The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
- *23) Bicycle racks shall be provided at a minimum ratio equal to 5% of the vehicular parking spaces.
- *24) No sales of alcoholic beverages shall be allowed between the hours of 2:00 a.m. and 6:00 a.m.
- *25) No beer or wine shall be displayed or stored outside of the cooler area and shall not be displayed within 5-feet of the cash register or front door.
- *26) The proprietor and/or successors in interest and management shall be prohibited from externally advertising or promoting beer and wine and/or distilled spirits including, but not limited to, window and wall signs, banners or free-standing signs (sandwich boards, A-frames, etc.).
- *27) Employees on duty between the hours of 10 p.m. and 2 a.m. shall be at least 21 years of age to sell beer and wine.
- *28) 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.

- *29) No display or sale of beer or wine shall be made from an ice tub.
- *30) Prior to obtaining a license from the Alcoholic Beverage Control to sell alcohol, each business shall obtain approval for a Finding of Public Convenience or Necessity from the Merced City Council.
- *31) No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine containers shall be sold as part of a pack or carton.
- *32) 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.
- *33) The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.
- 34) If the City Engineer determines a Public Utilities Easement (PUE) is needed along the property frontage on Olive Avenue or Fairfield Drive, the applicant shall dedicate the area needed for the PUE prior to building permit issuance.
- 35) The applicant shall work with the City's Refuse Department to determine the best location for the refuse enclosure. The enclosure shall be constructed per City Standards.
- 36) Conditions, Covenants, and Restrictions (CC&R's) shall be recorded prior to the issuance of a building permit providing cross access to all property owners served by the existing driveways on Olive Avenue and Fairfield Drive and providing a joint parking agreement between the existing parcels (APN: 236-220-019 and -020) and the parcel to the east (El Pollo Loco, APN: 236-220-018).
- 37) If the westernmost driveway on Olive Avenue is to be modified from entrance only to allow both entering and exiting, a letter signed by the adjacent property owner, Doris M. Gonella, Trustee, shall be provided acknowledging and agreeing to the change prior to building permit issuance.
- 38) The premises shall remain clean and free of debris and graffiti at all times.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The project site is located on the north side of Olive Avenue, just west of M Street (Attachment A). The developer is proposing to demolish the existing 3-story buildings on the site and construct a new 12,900-square-foot CVS Pharmacy (Attachment C). The pharmacy would include a drive-through window for prescription drop off/pick up and the sale of beer, wine, and distilled spirits for off-site consumption. Access to the site would remain unchanged with the exception of moving the middle driveway on Fairfield Drive to the west approximately 40-45 feet (Attachment E). The building design and elevations are typical of the most recent CVS design (Attachment D). The front door would face southeast and the drive-thru would be at the northwest corner of the building.

The cell facility is a proposal to relocate the cell towers that are currently on the top of the three-story buildings to a stealth facility. This proposal is being reviewed with Conditional Use Permit (CUP) #1209 at the meeting on January 6, 2016.

In addition to the proposed CVS, the site plan shows a future retail site and a cell facility area. Subsequent to the above submittal, the applicants decided to make a change to the future retail site, which was too late to be included as part of this application. Therefore, the proposed retail use will be reviewed at the Planning Commission meeting on February 3, 2016, for a drive-thru coffee business.

Surrounding Uses
(Attachment A)

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Regency Theater & Franciscan Convalescent Hospital (across Fairfield Drive)	P-D #1	Regional/Community Commercial (RC)/ Commercial Office (CO)
South	Offices (across Olive Avenue)	P-D #15	Commercial Office (CO)
East	El Pollo Loco Restaurant	P-D #1	Thoroughfare Commercial (CT)
West	Coldwell Banker - Gonella Realty	P-D #1	Regional/Community Commercial (RC)

BACKGROUND

The existing three-story buildings located on the project site were originally approved and constructed in the early 1960's. The site has historically been designated for office uses. However, in 1978 the Planning Commission approved a hair salon to locate within one of the buildings. In 1999, the General Plan designation was changed from Commercial Office (CO) to Regional/Community Commercial (RC) and the Site Utilization Plan designation was changed from "office" to "retail" for the first floor of the buildings only. The second and third floors remained designated for Commercial Office uses. Therefore, because the first floor of the site has a retail designation, the proposed retail uses are consistent with the General Plan and Site Utilization Plan designations.

The site to the west where Coldwell Banker – Gonella Realty is located was approved by Conditional Use Permit #887 in 1994. One of the conditions of approval for CUP #887 was that the driveway that provides access to the Gonella Realty site and the project site would be an entrance only driveway to discourage additional traffic onto Olive Avenue. This project is requesting the driveway entrance be modified to vehicle to enter and exit the site from this driveway. Additional details regarding this request are provided in the Traffic/Circulation portion of this report.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

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

Land Use Policy L-3.2 – Encourage Infill Development and a Compact Urban Form.

