

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #16-04

AGENDA ITEM: 4.1

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: Feb. 17, 2016

PREPARED BY: Francisco Mendoza-Gonzalez,
Planner

SUBJECT: **Conditional Use Permit #1211**, initiated by Juan M. Rosas, applicant for Robert L. Bartak, Jr., property owner. This application involves a request to allow an automotive repair shop (for major repairs) at 100 W. Main Street and a used car dealership at 50, 52, 62, and 101 W. Main Street, generally located at the southwest, southeast, and northwest corners of H Street and Main Street, within a Central Commercial (C-C) Zone. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #15-41 (Categorical Exemption)
- 2) Conditional Use Permit #1211

SUMMARY

This application involves a request to allow a major automotive repair shop and a used car dealership within a Central Commercial (C-C) Zone (Attachment A). The major automotive repair shop will be located within a portion of an existing building (13,000-s.f.) at 100 W. Main Street. The used car dealership will be located on two separate parking lots at the northwest and southeast corners of H Street and Main Street (at 101 W. Main Street and 50, 52, and 62 W. Main Street). The dealership and the automotive repair shop will operate under one ownership and will have the same hours of operation (Monday through Friday between 8:00 a.m. and 5:00 p.m., Saturday between 9:00 a.m. and 3:00 p.m., and closed on Sunday).

Used car sales and major automotive repairs (such as bodywork and auto painting) require Conditional Use Permit approval within the C-C zone to help assure that such businesses do not become unsightly or cluttered with dilapidated vehicles, repair parts, flags, inflatable signs, etc. Even though the subject site is located within a Design Review Area, design review will not be required at this time because the applicant is not requesting to modify the exterior of the existing building or canopy (besides conducting basic structural repairs). If in the future the applicant desires to modify the exterior of the existing structures (including paint and signs), the applicant will be required to apply for design review. Staff is recommending approval of this request subject to the conditions of approval outlined below.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #15-41 (Categorical Exemption) and Conditional Use Permit #1211, per the draft Resolution at Attachment G and subject to the following conditions:

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (Floor Plan) and Exhibit 2 (Site Plan) – Attachments B and C of Staff Report #16-04, except as modified by the conditions.
- *2) All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”)—except for Condition #16 which has been superseded by Code.
- *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, 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.
- *6) 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.
- *7) Fire lanes shall be kept clear at all times. (A fire lane with a 25-foot width as referenced on the site plan may require striping at the building permit stage, if deemed necessary by the City’s Fire Department.)
- *8) 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.

- *9) All signing shall comply with the City's Sign Ordinance. Design Review approval and sign permits shall be obtained prior to installing any permanent signing. A Temporary Sign Permit shall be obtained prior to installing any temporary signs or banners. Flags, pennants, temporary freestanding signs, inflatable signs, or A-frame signs are not allowed. Should the applicant/business owner violate these signing restrictions, the City reserves the right to revoke the Conditional Use Permit for a used car lot and major repairs on this site per the revocation procedures in the Merced Municipal Code.
- 10) The applicant shall provide sufficient lighting for the parking lot and vehicle display areas. 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 parcels.
- 11) Auto service repairs shall include services needed to prepare vehicles for sale and the labor shall be conducted away from the public view, inside a screened or enclosed structure. Repair activities shall be limited to those found in the City's "Minor Repair" and "Major Repair" categories (as defined by Merced Municipal Code Section 20.04.060 – Automobile repair, minor and Merced Municipal Code Section 20.04.050 – Automobile repair, major) and shall be subject to Building, Fire, and Health Department (Environmental Department) requirements. All storage of auto-related waste products shall be located away from the public view within a structure.
- 12) Plans for Building Permits shall be drawn by a licensed professional (e.g. an architect or engineer). The exterior and interior of the building shall show compliance with ADA requirements.
- 13) The applicant shall work with the Building Department to ensure that the bent columns under the canopy at the southeast corner of H and Main Street are replaced or repaired.
- 14) The applicant shall work with the Building and Fire Departments to ensure that an appropriate number of exits are provided for the building at 100 W. Main Street.
- 15) The proposed wall separating the automotive shop and the existing karate studio shall have a 1-hour fire rating. Details to be reviewed by the Building Department during the building permit stage.
- 16) The proposed paint booth shall have a fire sprinkler system and be UL approved. Details to be reviewed by the Building Department during the building permit stage.
- 17) All necessary permits shall be obtained from the San Joaquin Valley Air Pollution Control District prior to obtaining a business license.
- 18) The applicant shall work with the City's Water Quality Control Division (and other pertinent departments as determined by the WQC Division) and comply with all requirements for this type of business and obtain all proper permits prior to opening for business. Said requirements may include, but are not limited to, ensuring that all items are

