

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #16-09

AGENDA ITEM: 4.1

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: May 4, 2016

PREPARED BY: Francisco Mendoza-Gonzalez,
Planner

SUBJECT: **Modification of Conditional Use Permit #1103**, initiated by Sarvjit Singh, applicant for SPA Petroleum, Incorporated, property owners. This application involves a request to modify an existing Conditional Use Permit to extend alcohol sale hours (for off-site consumption) from 12:00 a.m. to 2:00 a.m. for the AM/PM mini-market at 3100 G Street, generally located at the northeast corner of G Street and Olive Avenue, within a Neighborhood Commercial (C-N) Zone. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #16-07 (Categorical Exemption)
- 2) Modification of Conditional Use Permit #1103

SUMMARY

Conditional Use Permit (CUP) #1103 was originally approved by the Planning Commission in 2006 to allow the demolition and reconstruction of a gas station and mini-market with alcohol sales for off-site consumption at 3100 G Street (Attachment A). A conditional use permit was required, because the Project involved the concurrent sale of gasoline and alcohol. At that time, the Planning Commission adopted Findings showing that the Project would not require a Finding of Public Convenience or Necessity from City Council, because the subject site was located within an Alcoholic Beverage Control Census Tract (11.01) that was not over-concentrated with alcohol sales for off-site consumption. In addition, the Planning Commission adopted Findings showing that the Project was compatible with the surrounding neighborhood and that it should not affect the economic or social welfare of the area.

The new owner of AM/PM, Sarvjit Singh, is requesting approval to modify Condition #19 from CUP #1103 to extend alcohol sale hours from 12:00 a.m. to 2:00 a.m. The applicant is not requesting to modify any other conditions or to make any changes to the interior or exterior of the building. This request is not uncommon as it is standard for Alcoholic Beverage Control to allow businesses (such as gas stations and supermarkets) to sell alcohol for off-site consumption until 2:00 a.m. The 7-Eleven located 20 feet southeast from the subject site currently sells alcohol for off-site consumption until 2:00 a.m. Neither the original staff report nor the minute excerpts from CUP #1103 explain why alcohol sale hours were restricted until 12:00 a.m. This condition was most likely included to address potential alcohol-related concerns during that time. However, AM/PM has now been selling alcohol for approximately ten years and the Police Department has

not had any particular issues with the mini-market or their management of alcohol sales. The Police Department has reviewed this request and they do not have any concerns. Staff is recommending approval with conditions.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #16-07 (Categorical Exemption) and the modification of Conditional Use Permit #1103 (including the adoption of the modified Resolution at Attachment H), subject to the following modified Condition #19 and additional Condition #23 (~~strike through~~ deleted language, underline added language):

19) Alcohol sales shall cease at ~~12:00 a.m. (midnight)~~ 2:00 a.m. regardless of the business hours for the store in general.

23) The business shall meet all applicable Alcoholic Beverage Control (ABC) requirements.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

Conditional Use Permit #1103 was originally approved by the Planning Commission in 2006 to allow the demolition and reconstruction of a gas station and mini-market with alcohol sales for off-site consumption at 3100 G Street (Attachment A). The approved site plan included a 2,400-square-foot mini-market and a service station (with 12 gas pumps) on a 0.43-acre parcel at the northeast corner of Olive Avenue and G Street. To address alcohol-related concerns, the Planning Commission approved the Project with conditions limiting both the advertising of alcohol (Condition #14) and the display of alcohol (Conditions #13 and #16). In addition, they adopted a condition establishing a minimum age requirement for employees selling alcohol during specific times (Condition #17).

The new owner of AM/PM, Sarvjit Singh, is requesting approval to modify Condition #19 to extend alcohol sale hours from 12:00 a.m. to 2:00 a.m. The applicant is not requesting to modify any other conditions or the existing site plan.

Surrounding Zones and Land Uses (Attachment A):

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Taco Bell/Rite-Aid Shopping Center	C-N	Neighborhood Commercial (CN)
South	Walgreens (across Olive Avenue)	C-N	Neighborhood Commercial (CN)
East	7-Eleven/Rite-Aid Shopping Center	C-N	Neighborhood Commercial (CN)
West	Merced High School (Across G Street)	R-1-6	School (SCH)

BACKGROUND

In the early 1960's, this site and portions of the surrounding area were re-zoned from Residential to Commercial. This allowed the subsequent construction of the gas station at this location. In 1979, the owner obtained Conditional Use Permit approval to convert a portion of the gas station to a retail/snack area. In 1984, the owner applied for approval to convert the retail/snack area to a standard Arco Convenience food store (mini-market), including the sale of beer and wine. This request was denied by the Planning Commission. However, this denial seemed to focus more on the proposed signage rather than the proposed use. The City Council upheld the Planning Commission's denial, but was more focused on the proposed sale of beer and wine at a gas station in close proximity to a school. The City Council felt that these concerns were sufficient grounds for denial.