Traffic/Circulation

- B) The project site sits between Olive Avenue (Arterial) to the south and Fairfield Drive (Collector) to the north. Access to the site is provided by two driveways on Olive Avenue and three driveways on Fairfield Drive. According to the Institute of Transportation Engineers (ITE) Trip Generation Manual (8th Edition), the average rate used to determine Average Daily Trips (ADT's) for a "Pharmacy/Drugstore with Drive-Through Window" on a weekday is 88.16 trips per 1,000 square-feet of floor area. For Peak Hour Trips (PHT's) (one hour between 4 and 6 p.m.), the average rate is 10.35 trips per 1,000 square feet of floor area. Based on these formulas, the Average Daily Trips are estimated to equal 1,137 trips and the Peak Hour Trips are estimated to equal 134 trips. In comparison, based on each of the existing buildings containing approximately 12,500 square feet and using the medical/dental office traffic generation (this was the highest use previously allowed on the site) the site is estimated to have generated 903 Average Daily Trips and 87 Peak Hour Trips. The proposed pharmacy with a drive-thru would increase traffic generation by approximately 25%. Based on Table 4.4 of the *Merced Vision 2030 General Plan*, Olive Avenue from R Street to M Street is currently operating at a Level of Service (LOS) C+ and is estimated to continue operating at this level through 2030. From M Street to G Street, Olive Avenue is also operating at LOS C+ and is expected to operate at LOS D by the year 2030. The City of Merced has established a LOS D as an acceptable level of service for roadways throughout the City. Therefore, even with the additional traffic, it is not expected that Olive Avenue would drop below an acceptable level of service.

Fairfield Drive is a Collector roadway. The General Plan does not provide traffic volumes for Collector roads. However, based on the fact that Olive Avenue is expected to continue to operate at a LOS D, it is not expected that Fairfield Drive would fall below that threshold. In fact, because of the short distance of the roadway and limited access at M Street, Fairfield Drive may not carry as much traffic as most Collector roads.

The pharmacy drive-thru is located on the north side of the building (Attachment C). Vehicles entering the site from Olive Avenue would travel through the parking lot to get to the drive-thru lane. When leaving the drive-thru, vehicles would have the option of

exiting immediately onto Fairfield Drive or traveling back through the parking lot to exit onto Olive Avenue at one of the two driveway locations. Vehicles exiting onto Olive Avenue are restricted to right-hand turns only. Both right and left-hand turns are permitted on Fairfield Drive.

Driveways/Access

The project site has two existing driveways on Olive Avenue and three on Fairfield Drive (Attachment E). The westernmost driveway on Olive Avenue is currently an entrance-only driveway. This is based on Conditional Use Permit #887 approved for the construction of Coldwell Banker-Gonella Realty. When the office building for Gonella Realty was approved, staff was concerned with conflicts between vehicles entering and exiting the site at this driveway. In order to better serve the site and avoid possible congestion at the easternmost driveway, staff is supportive of changing this driveway to allow vehicles to enter and exit from the driveway. However, because this is a condition of approval for the Gonella Realty site, Condition #37 requires the applicant to provide a letter from the current property owner agreeing to the change.

The easternmost driveway on Fairfield Drive does not meet City Standards for width. This driveway shall be modified to meet current City Standards. Condition #8 requires all driveways to meet current City Standards.

The middle driveway on Fairfield Drive would be moved approximately 30 feet to the west to accommodate the proposed building and drive-through window.

All driveways to the site are considered to be shared by all the properties from Gonella Realty to the El Pollo Loco Restaurant at the corner of M Street and Olive Avenue. Proper access agreements are required by Condition #36 to ensure all properties maintain proper access to their sites.

Parking

- C) Parking for retail uses is required at a ratio of one space for every 300 square feet of floor area. Based on the proposed 12,900-square-foot building, 43 parking spaces are required. The proposed site plan provides 69 parking spaces which exceeds the minimum requirement. Parking is provided on the east and south sides of the building.

In addition to vehicle parking, the California Green Code and the City's Bike Plan require new development to provide bicycle parking. The California Green Code requires a bicycle parking to equal a minimum of 5% of the total number of parking spaces provided. Condition #23 requires bicycle racks be provided to meet this minimum requirement.

Public Improvements/City Services

- D) All public improvements surrounding the site are installed. However, Condition #12 requires any missing or damaged improvements be installed/repaired. This includes bringing all driveways up to handicap accessibility requirements.

The site is currently served by the City's water, sewer, and storm drain systems. The new development would continue to be served by these systems. Condition #9 requires the developer to work with the City Engineer to determine requirements for storm drainage on the site. Storm water would be required to be captured on-site and metered into the City's storm drain system.

Building Design

- E) The building design is the standard design for a CVS pharmacy (Attachment D). The exterior has a stucco finish with a brick trim at the bottom. The colors are also typical for CVS which include neutral color tones with the brick red trim.

The building entrance faces southeast with the drive-thru at the northeast corner of the building. Store front windows are placed on the south and east elevations. The windows do not extend all the way down the building wall, but are placed approximately 8 feet high. A trash enclosure, compactor, and truck loading area are located on the west side of the building.

Site Design

- F) The site consists of two parcels totaling approximately 2.2 acres. In order to construct the building as proposed, a Lot Line Adjustment would be required to ensure the building does not cross any property lines. Condition #7 requires the Lot Line Adjustment be approved prior to building permit issuance.

As previously described, access to the site is from both Olive Avenue and Fairfield Drive. The drive-thru window is located at the northeast corner of the building with the drive-thru lane on the north side of the building. Parking is provided on the east and south sides of the building. The main entrance to the building is at the southeast corner.

Landscaping

- G) Landscaping is proposed for the site along both Olive Avenue and Fairfield Drive (Attachment F). All landscaping would be required to comply with all drought restrictions (Condition #16). Parking lot trees are required at a ratio of one tree per every six parking spaces (Condition #15). Detailed landscape sprinkler plans shall be submitted at the time of building permit submittal.

Alcohol Sales

- H) The applicant is requesting approval to sell alcohol (beer, wine, and distilled spirits) for off-site consumption. Because the building is less than 20,000 square feet in size, Conditional Use Permit approval is required for alcohol sales.