- stored in secondary containments, installing sand separators, installing grease interceptors, and installing floor drains.
- 19) The applicant shall work with the Merced County Health Department and comply with all requirements for this type of business prior to obtaining a business license or building permit.
 - 20) The applicant shall work with the City's Fire Department to ensure that a Hot Permit is obtained for welding activities. A list of hazardous chemicals used in the conduct of business shall be provided to the Fire Department prior to opening for business.
 - 21) Non-operable vehicles shall require a No Exposure Certificate from the State Water Resource Control Board. Non-operable vehicles shall either be stored inside the automotive repair shop (at 100 W. Main Street) or enclosed within a non-transparent fenced area. Should the applicant choose to install a fenced area, the materials, colors, and location of the fence shall be reviewed and approved by the Planning Department.
 - 22) Display vehicles shall not be located on the sidewalk and shall comply with the City's visual corner triangle regulations.
 - 23) The applicant shall work with the City's Refuse Department to determine the exact location for a refuse enclosure. In addition, the applicant shall work with the City's Refuse Department to determine if a recycling container will be required to comply with AB 341. If it is required, the container shall be enclosed within a refuse enclosure built to City Standards. Prior to pouring the concrete for the refuse enclosure, the contractor shall contact the Refuse Department at 209-385-6800 to arrange an inspection by Refuse Department staff to verify the location and angle of the enclosure.
 - 24) The parking lot layouts shall comply with all applicable City Standards.
 - 25) A total of 34 parking spaces shall be provided for the automotive repair shop (requires 28 parking spaces) and used car dealership (requires 6 parking spaces). If a portion of these spaces are to be provided on Assessor's Parcel Numbers 031-164-001, -002, -003, and 031-161-021, a joint parking agreement shall be signed by all property owners and shall be irrevocable as long as this tenant or similar type use remains at 100 W. Main Street.
 - 26) The parking spaces located within the subject site shall be re-painted with a fresh coat of paint prior to opening for business.
 - *27) Parking lot trees shall be provided at a ratio of one tree for every 6 parking spaces (for customer parking only, not applicable to auto display parking). These trees shall be installed per the City's Parking Lot Landscape Standards, 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).
 - 28) The applicant shall install street trees and an irrigation system within the right-of-way adjacent to the project site, as required by the Engineering Department. A landscape and irrigation plan shall be submitted to the Engineering Department for approval prior to the issuance of Building/Fire permits. All landscaping shall be installed prior to the business opening. Details to be worked out on the above requirements with the Engineering

Department to ensure compliance with water conservation regulations based on recent State directives.

- 29) All display vehicles shall be washed and cleaned periodically to maintain a clean appearance, but in a manner that reduces the amount of water used and recycles as much water as possible, such as using automated car washes or other such facilities.
- 30) The premises shall remain clean and free of debris and graffiti at all times.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

This project involves the use of an existing building and two parking lots within the Downtown area. The applicant is proposing to renovate a portion of the interior of the building at 100 W. Main Street (13,000 square feet) to operate a major automotive repair shop and a used car dealership. A wall will be constructed within the northwest quadrant of the building to separate the project area from an existing karate studio (Rayford Shorin-Ryo). Pedestrian access to the building will be provided by a double door fronting Main Street. Vehicular access to the building (for vehicles in need of repairs) will be provided by one roll-up door fronting H Street and by two roll-up doors fronting the alley south of the building. The building layout will consist of a lobby area, a reception area, an office for the automotive repair shop, an office for the used car dealership, two offices for service writing, four car lifts, a spray paint booth, a paint storage room, a locker room, and a parts storage room. Modifications to the exterior of the building are not being proposed at this time. Customer parking and automotive display areas will be located on the parking lots at the southeast and northwest corners of H and Main Streets.

Surrounding Zones and Land Uses (Attachment A):

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	High Density Residential	High Density Residential (R-4)	High Density Residential (HD)
South	Zart Transmissions	Central Commercial (C-C)	Regional/Community Commercial (RC)
East	Rayford Shorin-Ryo (Martial Arts Studio)	Central Commercial (C-C)	Regional/Community Commercial (RC)
West	Suzy’s Barber Shop	Central Commercial (C-C)	Regional/Community Commercial (RC)

BACKGROUND

Historically, the subject site has been used for the sale of new vehicles and to conduct minor automotive repairs. Design Review records show that the existing parking lot canopy was

constructed for an automotive dealership (Datsun Merced) that occupied the subject site between 1984 and 1986. From 1987 to 2007, the subject site was occupied by Merced Nissan and Merced Hyundai (for the sale of new vehicles). Their dealership vehicles were displayed indoors at 100 W. Main Street and outdoors at 50, 52, 62, and 101 W. Main Street. In addition to selling new vehicles, those businesses provided minor automotive repairs (such as oil changes and tire repairs) within the building at 100 W. Main Street. Since 2007, the subject site has generally remained vacant. Only a small portion of the building at 100 W. Main Street (2,000-s.f.) has since been occupied (by current tenant Rayford Shorin-Ryo, a Karate Studio).