In 1984, the City's Zoning Ordinance did not have any requirements addressing the concurrent sale of alcohol and gasoline. Since that time, the Zoning Ordinance was amended to address this issue and now requires inclusion of six specific conditions with any approval (MMC Section – 20.54.085 Concurrent Sale of Gasoline and Alcohol). Moreover, in 2006, the subject site obtained CUP approval for the demolition and reconstruction of a gas station and mini-market with the sale of alcohol for off-site consumption. At that time, the subject site was reviewed for compatibility with the surrounding neighborhood and for compliance with Alcoholic Beverage Control requirements.

FINDINGS/CONSIDERATIONS:

General Plan/Zoning Compliance and Policies Related to This Application

- A) A gas station with alcohol sales for off-site consumption is allowed with Conditional Use Permit approval within the Neighborhood Commercial (C-N) Zone and complies with the General Plan designation of Neighborhood Commercial (CN).

Merced Police Department

- B) During 2015, the Merced Police Department recorded 694 incidents within a 600-foot radius of the AM/PM at 3100 G Street. The table on the next page shows the number of incidents within that area involving DUI's, public intoxication, assaults, MMC violations, and narcotics violations (totaling 107 incidents for the year of 2015). As shown on the attached Incident Map (Attachment F), the majority of those incidents occurred away from the gas station and mini-market within the Mission Plaza (located northeast of the subject site). The number of incidents reported City-wide for the same time period was 63,024 (Attachment E). Based on the total number of calls within the City, the 694 calls to this area equals 1.1% of the overall crime within the City. As shown on the attached Crime Hot Spot Map for the City of Merced (Attachment D), crime rates in this area are considered Very High compared to the rest of the City. However, the Police Department believes that most of those incidents were not related to the AM/PM and that extending their alcohol sale hours from 12:00 a.m. to 2:00 a.m. would not have a significant impact on Police Department resources.

Incidents and Cases Reported in 2015

Incident/Case Type	Number of Incidents
DUI	0
Public Intoxication	6
Disturbance (assaults)	3
MMC*	98
Narcotics violations	0

*Municipal Code Violations regarding open containers, drinking in public, etc.

Planning staff consulted with the Merced Police Department regarding the extension of alcohol sale hours at this location. The Police Department did not have any concerns with this request and is not requiring any conditions of approval not normally associated with alcohol sales for off-site consumption. Beer and wine have been sold at this location since 2006, and the Police Department has not had any particular issues with the gas station/mini-market or their management of alcohol sales. Based on the information provided by the Police Department, and the fact that alcohol sales currently exist in the area (7-Eleven, Rite Aid, Walgreens, and Save Mart), staff does not anticipate that the approval of this request would adversely affect the economic and social welfare of the surrounding area.

Parking

- C) Off-street parking was addressed with the approval of the mini-market and gas station in 2006. The approval of the modification to Conditional Use Permit #1103 will not affect parking.

Neighborhood Impact

- D) In 2006, AM/PM obtained Conditional Use Permit approval to sell alcohol for off-site consumption. At that time, the subject site was reviewed for compatibility with the surrounding neighborhood and for compliance with Alcoholic Beverage Control requirements. The Planning Commission adopted Findings showing that the Project would not require a Finding of Public Convenience or Necessity from City Council, because the subject site was located within an Alcoholic Beverage Control Census Tract (11.01) that was not over-concentrated with alcohol sales for off-site consumption. In addition, the Planning Commission adopted Findings showing that the Project was compatible with the surrounding neighborhood and that it should not adversely affect the economic and social welfare of the surrounding area. The Planning Commission approved the sale of alcohol for off-site consumption with conditions limiting both the advertising of alcohol (Condition #14) and the display of alcohol (Conditions #13 and #16). In addition, they adopted a conditions establishing an age requirement for employees selling alcohol during certain times of the night (Condition #17).

The surrounding properties to the north, south, and east of the subject site mostly consists of restaurants and retail businesses. The property to the west (across G Street) belongs to Merced High School. However, the nearest classroom to AM/PM is located approximately 1,200 feet away and is separated by a soccer field, track field, and administrative building. Other businesses within a 400-foot radius of the subject site currently sell alcohol for off-

site consumption, including Rite Aid, Walgreens, and Save Mart. The 7-Eleven located 20 feet southeast of the subject site currently sells alcohol until 2:00 a.m.

Given that 7-Eleven currently sells alcohol for off-site consumption until 2:00 a.m. and that other nearby businesses sell alcohol for off-site consumption, this request would not create any unusual circumstances for the neighborhood. A Public Hearing Notice was circulated in the Merced County Times and mailed to property owners within 300 feet of the subject site three weeks prior to this public hearing. As of the date that this report was prepared, staff has not received any comments or concerns from the community about this request.

Environmental Clearance

- E) The Planning staff has conducted an environmental review (#16-07) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption is being recommended (Attachment G).

