

October 8, 2018

City Planning Department
411 East Kern Avenue
Tulare, CA 93274

Jeff and Debbie Powell
132 S N Street
Tulare, CA 93274

Dear Planning Department members:

We have lived here just over three months and have experienced a variety of problems. Though the uncertainties of life can't be fixed, we are very disappointed in how the impact of our local government has made our lives more difficult. They do not seem concerned with helping businesses or building up the downtown area.

Our Parks and Recreation Department consistently issues permits at the park that interfere with our business, and now with our quality of life on the week end. Saturday night the event from 4 to 7 pm interrupted us from 3:35 to 7:25 pm, with a generator running across the street from us during this entire time and loud music and announcements during the event. I asked Kerribb Flava if they needed the generator on (even prior to the event), and not only did they leave it on but ran it right up until they drove away at about 7:25 pm (this vendor yelled at me while I was writing down their company info, telling me this was their park).

On Sunday morning I spoke with the pastor of Bethel and he said their event was from 10 am to 1 pm. I explained about the noise problem, starting even before the event, and he expressed concern and said he would try to keep the noise down. They began testing before 9 am and played shortly after that, so another 4 hours of disruption for a three hour event. Plus the trash from the food they served left on our property (including wrappers from the hot dogs, which could only have come from them and not the people eating).

No posting of the event for Sunday could be found from the city, and when we call during the week it is very difficult to get Parks and Recreation to let us know what will be happening (Sunday was a complete surprise).

We have tried to get them to put the food trucks on the Kern side of the park, or even M Street, but apparently N Street is all they will consider. And the folks with generators seem to always end up directly across the street from us; loud and intrusive and violating the law.

We are tired of the noise. I am enclosing a print out showing sustained levels of 89 decibels on Sunday morning, and whenever there is amplified music or equipment this is pretty much the standard. This was measured from our front lawn, within our property line. Despite advising the pastor about the noise, and giving him copies of these print outs, nothing was done (in fact they started an hour early). Though police were at the event they did nothing.

Enclosed are print outs of the law. Please do not ask us to call the police, we have tried this and they believe that if Parks and Recreation issues a permit it falls on them (and they are always closed when these week end events occur). The city is in violation of 8.36.040(G), 6.40.050(B), 6.40.071(A) and (C), and 8.36.330. As much as we might respect the difficult job our police perform and the risk they incur to protect us, I have been lied to far too many times to depend on them any longer. And our last theft recently was changed to a domestic dispute by dispatch, so my wife has no desire to call them again either (and she finally took the blue tape off the back of her van).

We have tried everything, including appearing before the city council long ago, and nothing works. Tulare seems to care more about transient appearances at the park than the established businesses (how nice it must have been for the church on the corner to have Bethel holding a service at the park and blasting out their music and sermon). You folks seemed genuinely caring when we applied for the mixed use permit, so we try one final effort with the city.

We just want the law to be enforced, plain and simple. We spent a substantial amount of time and money to live here, and did not expect the city to make things unbearable for us. Stop the selective enforcement of the law. Someone from Parks and Recreation should be working during every event, and make sure anyone with a permit complies with the requirements. They should also post every event, and comply with the 10 day requirements. And the police should enforce the law.

We have problems so far beyond the above and aren't even going into these, which are mainly centered around the lack of enforcement of the law. We recognize that California has made it ridiculously difficult to actually punish crimes here, but we do still have laws.

Just wanted to mention this, and that sending anyone our way to inquire as to living downtown would not be fruitful at this time. Thanks for hearing us out.

Sincerely,

A handwritten signature in black ink, appearing to read "J Powell". The signature is fluid and cursive, with the first name "J" being particularly prominent.

Jeff Powell

§ 8.36.040 Permit—Standards for issuance.