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 and the zoning designation of Central Commercial (C-C) with approval of a Conditional Use Permit.

Parking

- B) The off-street parking requirement for an automobile sale lot is three parking spaces for each lot in addition to one parking space for each employee working during the largest shift. The parking requirement for an automotive repair shop is one parking space for each four hundred square feet of floor area in addition to one parking space for each vehicle used in the conduct of business. Based on these formulas, and with a 15% parking reduction allowed by the ordinance for non-customer areas, the business will be required to provide a minimum of 34 parking spaces. As shown on the attached site plan (Attachment C), the project satisfies the City's parking requirement by having a total of 37 parking spaces. Twelve parking spaces will be located on the northwest corner of H Street and Main Street and twenty-five parking spaces will be located on the southeast corner of H Street and Main Street (shared parking allowed in Merced Municipal Code Section 20.58.370.C.). Even though these parking lots and the building at 100 W. Main Street have the same owner, a parking agreement shall be required to prevent any future property owners from forbidding the automotive repair shop from parking on the above referenced parking lots (Condition #25). Parking lot trees, selected from the City's "Approved Tree List", shall be provided at a ratio of one tree for every six parking spaces (for customer parking only, parking lot trees are not required parking for areas used for display vehicles).

Site Design

- C) The subject site occupies the southwest, southeast, and northwest corners of H Street and Main Street. The applicant is not requesting to make any modifications to the existing site plan. The automotive repairs shop will occupy the existing building (13,000-s.f.) at the southwest corner of H and Main Street. Pedestrian access will be provided by an existing double door fronting Main Street. Vehicular access (for vehicles in need of repairs) will be provided by one roll-up door fronting H Street and two roll-up doors fronting the alley south of the building. Additional exits may be required to satisfy Building and Fire Code requirements (Condition #14).

The used car dealership will occupy the southeast and northwest corners of H Street and Main Street. The parking lot at the southeast corner of H and Main Streets is accessible from a driveway on Main Street and from an alley south of the parking lot. This site has an existing L-shaped canopy with a metal frame and replica tile roof façade (see Attachment E), that will be used to protect display vehicles from rain, hail, heat, and other elements of the weather (structural repairs shall be required to the canopy as shown in Condition #13). In addition to providing a vehicle display area, this site will be used to provide customer parking (25 parking spaces) along the eastern, western, and southern sides of the parking lot. Vehicle washing and detailing will be provided place onsite. The applicant will be required to contact the City's Water Quality Control Division and comply with their requirements for washing vehicles onsite. Said requirements may include but, is not limited to, installing sand and oil separators (Condition #18).

The parking lot on the northwest corner of H Street and Main Streets is accessible from a driveway on Main Street and a driveway on H Street. This parking lot does not have any structures onsite. Display vehicles will be located along Main Street and H Street. Customer parking (12 parking spaces) will be located on the northern and western sides of the parking lot. Display vehicles will be required to be washed and cleaned periodically to maintain a clean appearance (Condition #29). Display vehicles may not be located on the sidewalk or any other public right-of-way (Condition #22). Non-operable vehicles shall require a No Exposure Certificate and shall be screened away from the public view inside the building at 100 W. Main Street or be located within a nontransparent fence (Condition #21). Automotive repair parts or equipment associated with this business may not be stored outdoors. The applicant will be required to work with the Merced County Health Department, Merced Building Department, Merced Water Division, and the San Joaquin Valley Air Pollution District, obtain all required permits from these agencies and comply with their regulations (Conditions #17 and #19).

Public Improvements

- D) Necessary public improvements will be required with the approval of this Conditional Use Permit. These improvements may include, but are not limited to, repairs or upgrades to the sidewalk, curb, gutter, driveway approaches, and installing street trees. All necessary public improvements shall be constructed along the property frontages adjacent to the subject site, as required by the City's Engineering Department (Conditions #6 and #28).

Building Design

- E) The applicant is not requesting to modify the exterior of any structures at this time. Because the subject site is located within the City's Design Review Boundary, exterior modification shall require design review approval. Minor exterior modifications such as paint, signs, or basic repairs may be reviewed at staff level. Major modifications such as façade improvements, building additions, or constructing accessory structures, may require approval from either the Site Plan Review Committee or Planning Commission, as deemed necessary by the Director of Development Services.

Signage

- F) The project site is located within the City's Design Review Boundary and is subject to the sign requirements for this area and the General Regulations of the Sign Ordinance. As such, the building at 100 W. Main Street would be eligible for one square-foot of permanent signing for each lineal foot of building frontage. In addition, this building would be eligible for one-half square-foot of signing for each lineal foot of secondary building frontage.