Attachments:

- A) Location Map
- B) Site Plan/Floor Plan
- C) Elevations
- D) Crime Hot Spot Map for the Entire City During 2015
- E) Incident Map for the Entire City During 2015
- F) Incident Map Near Subject Site (600-foot Radius)
- G) Categorical Exemption
- H) Modified Planning Commission Resolution #2908 for CUP #1103

Merced High School
(Administrative Building)

Taco Bell

Subject Site
(AM/PM Mini Market & Gas Station)



©

OLIVE

AutoZone

ATTACHMENT A





CADIZ ARCHITECTS
 1100 W. 14TH STREET
 SUITE 200
 SAN ANTONIO, TEXAS 78207
 TEL: (214) 343-9437

GENERAL NOTES:

- 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF SAN ANTONIO SPECIFICATIONS AND THE TEXAS STATE SPECIFICATIONS.
- 2. ALL MATERIALS AND METHODS SHALL BE APPROVED BY THE ARCHITECT.
- 3. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
- 4. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED BUDGET.
- 5. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED QUALITY STANDARDS.
- 6. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED SAFETY STANDARDS.
- 7. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ENVIRONMENTAL STANDARDS.
- 8. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ACCESSIBILITY STANDARDS.
- 9. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED HISTORIC PRESERVATION STANDARDS.
- 10. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ARCHITECTURAL STANDARDS.
- 11. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ENGINEERING STANDARDS.
- 12. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ELECTRICAL STANDARDS.
- 13. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED MECHANICAL STANDARDS.
- 14. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED PLUMBING STANDARDS.
- 15. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED FIRE PROTECTION STANDARDS.
- 16. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED SOUND ATTENUATION STANDARDS.
- 17. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED VIBRATION STANDARDS.
- 18. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED LIGHTING STANDARDS.
- 19. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED SIGNAGE STANDARDS.
- 20. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED SECURITY STANDARDS.
- 21. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED WEATHERING STANDARDS.
- 22. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED PEST CONTROL STANDARDS.
- 23. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED AIR QUALITY STANDARDS.
- 24. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED ENERGY EFFICIENCY STANDARDS.
- 25. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED SUSTAINABILITY STANDARDS.

KEYED NOTES:

- 1. FINISH BY JOB CONTRACTOR.
- 2. FINISH BY JOB CONTRACTOR.
- 3. FINISH BY JOB CONTRACTOR.
- 4. FINISH BY JOB CONTRACTOR.
- 5. FINISH BY JOB CONTRACTOR.
- 6. FINISH BY JOB CONTRACTOR.
- 7. FINISH BY JOB CONTRACTOR.
- 8. FINISH BY JOB CONTRACTOR.
- 9. FINISH BY JOB CONTRACTOR.
- 10. FINISH BY JOB CONTRACTOR.
- 11. FINISH BY JOB CONTRACTOR.
- 12. FINISH BY JOB CONTRACTOR.
- 13. FINISH BY JOB CONTRACTOR.
- 14. FINISH BY JOB CONTRACTOR.
- 15. FINISH BY JOB CONTRACTOR.
- 16. FINISH BY JOB CONTRACTOR.
- 17. FINISH BY JOB CONTRACTOR.
- 18. FINISH BY JOB CONTRACTOR.
- 19. FINISH BY JOB CONTRACTOR.
- 20. FINISH BY JOB CONTRACTOR.
- 21. FINISH BY JOB CONTRACTOR.
- 22. FINISH BY JOB CONTRACTOR.
- 23. FINISH BY JOB CONTRACTOR.
- 24. FINISH BY JOB CONTRACTOR.
- 25. FINISH BY JOB CONTRACTOR.

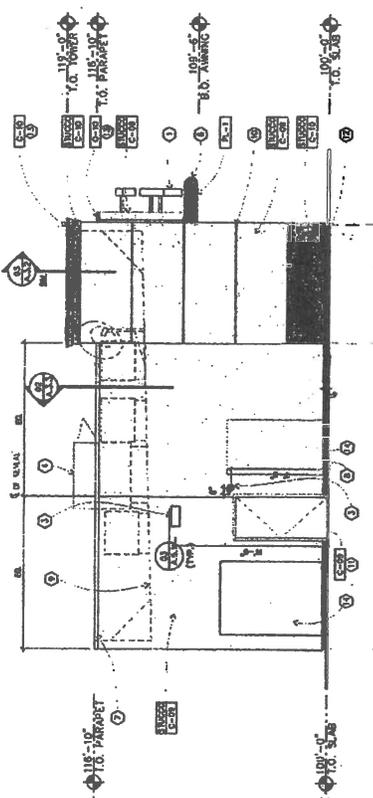
EXTERIOR FINISHES:

- 1. FINISH BY JOB CONTRACTOR.
- 2. FINISH BY JOB CONTRACTOR.
- 3. FINISH BY JOB CONTRACTOR.
- 4. FINISH BY JOB CONTRACTOR.
- 5. FINISH BY JOB CONTRACTOR.
- 6. FINISH BY JOB CONTRACTOR.
- 7. FINISH BY JOB CONTRACTOR.
- 8. FINISH BY JOB CONTRACTOR.
- 9. FINISH BY JOB CONTRACTOR.
- 10. FINISH BY JOB CONTRACTOR.
- 11. FINISH BY JOB CONTRACTOR.
- 12. FINISH BY JOB CONTRACTOR.
- 13. FINISH BY JOB CONTRACTOR.
- 14. FINISH BY JOB CONTRACTOR.
- 15. FINISH BY JOB CONTRACTOR.
- 16. FINISH BY JOB CONTRACTOR.
- 17. FINISH BY JOB CONTRACTOR.
- 18. FINISH BY JOB CONTRACTOR.
- 19. FINISH BY JOB CONTRACTOR.
- 20. FINISH BY JOB CONTRACTOR.
- 21. FINISH BY JOB CONTRACTOR.
- 22. FINISH BY JOB CONTRACTOR.
- 23. FINISH BY JOB CONTRACTOR.
- 24. FINISH BY JOB CONTRACTOR.
- 25. FINISH BY JOB CONTRACTOR.

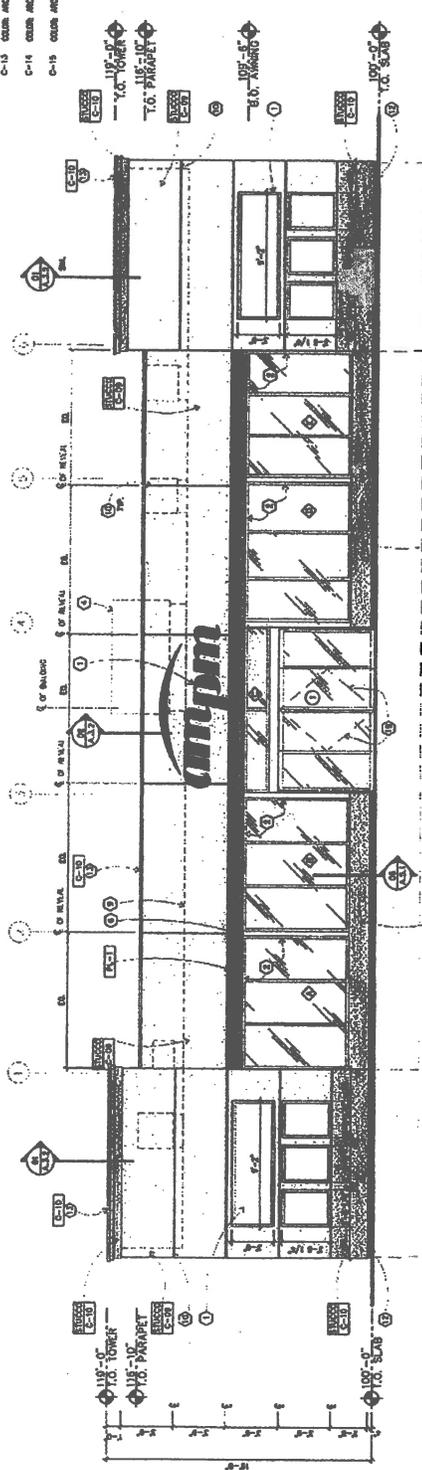
EXTERIOR PAINTS:

- 1. FINISH BY JOB CONTRACTOR.
- 2. FINISH BY JOB CONTRACTOR.
- 3. FINISH BY JOB CONTRACTOR.
- 4. FINISH BY JOB CONTRACTOR.
- 5. FINISH BY JOB CONTRACTOR.
- 6. FINISH BY JOB CONTRACTOR.
- 7. FINISH BY JOB CONTRACTOR.
- 8. FINISH BY JOB CONTRACTOR.
- 9. FINISH BY JOB CONTRACTOR.
- 10. FINISH BY JOB CONTRACTOR.
- 11. FINISH BY JOB CONTRACTOR.
- 12. FINISH BY JOB CONTRACTOR.
- 13. FINISH BY JOB CONTRACTOR.
- 14. FINISH BY JOB CONTRACTOR.
- 15. FINISH BY JOB CONTRACTOR.
- 16. FINISH BY JOB CONTRACTOR.
- 17. FINISH BY JOB CONTRACTOR.
- 18. FINISH BY JOB CONTRACTOR.
- 19. FINISH BY JOB CONTRACTOR.
- 20. FINISH BY JOB CONTRACTOR.
- 21. FINISH BY JOB CONTRACTOR.
- 22. FINISH BY JOB CONTRACTOR.
- 23. FINISH BY JOB CONTRACTOR.
- 24. FINISH BY JOB CONTRACTOR.
- 25. FINISH BY JOB CONTRACTOR.