The Zoning Ordinance establishes three criteria by which to evaluate requests for the sale of alcohol for off-site consumption. These criteria are discussed below.

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 1,000-foot radius of the site.

Finding #1

The project site is located within Census Tract 10.04. According to the California Department of Alcoholic Beverage Control, three licenses for the sale of alcohol for off-site consumption are allowed within this census tract. Currently, there are four licenses in the census tract. Therefore, this census tract is considered over-concentrated and a Finding of Public Convenience or Necessity would be required to be issued by the City Council (Condition #30). It should be noted, however, that one of the four existing licenses belongs to the CVS located within the Merced Mall. This license will eventually be moved to another location. Therefore, once that is done, the number of licenses within this census tract would not be increased over what is currently existing, although it would still be considered over-concentrated.

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

The Franciscan Convalescent Hospital is located across Fairfield Drive to the north of the site (Attachment G). Park Merced, an assisted living facility is located to the southeast within a 500-foot radius of the site. In addition, the Olivewood Apartments on Olivewood Drive, south of the site, are also within a 500-foot radius of the site. There are no schools, churches, hospitals, public play grounds or other sensitive type uses within 500 feet of the site. Expanding the radius to 1000 feet from the site, there are additional residential uses (both single-family and multi-family) within that radius, but no other sensitive type uses.

Based on the nearby uses and the fact that the primary focus of the pharmacy is not to sell alcohol, it is not anticipated that the sale of alcohol at this location would be detrimental to the surrounding area.

Criteria #3

The crime rate in the area of the proposed site. Particular attention shall be given to those crimes involving public drunkenness, the illegal sale of narcotics, disturbing the peace, and disorderly conduct.

Finding #3

According to the Merced Police Department, there were a total of 278 incidents within a 500-foot radius of the site over the last year. The table below shows the number of incidents related to disturbances, narcotics, weapons charges, and Municipal Code Violations (MMC) (open containers, drinking in public, etc.).

Incidents/Case Reported 1/1/2015 to 12/29/2015

Incident/Case Type	Number of Incidents
Disturbance	7
Weapons Charges	3
Narcotics	1
MMC Violation	7

During this same time period, there were a total of 62,605 incidents city-wide. The number of incidents within 500 feet of the project site equates to approximately 0.44% of the total incidents city-wide. There were no incidents related to alcohol at the current CVS site in the Merced Mall during this time period.

The Merced Police Department did not express any concerns with the proposed sale of alcohol at this location. Typical conditions have been included to ensure compliance with the Merced Municipal Code and address typical issues the Police Department has to deal with related to alcohol sales. Refer to Conditions #24 through #33 for these conditions.

Neighborhood Impact/Interface

- I) The site is surrounded by commercial uses, with the exception of the Franciscan Convalescent Hospital to the north. While there is likely to be some disruption to the area with noise and heavy equipment during the construction of the project, the proposed pharmacy is not expected to negatively impact the area otherwise. However, it should be noted that based on the above traffic analysis, traffic is likely to increase going to and from the site. Although this may be considered an inconvenience, the increased traffic on Olive Avenue was accounted for by the projected traffic volumes in the General Plan.

There are no other residential uses in the immediate area of the site. The Olivewood Apartments on Olivewood Drive are within a 500 foot radius of the site. It's not expected that the project would have any direct effect on these apartments given the distance from the site. Because the site is surrounded by commercial uses, the proposed pharmacy would be compatible with the surrounding area.

Based on the relatively low number of incidents near the area and the fact that there have been no alcohol-related incidents at the current CVS location within the last year, it's unlikely the sale of alcohol would impact the neighborhood.

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

Signage

- J) The project is located within the area subject to the North Merced Sign Ordinance. As such, the amount of signing for a retail use is based on the building frontage and setback from the street. The applicant submitted a proposal for signing for the site (Attachment H). However, the proposed signs are too large to comply with the North Merced Sign Ordinance. Therefore, the proposed signs are not approved with this application. The proposed signs included a monument sign which is allowed under the ordinance. However, the proposed monument sign also does not comply with the ordinance. Staff will work with the applicants to develop a sign package which complies with the City's sign ordinance.

The amount of signing allowed on the southern elevation (facing Olive Avenue) is 53 square feet and the amount allowed on the eastern elevation (facing M Street) is 42 square feet. Any signing allotted to the monument sign is deducted from these amounts. Condition #17 defines the amount of signing allowed and approves a monument sign as long as it complies with the requirements of the North Merced Sign Ordinance.

Environmental Clearance

- K) The Planning staff has conducted an environmental review (#15-35) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption is being recommended (Attachment I).

Attachments:

- A) Location Map
- B) Existing Buildings
- C) Site Plan
- D) Elevations
- E) Site Access
- F) Landscape Plans
- G) Uses within 500 and 1,000 Ft. Radius
- H) Proposed Signs
- I) Categorical Exemption
- J) Draft Planning Commission Resolution