A Temporary Sign Permit shall be obtained prior to installing any temporary signs or banners. Flags, pennants, temporary freestanding signs, inflatable signs, or A-frame signs are not allowed. Should these signing restrictions be violated, the City reserves the right to revoke the Conditional Use Permit on this site per the revocation procedures in the Merced Municipal Code (Condition #9).

Land Use

- G) The Central Commercial Zone allows uses such as "new" automotive sales and service/repair garages for "minor" repairs. A Conditional Use Permit is needed because the proposed automotive shop will provide repairs that are considered more than "minor" (such as collision repairs and automotive paint) and because the proposed dealership will sell "used" vehicles. The Conditional Use Permit process gives an opportunity to include conditions of approval that help address land use-related issues regarding aesthetics, illegal signs, noise, hazardous chemicals, parking, etc. Staff is of the opinion that this project is compatible with the surrounding area as long as the applicant complies with all of the conditions included in this staff report.

Neighborhood Impact/Interface

- H) Automotive-related uses are common throughout the Downtown area. The two properties located southwest and southeast of the subject site are currently occupied by a major automotive repair shop and by a dealership for used vehicles. Within the last ten years, the Planning Commission has approved several conditional use permits for both used car dealerships and major automotive repair shops within the Downtown area (819, 820, 831, and 851 W. 16th Street and 820 W. Main Street). As of the time that this staff report was written, Planning staff has not received any complaints about the above referenced automotive uses. Given the nature of the surrounding area, this request would not be a nuisance for the area or create any unusual circumstances for the surrounding business.

Environmental Clearance

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

Attachments:

- A) Location Map
- B) Floor Plan
- C) Automotive Dealership Site Plan
- D) Photographs of the Automotive Repair Shop Building (Interior and Exterior)
- E) Photographs of the Dealership Lots
- F) Categorical Exemption
- G) Draft Planning Commission Resolution



Proposed Used Car Lot & Parking

Proposed Automotive Repair Shop (Major Repairs)