- C-01 COLOR AND FINISH AS NOTED
- C-02 COLOR AND FINISH AS NOTED
- C-03 COLOR AND FINISH AS NOTED
- C-04 COLOR AND FINISH AS NOTED
- C-05 COLOR AND FINISH AS NOTED
- C-06 COLOR AND FINISH AS NOTED
- C-07 COLOR AND FINISH AS NOTED
- C-08 COLOR AND FINISH AS NOTED
- C-09 COLOR AND FINISH AS NOTED
- C-10 COLOR AND FINISH AS NOTED
- C-11 COLOR AND FINISH AS NOTED
- C-12 COLOR AND FINISH AS NOTED
- C-13 COLOR AND FINISH AS NOTED
- C-14 COLOR AND FINISH AS NOTED
- C-15 COLOR AND FINISH AS NOTED

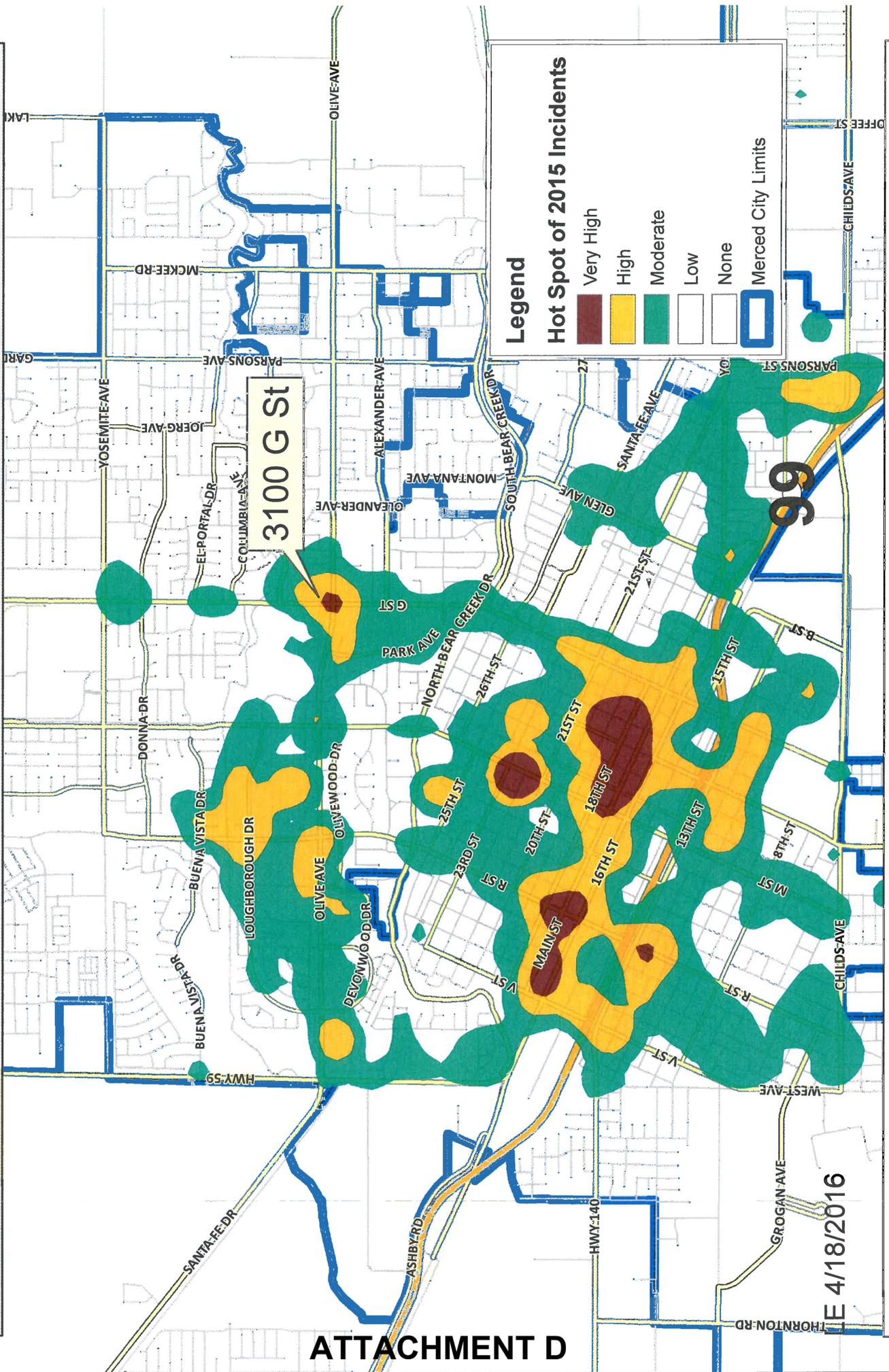


LEFT ELEVATION
 SCALE: 1/4"=1'-0"



FRONT ELEVATION
 SCALE: 1/4"=1'-0"