UA Theater

Franciscan Convalescent Hospital

FAIRFIELD

M

Gonella Realty

Subject Site

El Pollo Loco

OLIVE

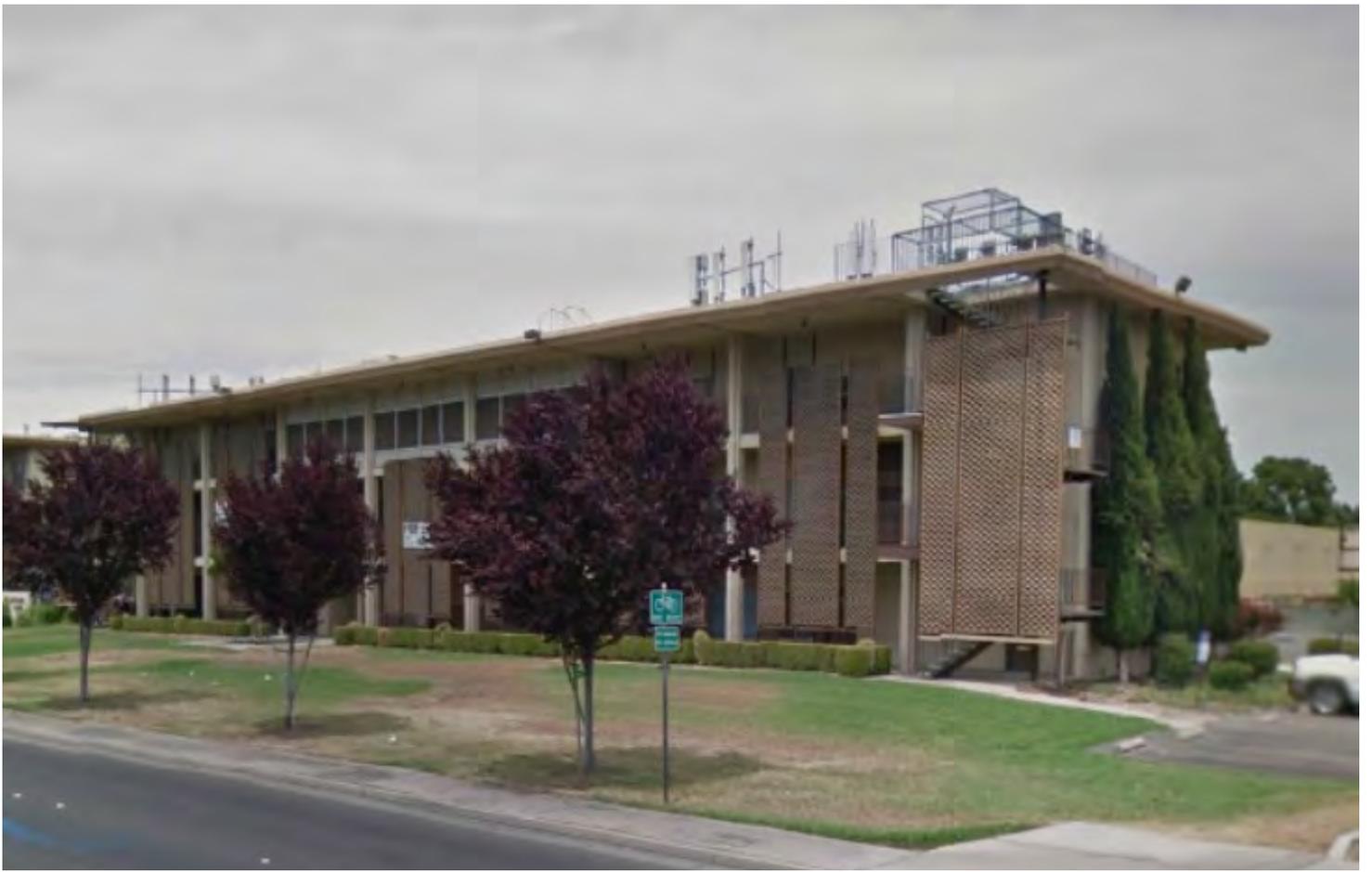
Offices

Social Security Administration

OLIVEWOOD



ATTACHMENT A



ATTACHMENT B



FRONT ELEVATION



RIGHT ELEVATION