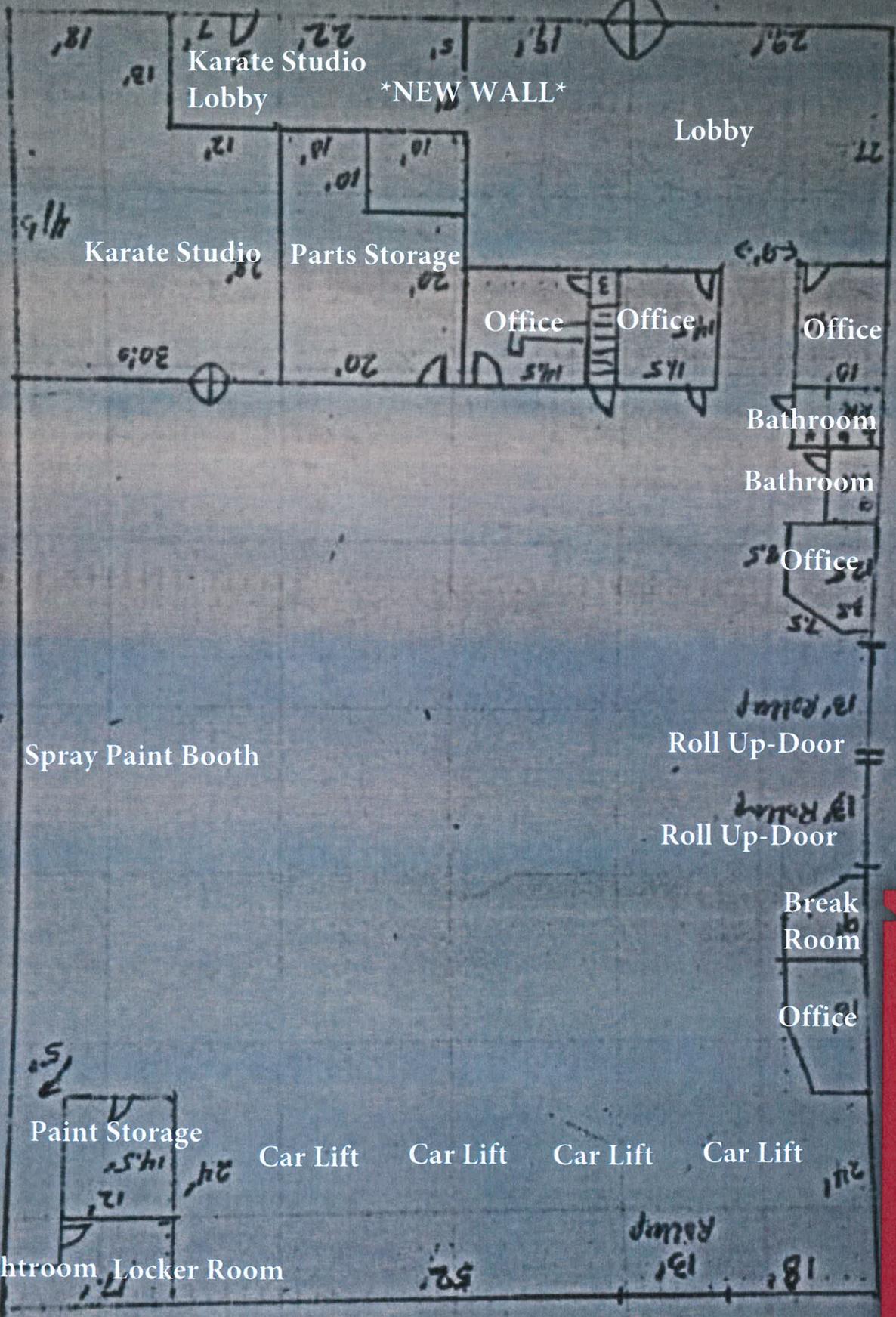
Proposed Used Car Lot & Parking

18TH

16TH

ATTACHMENT A

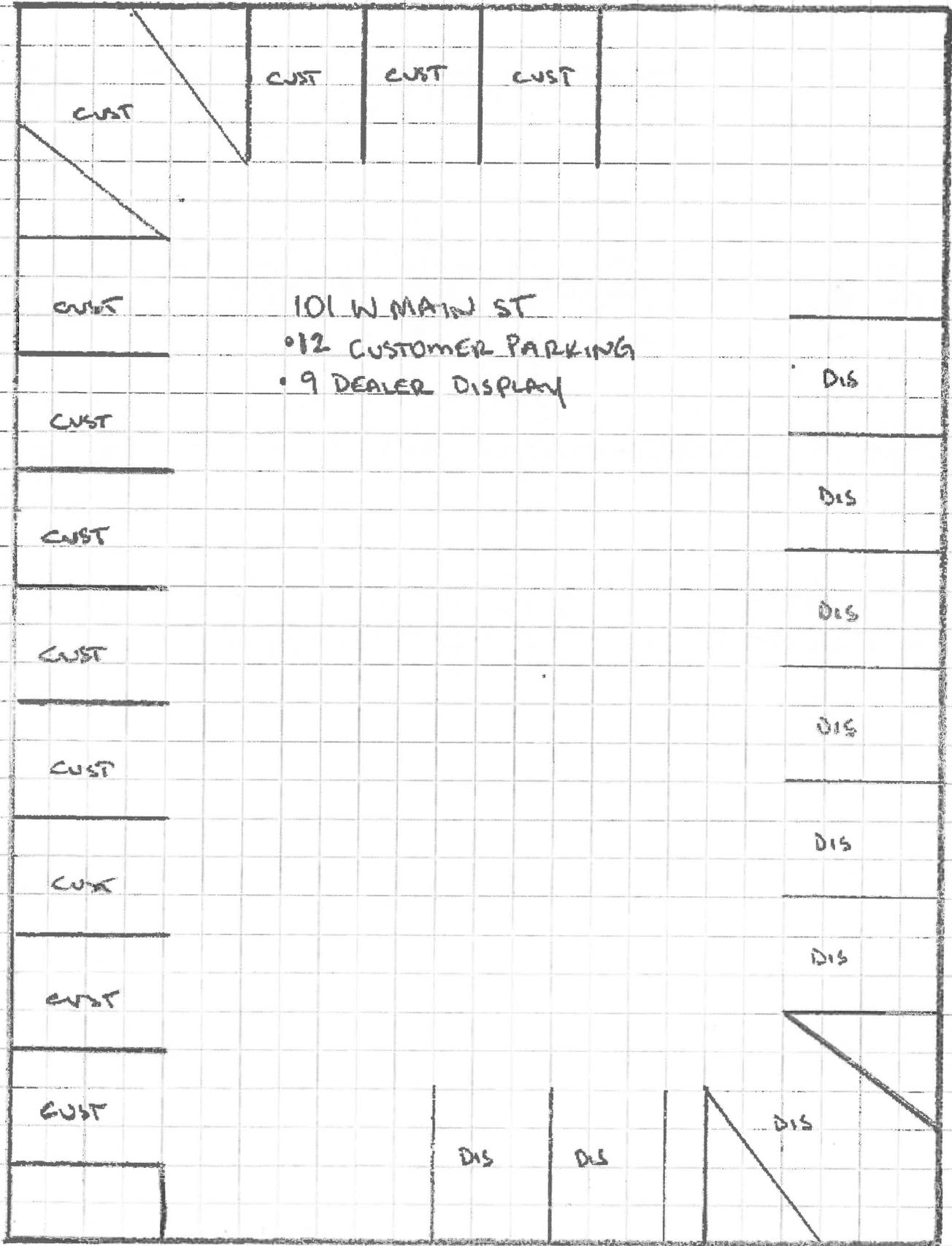
← 1001 →



H Street

Drawing (Not to Scale)
 100 W Main Street
 Merced, CA 95340