Hot Spots for 2015 Incidents

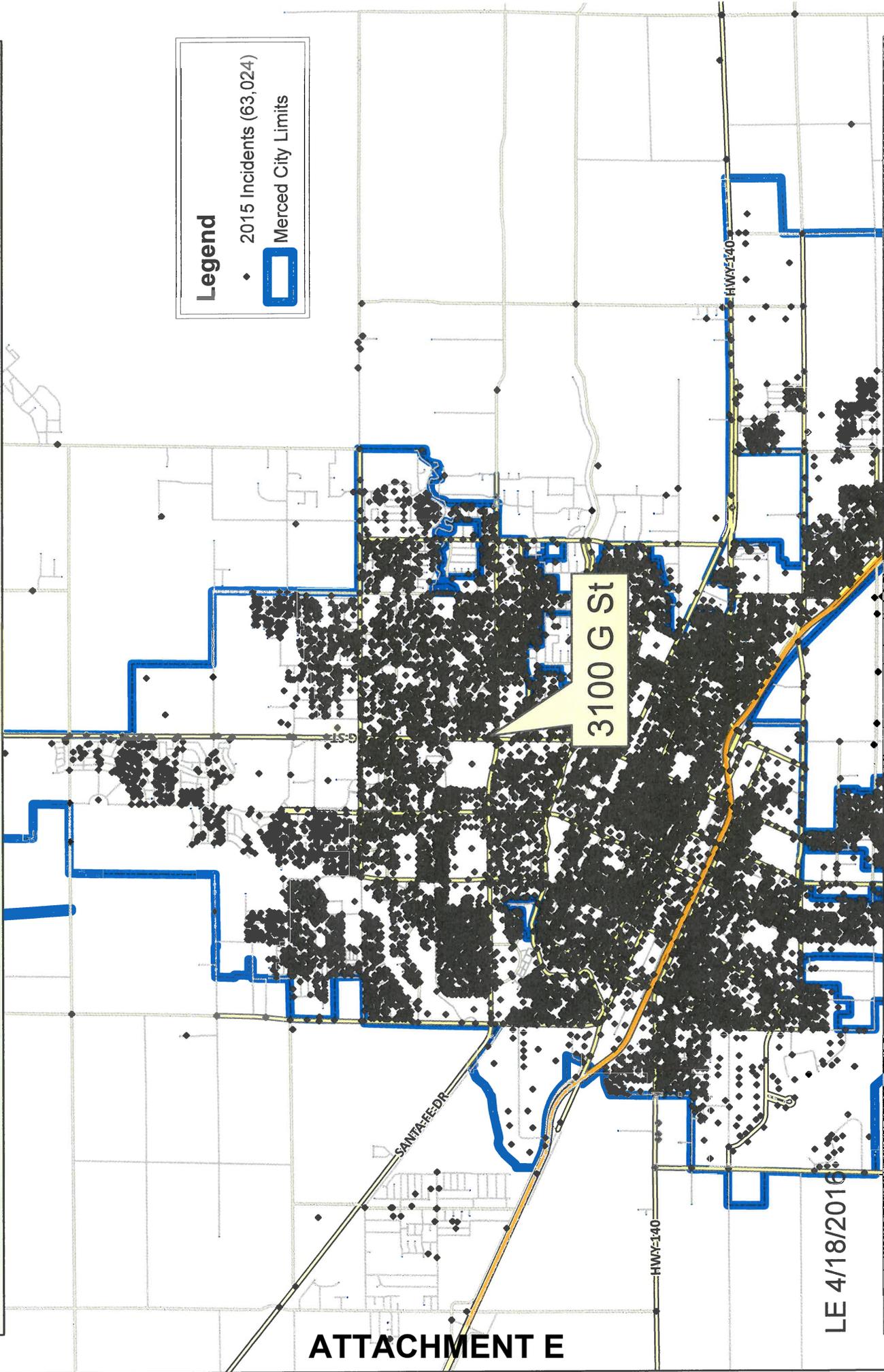


Disclaimer: This document was prepared for general inquiries only. The City of Merced makes no warranty, representation, or guarantee regarding the accuracy of this map. The City of Merced is not responsible for errors or omissions that might occur. Official information regarding specific parcels should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