LEFT ELEVATION

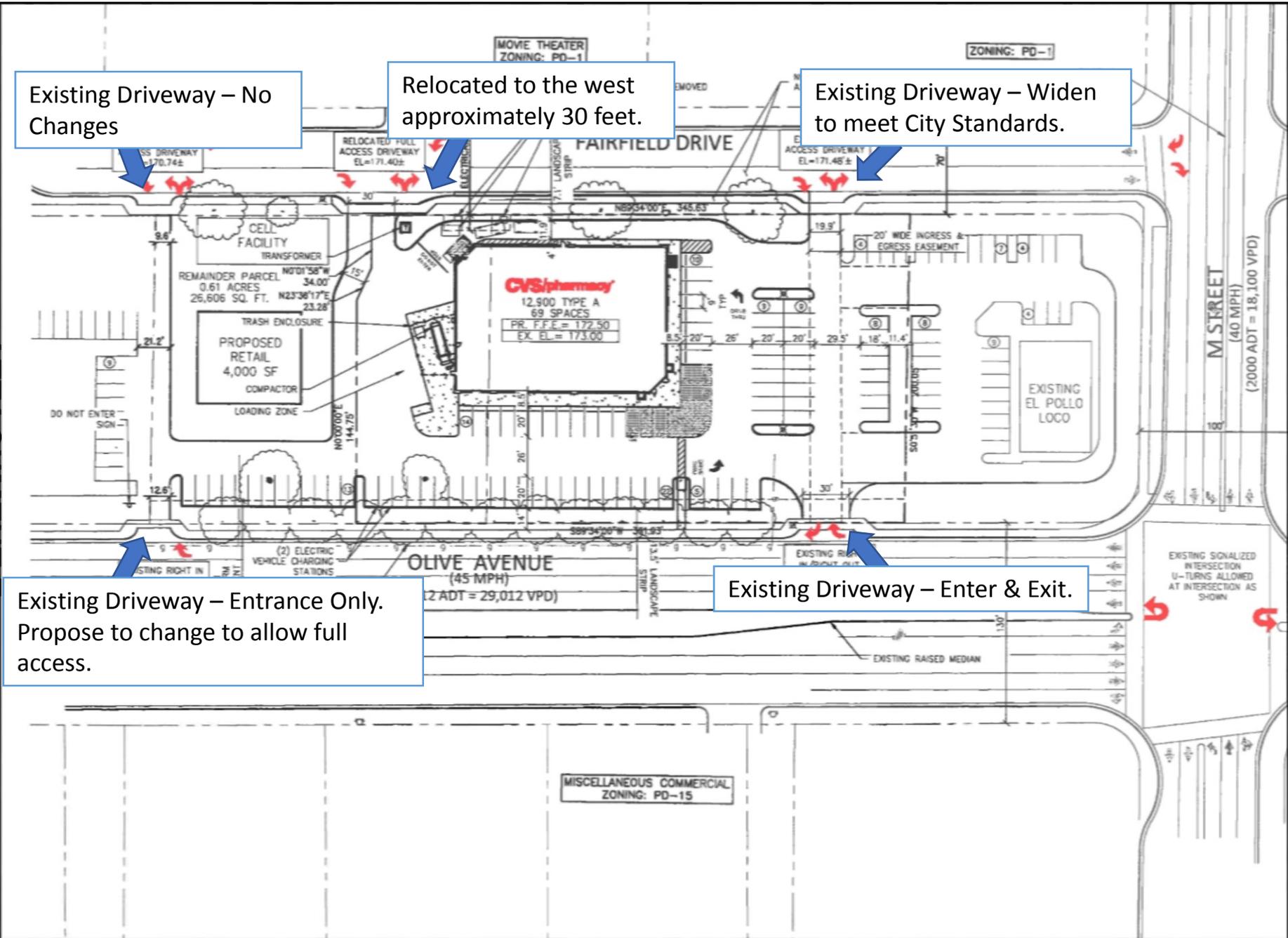


REAR ELEVATION

CVS/pharmacy

ATTACHMENT D

CVS #9623
NWC OLIVE & M ST
MERCED, CA.



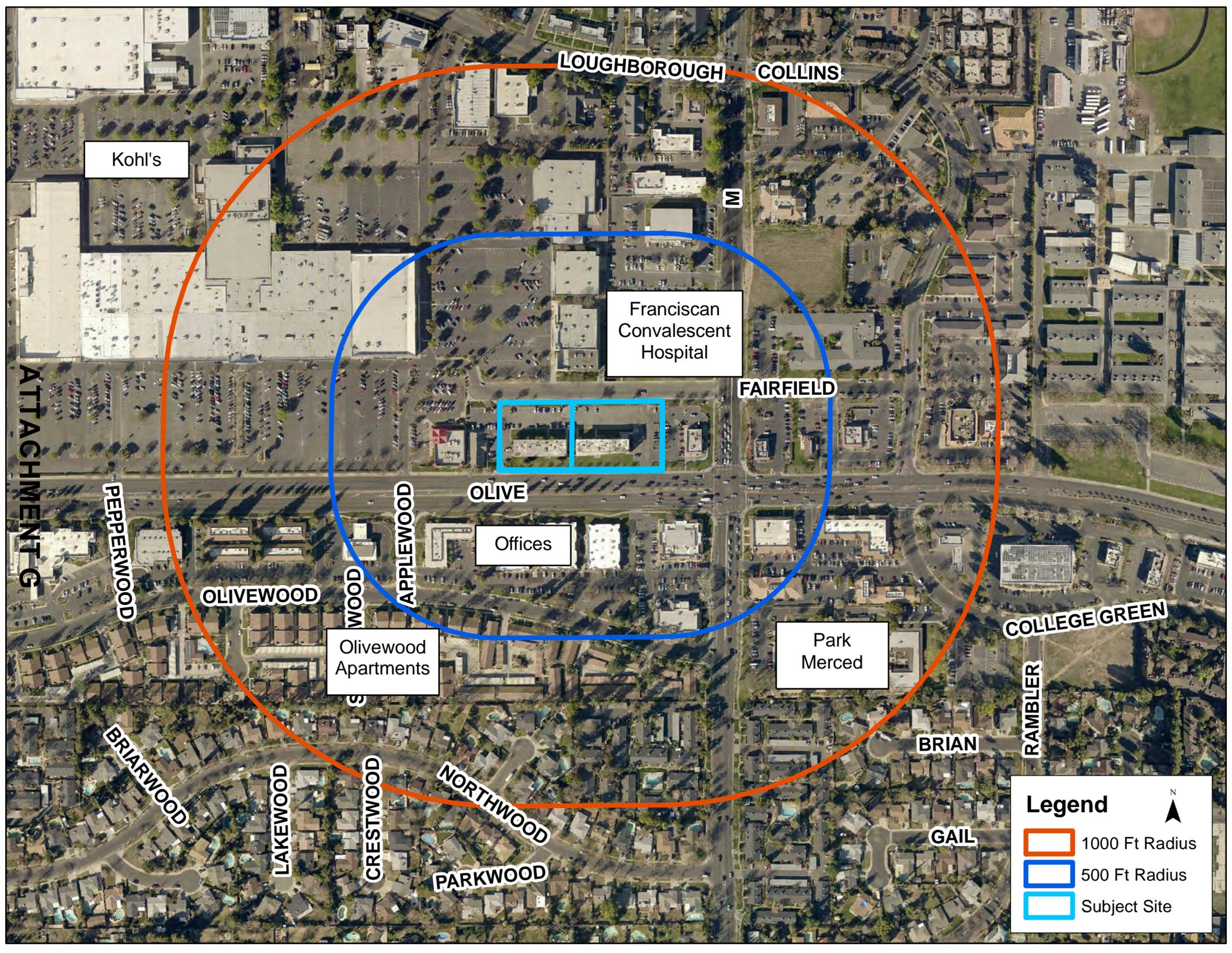
Existing Driveway – No Changes

Relocated to the west approximately 30 feet.