ATTACHMENT B



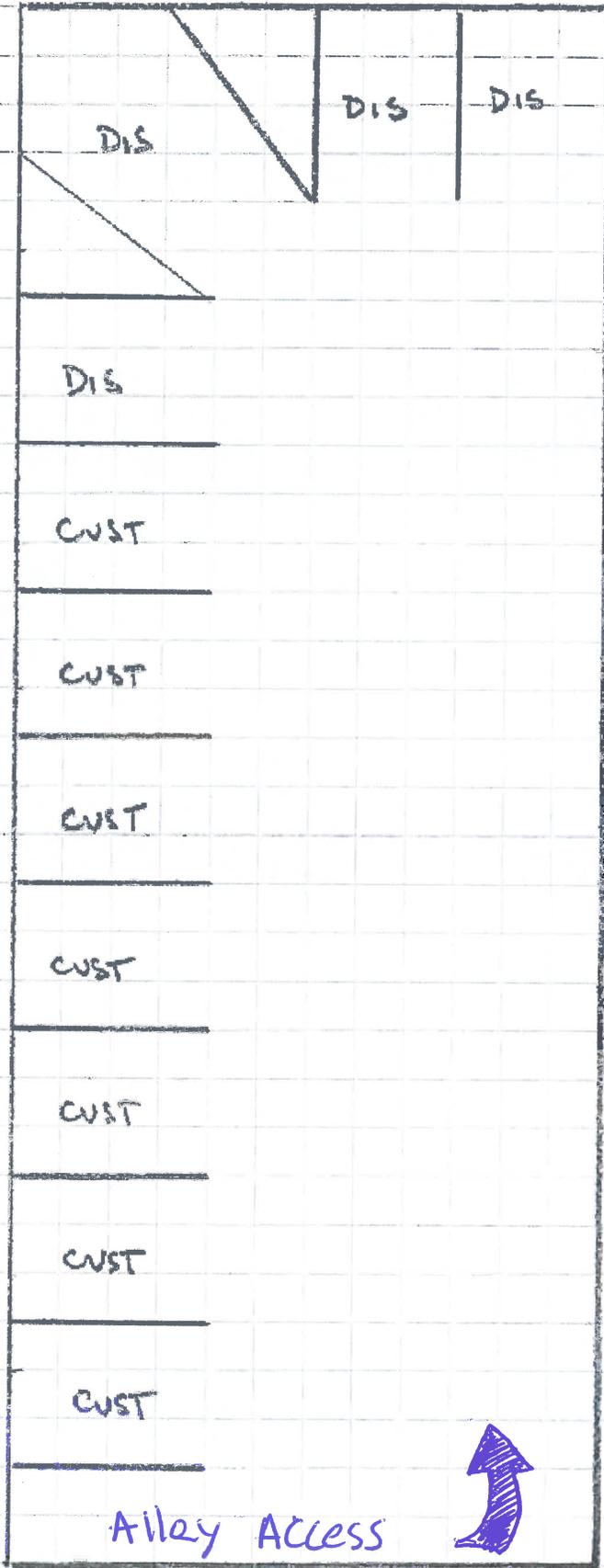
ATTACHMENT C

← Main St. →

60 W MAIN ST

• 7 CUSTOMER PARKING

• 4 DEALER DISPLAY



↑ 150' ↓

H St.

← 50' →

Part 1 of Southeast corner of H and Main Streets

Main St.