2015 Incidents

Legend

- 2015 Incidents (63,024)
- ▭ Merced City Limits

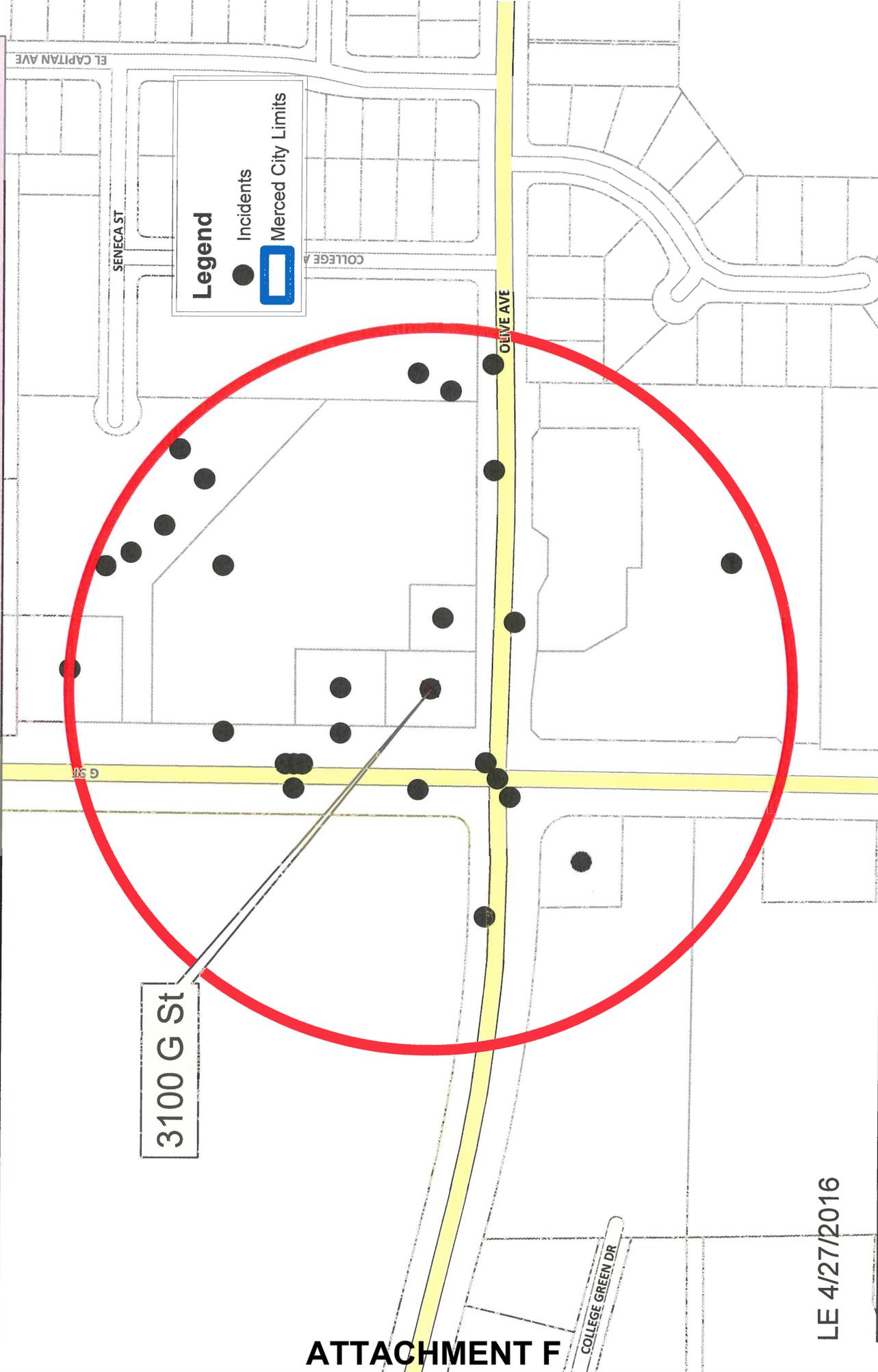


ATTACHMENT E

LE 4/18/2016

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.

2015 INCIDENTS 600ft radius around 3100 G St



3100 G St

ATTACHMENT F

LE 4/27/2016

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.



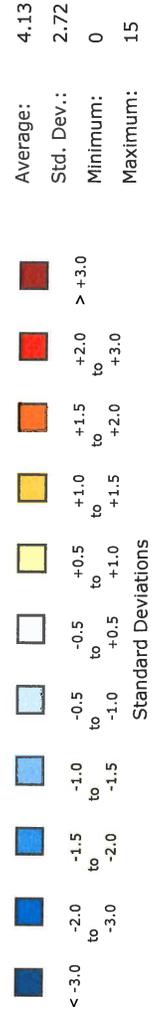
Merced Police Department

Incident Temporal Heat Index
(Hour Of Day by Day Of Week)



2015 Incidents 600ft Radius of 3100 G St

	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total
00	11	1	5	1	7	10	3	38
01	5	4	2	3	2	3	5	24
02	8	1	1	3	4	3	5	25
03	3	1	1	0	3	3	3	14
04	1	0	2	1	2	2	2	10
05	1	1	2	0	0	1	0	5
06	2	2	3	0	2	4	0	13
07	1	4	0	0	3	5	3	16
08	4	6	5	3	4	0	2	24
09	4	3	5	4	2	5	1	24
10	4	4	3	3	5	5	5	29
11	7	6	3	6	2	5	3	32
12	2	9	4	15	5	3	4	42
13	5	3	7	4	4	6	5	34
14	3	5	4	3	3	1	2	21
15	3	5	4	6	3	7	5	33
16	3	7	4	7	4	4	6	35
17	2	4	8	5	8	4	5	36
18	3	6	6	6	5	5	7	38
19	2	3	4	11	9	11	10	50
20	8	0	7	9	14	6	4	48
21	6	4	4	2	6	6	6	34
22	5	4	9	7	4	1	3	33
23	7	3	4	5	5	9	9	36
Total	94	86	97	104	106	109	98	694



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: Modification to CUP #1103 (Environmental Review #16-07)