Existing Driveway – Widen to meet City Standards.

Existing Driveway – Entrance Only. Propose to change to allow full access.

Existing Driveway – Enter & Exit.



LOUGHBOROUGH COLLINS

Kohl's

M

Franciscan Convalescent Hospital

ATTACHMENT G

FAIRFIELD

Subject Site

OLIVE

Offices

PEPPERWOOD

OLIVEWOOD

WOOD

APPLEWOOD

Olivewood Apartments

Park Merced

COLLEGE GREEN

BRIARWOOD

LAKWOOD

CRESTWOOD

NORTHWOOD

PARKWOOD

BRIAN

RAMBLER

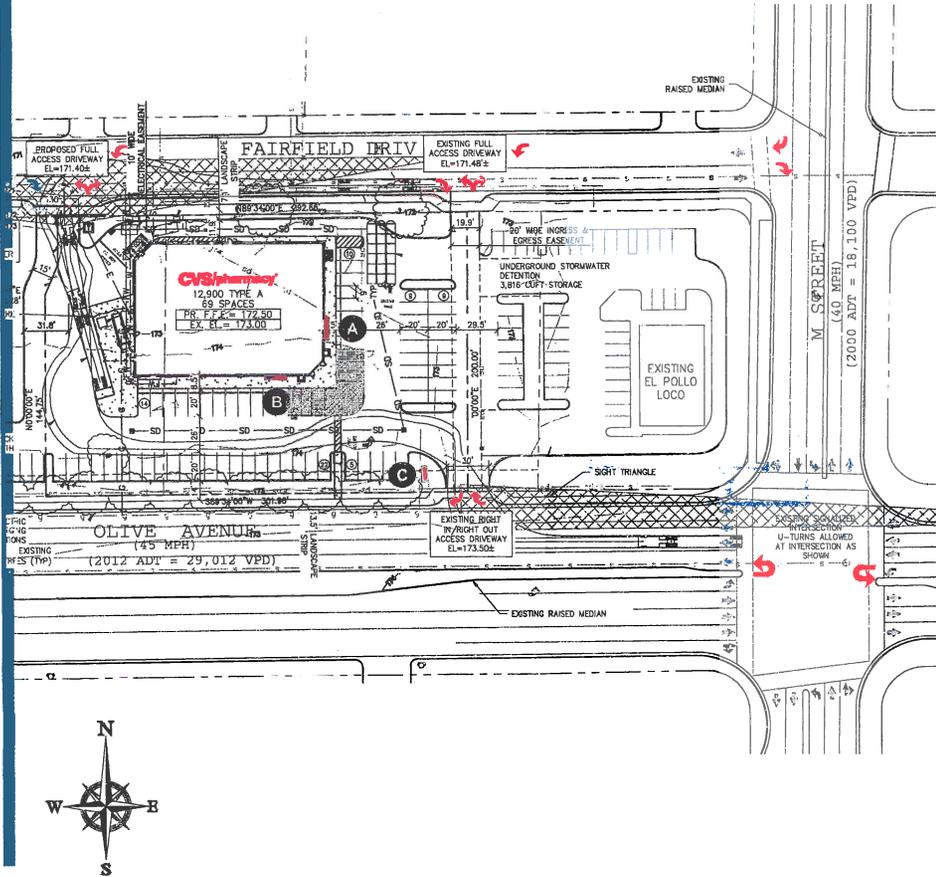
GAIL

Legend

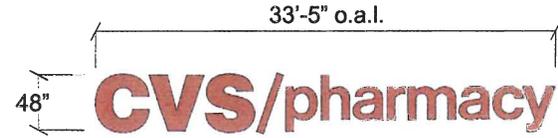
-  1000 Ft Radius
-  500 Ft Radius
-  Subject Site



SITE PLAN



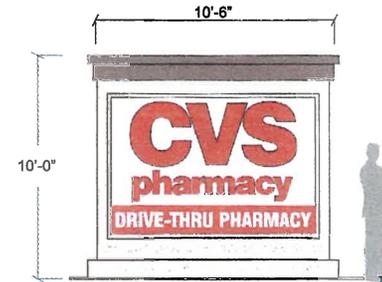
SIGNAGE



A Illuminated Channel Letters
133.66 SQ. FT. EA.



B Illuminated Channel Letters
133.66 SQ. FT. EA.



C D/F Illum. Monument
62.29 S.Q. FT.