52 W. MAIN ST

DIS

CUST

CUST

CUST

• 7 CUSTOMER PARKING

• 1 DEALER DISPLAY

↑
150
↓

CUST

CUST

CUST

CUST

← 50' →

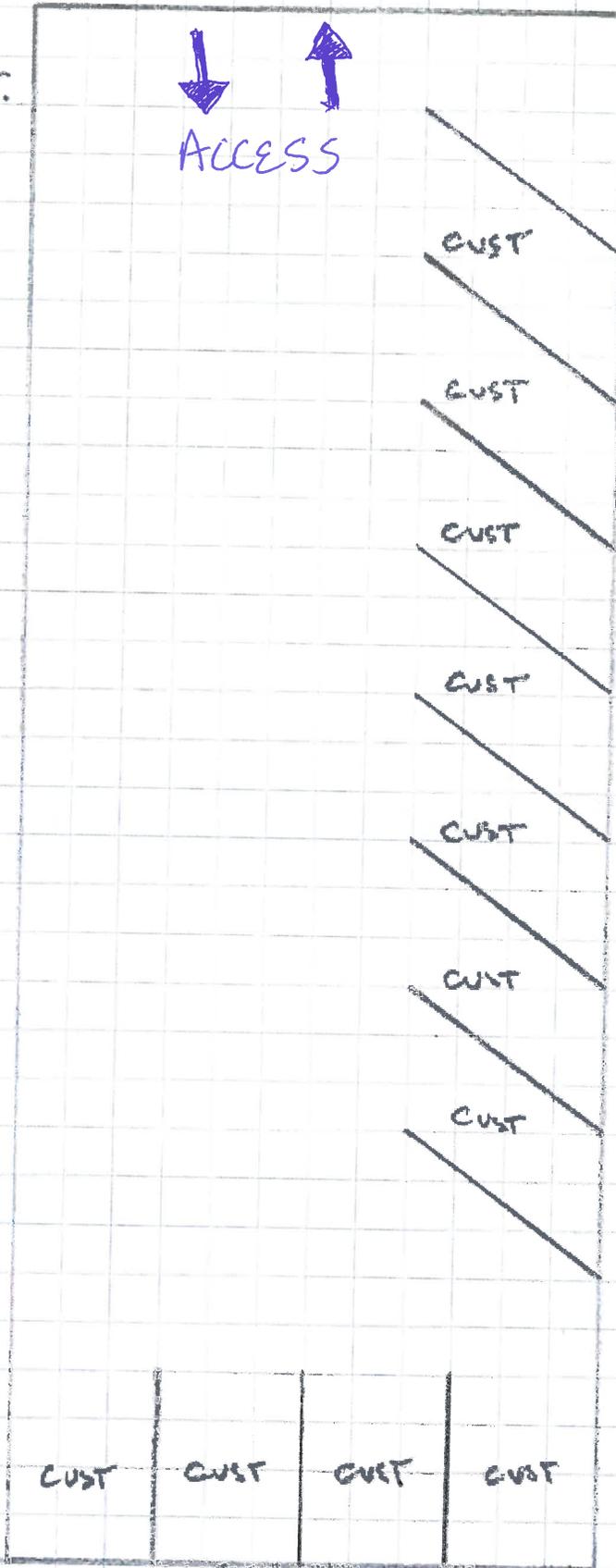
Part 2 of southeast corner of H and Main Streets

Main St.

50 W MAIN ST.

↓ ↑
ACCESS

• 11 CUSTOMER
PARKING



↑
150
↓

CUST CUST CUST CUST

← 50' →

Part 3 of southeast corner of Pl and Main streets

Photos
100 W Main Street
Merced, CA 95340
Use-Major Auto Repair



ATTACHMENT D

Photos

50, 60, 62, W Main Street
Merced, CA 95340

Use-Parking Lot and/or Used
Car Lot



Photos:
101 W Main Street
Merced, CA 95340
Use-Parking Lot



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 #1211 (Environmental Review #15-41)

Project Applicant: Juan M. Rosas

Project Location (Specific): 50, 52, 62, 100, and 101 W. Main St.

APN: 031-162-007, 031-164-001, -002, -003, and 031-161-021

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

Description of Nature, Purpose, and Beneficiaries of Project:

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: Jameel Taka

Exempt Status: (check one)

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

Reasons why Project is Exempt: As defined under the above referenced Section, the proposed project consists of minor interior and exterior alterations only, such as installing car lifts and providing used car lots, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

Lead Agency: City of Merced
Contact Person: Francisco Mendoza-Gonzalez **Area Code/Telephone:** (209) 385-6858

Signature:  **Date:** 01-21-2016 **Title:** Planner

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

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

CITY OF MERCED
Planning Commission

Resolution #3064

WHEREAS, the Merced City Planning Commission at its regular meeting of February 17, 2016, held a public hearing and considered **Conditional Use Permit #1211**, initiated by Juan M. Rosas, applicant for Robert L. Bartak, Jr., property owner. This application involves a request to allow an automotive repair shop (for major repairs) at 100 W. Main Street and a used car dealership at 50, 52, 62, and 101 W. Main Street, generally located at the southwest, southeast, and northwest corners of H Street and Main Street, within a Central Commercial (C-C) Zone; also known as Assessor's Parcel Numbers 031-162-007, 031-164-001, -002, -003, and 031-161-021; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #16-04; 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 #15-41, and approve Conditional Use Permit #1211, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

ATTACHMENT G

PLANNING COMMISSION RESOLUTION #3064

Page 2

February 17, 2016

Adopted this 17th day of February 2016

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions: CUP#1211 Bartak-Rosas Auto Body Repair

Conditions of Approval
Planning Commission Resolution #3064
Conditional Use Permit #1211

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (Floor Plan) and Exhibit 2 (Site Plan) – Attachments B and C of Staff Report #16-04, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”)—except for Condition #16 which has been superseded by Code.
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, 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.