Project Applicant: Sarvoit Singh

Project Location (Specific): 3100 G Street **APN:** 006-121-003

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: Sarvoit Singh

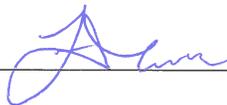
Exempt Status: (check one)

- 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. 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, 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:** 4-6-2016 **Title:** 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**

Amended by PC on
5/4/2016. See pg. 5

Resolution #2908

WHEREAS, the Merced City Planning Commission at its regular meeting of November 8, 2006, held a public hearing and considered **Conditional Use Permit #1103**, initiated by Cadiz-Cadiz Architects, applicant for North Cal Service Station, LP-Merced, property owners. This application involves a request to allow the demolition of the existing gas station and mini-market and the construction of a new AM/PM mini-market (including beer and wine sales) and gas station at the northeast corner of G Street and Olive Avenue (3100 G Street), within a Neighborhood Commercial (C-N) zone; also known as Assessor's Parcel No. 006-121-003; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #06-67; and,

WHEREAS, after reviewing the City's Initial Study and Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #06-71, and approves Conditional Use Permit #1103, subject to the following conditions:

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) -- Attachments B and C of Staff Report #06-67, except as modified by the conditions.
2. All conditions contained in *Resolution #1249 ("Standard Conditional Use Permit Conditions"—except for Condition #16 which has been superceded by Code)* shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. The developer/applicant shall indemnify, protect, defend, and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all

ATTACHMENT H

PLANNING COMMISSION RESOLUTION #2908

Page 2 of 5

November 8, 2006/ May 4, 2016

- 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 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 driveway along G Street shall be expanded to be 40-feet wide (rather than the 35-feet proposed) in order to allow refuse trucks room to maneuver on-site with minimal backing. The additional 5-feet shall be obtained by extending the driveway an additional 5-feet north.
 8. All signage shall comply with the North Merced Sign Ordinance. This shall include all gas pump signing as well as building and free-standing signs.
 9. Any illuminated banding on the building or canopy shall be counted as signing. Non-illuminated banding that is not greater than 6-inches

PLANNING COMMISSION RESOLUTION #2908

Page 3 of 5

November 8, 2006/ May 4, 2016

- in height shall not be counted as signing. The amount of banding shown on the elevations will need to be reduced to meet code requirements.
10. Window signs shall be discouraged. However, if window signs are installed, they shall not cover more than 35% of the window area. The display areas shown on the elevations for rotating temporary signs shall be removed.
 11. The site shall be maintained free of graffiti. Any graffiti shall be removed immediately and painted over with a color that matches the existing building color.
 12. A complete landscape/sprinkler plan shall be submitted at the building permit stage. Parking lot trees shall be provided at a ratio of one tree for every six parking stalls.
 13. No beer or wine shall be displayed or stored outside of the cooler area.
 14. The proprietor and/or successors in interest and management shall be prohibited from advertising or promoting beer & wine and/or distilled spirits on the motor fuel islands and no self-illuminated advertising for beer or wine shall be located on the building or in the windows.
 15. No sale of alcoholic beverages shall be made from a drive-in window.
 16. No display or sale of beer or wine shall be made from an ice tub.
 17. 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.
 18. 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.
 19. Alcohol sales shall cease at ~~12:00 p.m. (midnight)~~ 2:00 a.m. regardless of the business hours for the store in general.
 20. The area within the mini-market dedicated to the display and sale of alcoholic beverages (beer and wine) shall not be more than 4 cooler spaces (typical of those found in a grocery store or convenience market) or approximately 40 square feet.

Amended
by PC on
5/4/2016

PLANNING COMMISSION RESOLUTION #2908

Page 4 of 5

November 8, 2006 / May 6, 2016

21. A grease interceptor may be required. This will be determined at the building permit stage based on the type of food prepared and served and waste generated.
22. 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 in conformance with the procedures outlined in the Merced Municipal Code.

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

AYES: Commissioners Acheson, Amey, Ward, Burr, and Chairman Shankland

NOES: None

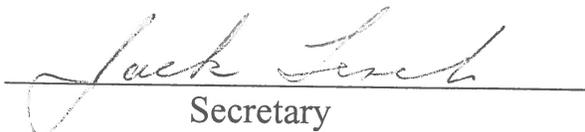
ABSENT: Commissioners Conte and Fisher

Adopted this 8th day of November, 2006



Chairman, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

PLANNING COMMISSION RESOLUTION #2908

Page 5 of 5

November 8, 2006/ May 4, 2016

May 4, 2016: At their regularly scheduled meeting of May 4, 2016, the Merced City Planning Commission considered Modification to Conditional Use Permit #1103 and Environmental Review #16-07.

WHEREAS, the Merced City Planning Commission concurs with Findings A through E of Staff Report #16-09; and,

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #16-07, and approve a Modification of Conditional Use Permit #1103 with the modification of Condition #19 (see page 3) and the addition of Condition #23 as follows (new language underlined):

- 23) The business shall meet all applicable Alcoholic Beverage Control (ABC) requirements.

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)