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Client Review Status	Mfg. Note	Revision Date
CLIENT APPROVAL _____ DATE _____	One (1) box below MUST be checked prior to mfg.	10-9-15wb
LANDLORD APPROVAL _____ DATE _____	120 Volt <input type="checkbox"/> 277 Volt <input type="checkbox"/>	10-29-15wb
	Other <input type="checkbox"/>	10-30-15wb

Client Review Status	Mfg. Note	Revision Date
CLIENT APPROVAL _____ DATE _____	One (1) box below MUST be checked prior to mfg.	10-9-15wb
LANDLORD APPROVAL _____ DATE _____	120 Volt <input type="checkbox"/> 277 Volt <input type="checkbox"/>	10-29-15wb
	Other <input type="checkbox"/>	10-30-15wb

Project Information	Date: 10-8-15	Page 1
Client: CVS Pharmacy		
Contact: _____		
Address: NWQ Olive & M Street		
City/ST/Zip: Merced, CA		
Phone: _____		
Fax: _____		
Sales: AS Designer: WB		

USS UNITED SIGN SYSTEMS
 O.S.C.L. #718965
 5201 Pentecost Drive Modesto, Calif. 95356
 1-800-481-SIGN
 Phone: 209-543-1320 Fax: 209-543-1326

FRONT & REAR ELEVATIONS

A



FRONT ELEVATION

Scale: 1/16"=1'-0"



REAR ELEVATION

Scale: 1/16"=1'-0"

Client Review Status	Mfg. Note	Revision Date	Project Information
<p>This is an original drawing created by United Sign Systems. It is loaned as part of an advertising or identification program being planned for you by United Sign Systems. It is requested this material is not to be shown to anyone outside your organization, nor used, reproduced, copied or exhibited in any fashion whatsoever. All or part of this design (except for registered trademarks) remain the property of United Sign Systems until transferred actual sale.</p> <p><small>COPYRIGHT 2008 United Sign Systems. This artwork is the exclusive property of United Sign Systems and cannot be reproduced without written permission of United Sign Systems.</small></p>	<p>United Sign Systems requires that an "Approved" drawing be obtained from the client prior to any production release or production release revision</p> <p>One (1) box below MUST be checked prior to mfg.</p> <p>120 Volt <input type="checkbox"/> 277 Volt <input type="checkbox"/></p> <p>Other <input type="checkbox"/></p>	<p>10-9-15wb</p> <p>10-29-15wb</p> <p>10-30-15wb</p>	<p>Date: 10-8-15 <input type="text"/></p> <p>Page 2 <input type="text"/></p> <p>Client: CVS Pharmacy</p> <p>Contact: _____</p> <p>Address: NWQ Olive & M Street</p> <p>City/ST/Zip: Merced ,CA</p> <p>Phone: _____</p> <p>Fax: _____</p> <p>Sales: AS Designer: WB</p>
<p>CLIENT APPROVAL _____ DATE _____</p> <p>LANDLORD APPROVAL _____ DATE _____</p>			

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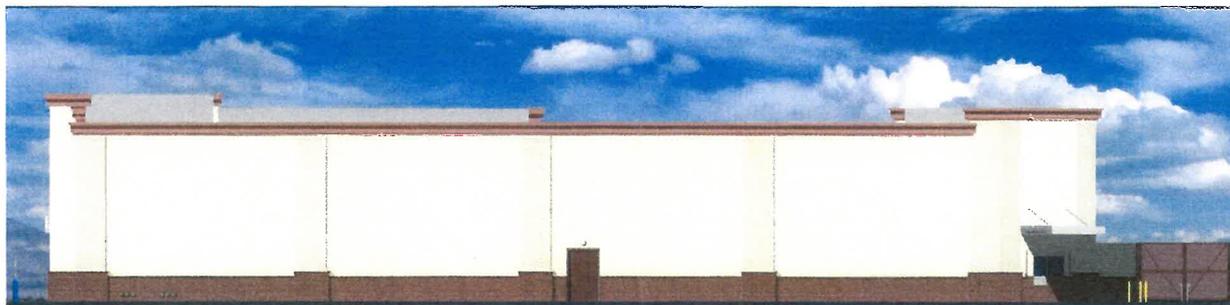
LEFT & RIGHT ELEVATIONS

B



LEFT ELEVATION

Scale: 1/16"=1'-0"



RIGHT ELEVATION

Scale: 1/16"=1'-0"

Client Review Status	Mfg. Note	Revision Date	Project Information
		10-9-15wb	Date: 10-8-15
		10-29-15wb	Page 3
		10-30-15wb	
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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: Conditional Use Permit #1207 (Environmental Review #15-35)

Project Applicant: Boos Development, on behalf of SEW Enterprises, LLC, property owners

Project Location (Specific): 625 and 645 W. Olive Ave. **APN:** 236-220-019 & -020

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

Description of Nature, Purpose, and Beneficiaries of Project:

Demolition of two existing buildings and construction of a 12,900-square-foot CVS Pharmacy with a drive-thru.

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: David O'Donnell for Boos Development

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. Section Number: Section 153032 (in-fill Development Projects)
- Statutory Exemptions. State Code Number: _____.
- General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: Project is considered an in-fill development project. The project location is within the City limits on a 2.2 acre parcel surrounded by urban uses. The site can be served by all required utilities and public services, and the project site has no value as habitat for endangered, rare or threatened species. No significant effects resulting from traffic, noise, air quality, or water quality will result from the subdivision of the lots. The project is consistent with the City of Merced General Plan and Zoning regulations.