6. 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.
7. Fire lanes shall be kept clear at all times. (A fire lane with a 25-foot width as referenced on the site plan may require striping at the building permit stage, if deemed necessary by the City's Fire Department.)
8. 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.
9. All signing shall comply with the City's Sign Ordinance. Design Review approval and sign permits shall be obtained prior to installing any permanent signing. A Temporary Sign Permit shall be obtained prior to installing any temporary signs or banners. Flags, pennants, temporary freestanding signs, inflatable signs, or A-frame signs are not allowed. Should the applicant/business owner violate these signing restrictions, the City reserves the right to revoke the Conditional Use Permit for a used car lot and major repairs on this site per the revocation procedures in the Merced Municipal Code.
10. The applicant shall provide sufficient lighting for the parking lot and vehicle display areas. 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 parcels.
11. Auto service repairs shall include services needed to prepare vehicles for sale and the labor shall be conducted away from the public view, inside a screened or enclosed structure. Repair activities shall be limited to those found in the City's "Minor Repair" and "Major Repair" categories (as defined by Merced Municipal Code Section 20.04.060 – Automobile

EXHIBIT A

of Planning Commission Resolution #3064

repair, minor and Merced Municipal Code Section 20.04.050 – Automobile repair, major) and shall be subject to Building, Fire, and Health Department (Environmental Department) requirements. All storage of auto-related waste products shall be located away from the public view within a structure.

12. Plans for Building Permits shall be drawn by a licensed professional (e.g. an architect or engineer). The exterior and interior of the building shall show compliance with ADA requirements.
13. The applicant shall work with the Building Department to ensure that the bent columns under the canopy at the southeast corner of H and Main Street are replaced or repaired.
14. The applicant shall work with the Building and Fire Departments to ensure that an appropriate number of exits are provided for the building at 100 W. Main Street.
15. The proposed wall separating the automotive shop and the existing karate studio shall have a 1-hour fire rating. Details to be reviewed by the Building Department during the building permit stage.
16. The proposed paint booth shall have a fire sprinkler system and be UL approved. Details to be reviewed by the Building Department during the building permit stage.
17. All necessary permits shall be obtained from the San Joaquin Valley Air Pollution Control District prior to obtaining a business license.
18. The applicant shall work with the City's Water Quality Control Division (and other pertinent departments as determined by the WQC Division) and comply with all requirements for this type of business and obtain all proper permits prior to opening for business. Said requirements may include, but are not limited to, ensuring that all items are stored in secondary containments, installing sand separators, installing grease interceptors, and installing floor drains.
19. The applicant shall work with the Merced County Health Department and comply with all requirements for this type of business prior to obtaining a business license or building permit.
20. The applicant shall work with the City's Fire Department to ensure that a Hot Permit is obtained for welding activities. A list of hazardous chemicals used in the conduct of business shall be provided to the Fire Department prior to opening for business.

21. Non-operable vehicles shall require a No Exposure Certificate from the State Water Resource Control Board. Non-operable vehicles shall either be stored inside the automotive repair shop (at 100 W. Main Street) or enclosed within a non-transparent fenced area. Should the applicant choose to install a fenced area, the materials, colors, and location of the fence shall be reviewed and approved by the Planning Department.
22. Display vehicles shall not be located on the sidewalk and shall comply with the City's visual corner triangle regulations.
23. The applicant shall work with the City's Refuse Department to determine the exact location for a refuse enclosure. In addition, the applicant shall work with the City's Refuse Department to determine if a recycling container will be required to comply with AB 341. If it is required, the container shall be enclosed within a refuse enclosure built to City Standards. Prior to pouring the concrete for the refuse enclosure, the contractor shall contact the Refuse Department at 209-385-6800 to arrange an inspection by Refuse Department staff to verify the location and angle of the enclosure.
24. The parking lot layouts shall comply with all applicable City Standards.
25. A total of 34 parking spaces shall be provided for the automotive repair shop (requires 28 parking spaces) and used car dealership (requires 6 parking spaces). If a portion of these spaces are to be provided on Assessor's Parcel Numbers 031-164-001, -002, -003, and 031-161-021, a joint parking agreement shall be signed by all property owners and shall be irrevocable as long as this tenant or similar type use remains at 100 W. Main Street.
26. The parking spaces located within the subject site shall be re-painted with a fresh coat of paint prior to opening for business.
27. Parking lot trees shall be provided at a ratio of one tree for every 6 parking spaces (for customer parking only, not applicable to auto display parking). These trees shall be installed per the City's Parking Lot Landscape Standards, 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).
28. The applicant shall install street trees and an irrigation system within the right-of-way adjacent to the project site, as required by the Engineering Department. A landscape and irrigation plan shall be submitted to the

Engineering Department for approval prior to the issuance of Building/Fire permits. All landscaping shall be installed prior to the business opening. Details to be worked out on the above requirements with the Engineering Department to ensure compliance with water conservation regulations based on recent State directives.

29. All display vehicles shall be washed and cleaned periodically to maintain a clean appearance, but in a manner that reduces the amount of water used and recycles as much water as possible, such as using automated car washes or other such facilities.
30. The premises shall remain clean and free of debris and graffiti at all times.

n:shared:planning:PC Resolutions: CUP#1211 Exhibit A