Lead Agency: City of Merced

Contact Person: Julie Nelson, Planner

Area Code/Telephone:(209) 385-6858

Signature: _____ **Date:** 12-10-15 **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 #_____

WHEREAS, the Merced City Planning Commission at its regular meeting of January 6, 2016, held a public hearing and considered **Conditional Use Permit #1207**, initiated by Boos Development on behalf of SEW Enterprises, LLC, property owners. This application involves a request to demolish two existing three-story office buildings and construct a new 12,900-square-foot CVS Pharmacy (with alcohol sales for off-site consumption) and a 4,000-square-foot future retail pad on two parcels containing approximately 2.19 acres, located on the north side of Olive Avenue, approximately 120 feet west of M Street (625 and 645 West Olive Avenue). These parcels are located within Planned Development (P-D) #1 and have a Regional/Community Commercial (RC) General Plan designation.; also known as Assessor's Parcel No. 236-220-019 and -020; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #16-02; 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 #15-35, and approve Conditional Use Permit #1207, 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: Commissioners

NOES: Commissioners

ABSENT:

ABSTAIN:

Adopted this 6th day of January 2016

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #_____
Conditional Use Permit #1207

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations), -- Attachments C and D of Staff Report #16-02, except as modified by the conditions.
2. All conditions contained in *Resolution #1249-Amended* (“Standard Conditional Use Permit Conditions” shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. 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. Prior to the issuance of a building permit, a Lot Line Adjustment shall be approved modifying the existing property lines and ensuring no building is constructed on top of a property line.
7. All driveways into the site shall meet City Standards. The easternmost driveway on Fairfield Drive shall be modified to meet City Standards. All driveways shall meet handicap accessibility requirements.
8. The developer shall work with the City Engineer to determine the requirements for storm drainage on the site. All storm water shall be captured on-site and metered into the City's storm water system. The developer shall provide all necessary documentation for the City Engineer to evaluate the storm drain system. All storm drain systems shall be installed to meet City Standards.
9. The project shall comply with all the Post Construction Standards required to comply with state requirements for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
10. Approval of alcohol sales shall not become effective until such time as the City Council makes a Finding of Public Convenience or Necessity to allow the sale of alcoholic beverages at this location. If no such finding is made, the approval for alcohol sales with this Conditional Use Permit becomes null and void.
11. 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.
12. A backflow prevention device shall be provided for all water services (i.e., domestic, irrigation, and fire).

13. Parking lot and building lighting shall be shielded or oriented in a way that does not allow “spill-over” onto adjacent lots in compliance with the California Energy Code requirements. Any lighting on the building shall be oriented to shine downward and not spill-over onto adjacent properties.
14. 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 at least one tree for each six parking spaces.
15. Concurrent with or prior to the submittal of a Building Permit Application, the applicant shall submit to the Development Services Department a detailed landscape plan that is consistent with the City’s Water Efficient Landscaping & Irrigation Ordinance (Merced Municipal Code 17.60) and all state-mandated drought restrictions.
16. The proposed signing at Attachment H is not approved. All signing shall comply with the North Merced Sign Ordinance. Based on the proposed building design, the southern elevation would be allowed 53 square feet of signing and the eastern elevation is allowed 42 square feet of signing. A monument sign is approved subject to compliance with the North Merced Sign Ordinance Section 17.36.665. Signing allotted to a monument sign is deducted from the amounts calculated above for wall-mounted signs. The monument sign shall be located outside the ten-foot visual triangle at the driveway entrance.
17. 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.
18. The property owner shall ensure the business occupying the site complies with the City’s “Shopping Cart Ordinance.” (Merced Municipal Code Chapter 8.30) This includes marking all shopping carts, posting all required signs, and implementing a cart retrieval system.
19. Prior to any demolition work being done (interior or exterior), the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Department if required.
20. All mechanical equipment shall be screened from public view.

21. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
22. Bicycle racks shall be provided at a minimum ratio equal to 5% of the vehicular parking spaces.
23. No sales of alcoholic beverages shall be allowed between the hours of 2:00 a.m. and 6:00 a.m.
24. No beer or wine shall be displayed or stored outside of the cooler area and shall not be displayed within 5-feet of the cash register or front door.
25. The proprietor and/or successors in interest and management shall be prohibited from externally advertising or promoting beer and wine and/or distilled spirits including, but not limited to, window and wall signs, banners or free-standing signs (sandwich boards, A-frames, etc.).
26. Employees on duty between the hours of 10 p.m. and 2 a.m. shall be at least 21 years of age to sell beer and wine.
27. 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.
28. No display or sale of beer or wine shall be made from an ice tub.
29. Prior to obtaining a license from the Alcoholic Beverage Control to sell alcohol, each business shall obtain approval for a Finding of Public Convenience or Necessity from the Merced City Council.
30. No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine containers shall be sold as part of a pack or carton.
31. 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.
32. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.

34. If the City Engineer determines a Public Utilities Easement (PUE) is needed along the property frontage on Olive Avenue or Fairfield Drive, the applicant shall dedicate the area needed for the PUE prior to building permit issuance.
35. The applicant shall work with the City's Refuse Department to determine the best location for the refuse enclosure. The enclosure shall be constructed per City Standards.
36. Conditions, Covenants, and Restrictions (CC&R's) shall be recorded prior to the issuance of a building permit providing cross access to all property owners served by the existing driveways on Olive Avenue and Fairfield Drive and providing a joint parking agreement between the existing parcels (APN: 236-220-019 and -020) and the parcel to the east (El Pollo Loco, APN: 236-220-018).
37. If the westernmost driveway on Olive Avenue is to be modified from entrance only to allow both entering and exiting, a letter signed by the adjacent property owner, Doris M. Gonella, Trustee, shall be provided acknowledging and agreeing to the change prior to building permit issuance.
38. The premises shall remain clean and free of debris and graffiti at all times.

n:shared:planning:PC Resolutions: CUP#1207 Exhibit A