The Director shall issue a permit hereunder when he or she finds:

- (A) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
- (B) That the proposed activity or use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
- (C) That all conditions, including where applicable, the payment of fees, approval of the Tulare City Council, and insurance coverage, are met;
- (D) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;
- (E) That the proposed activity or use will not entail unusual, extraordinary or burdensome expense or security operation by the Department;
- (F) That the facilities desired have not been reserved for other use;
- (G) The conduct of the activity or use of the area will not have an adverse impact on the surrounding neighborhood due to parking, noise or crowds;

(H) Insurance coverage shall be required, if in the opinion of the Director, the conduct of the event or program would potentially constitute a hazard to public safety. The Director, or his or her designee, may, at his or her discretion, require an insurance policy as a condition of the issuance of the permit. If a policy is required, the permittee must obtain, pay for, and maintain a policy of general liability insurance, approved as to form by City Attorney which shall insure the city, its officers and employees against any liability, or claims of liability, brought or made by or on behalf of any person for personal injury or property damage caused by or arising out of any negligent act or omission of either the permittee or his or her agents or employees and occurring during the period and as a result of the activities for which the permit was issued. The amount of coverage to be provided by the policy shall be determined by the Director, or his or her designee. The City Attorney may accept, as compliance with the requirement imposed by this division, the presentation of a certificate of insurance, for at least the required amount of coverage, which indicates that, by endorsement thereto, the city, its officers and employees, have been added as additional insured. The certificate shall additionally provide that the required insurance will not be modified, changed or terminated until at least ten days' written notice thereof has been transmitted to the Director; and

(I) It shall be a condition of the issuance of any park facilities permit that the permittee shall agree to defend and to hold the city, its officers and employees harmless from any and all claims and liability of any kind whatsoever resulting from or arising out of the issuance of the permit.

(1995 Code, § 8.36.040) (Ord. 14-05, passed 10-21-2014; Ord. 03-1915, passed - -2003)

§ 6.40.050 Amplified sound permits.

(A) It shall be unlawful for any person other than personnel of law enforcement or governmental agencies, to install, use or operate within the city, and outside a building, a loud speaker or amplifying device in a fixed or movable position or mounted upon any vehicle for the purpose of giving instructions, directions, talks, addresses, lectures, transmitting music to any persons or assembly of persons in or upon any street, alley, sidewalk or public property without first obtaining an Amplified Sound Permit approved by the City Manager with concurrence of the Police Department.

(B) The City Manager, with concurrence of the Police Department, when considering an application for an Amplified Sound Permit, shall recognize and consider the constitutional rights of free speech of all persons including the applicant, but shall also consider the correlative constitutional rights of the citizens of the city to privacy and freedom from public nuisance of loud and unnecessary noise. The City Manager, with concurrence of the Police Department, if granting permission, shall reserve the right to enforce whatever rules, conditions or restrictions it deems necessary to ensure that the sound shall be so controlled that it will not be unreasonably loud, raucous, varying, disturbing or a nuisance to persons of normal sensitivity within the area of audibility, subject to any other provisions within this chapter.

(C) An administrative fee of \$10 will apply for processing an Amplified Sound Permit request, said fee subject to change, pursuant to the Consumer Price Index (CPI).

(D) In addition to the processing fee the applicant shall submit in writing, at least ten days prior to the event, a statement outlining:

- (1) The name and address of both the user and owner of the sound amplifying equipment;
- (2) The maximum sound producing power of the equipment including wattage, use, volume decibels and approximate distance from which sound will be audible; and
- (3) Whether the sound equipment will be used for commercial or noncommercial purposes.

(E) Permits for amplified sound for use in a public park or city facility shall be processed by the Parks, Library and Recreation Department. Condition of use is to be determined by the policies of the Parks, Library and Recreation Department.

(1995 Code, § 6.40.050) (Ord. 14-05, passed 10-21-2014; Ord. 11-08, passed 8-16-2011; Ord. 08-06, passed 6-3-2008)

§ 6.40.071 Amplified sound noise standards.

(A) It is unlawful for any person at any location within the city to create any amplified sound on property owned, leased, occupied or otherwise controlled by such person which causes the noise level, when measured at the property line of any affected area, to exceed the decibel level of 70 during the hours of 6:00 a.m. and 10:00 p.m.

(B) *Parades/community events.* Activities pursuant to Municipal Code Chapter 8.70 shall not exceed 85 decibels.

(C) *Public park/city facilities.*

(1) Sound or noise produced by sound amplification equipment used at all city parks and other city facilities shall be measured at points not greater than 100 feet from the sound source within city parks or facilities and shall not exceed 85 decibels.

(2) Failure of the event sponsor to enforce the sound limits may result in any or all of the following:

- (a) The forced curtailment of activities as ordered by the Police Department.
- (b) Citation issued by the Police Department pursuant to § 6.40.090.
- (c) Forfeiture of deposits placed with the city by the sponsor for use of the facility.

(Ord. 11-08, passed 8-16-2011)

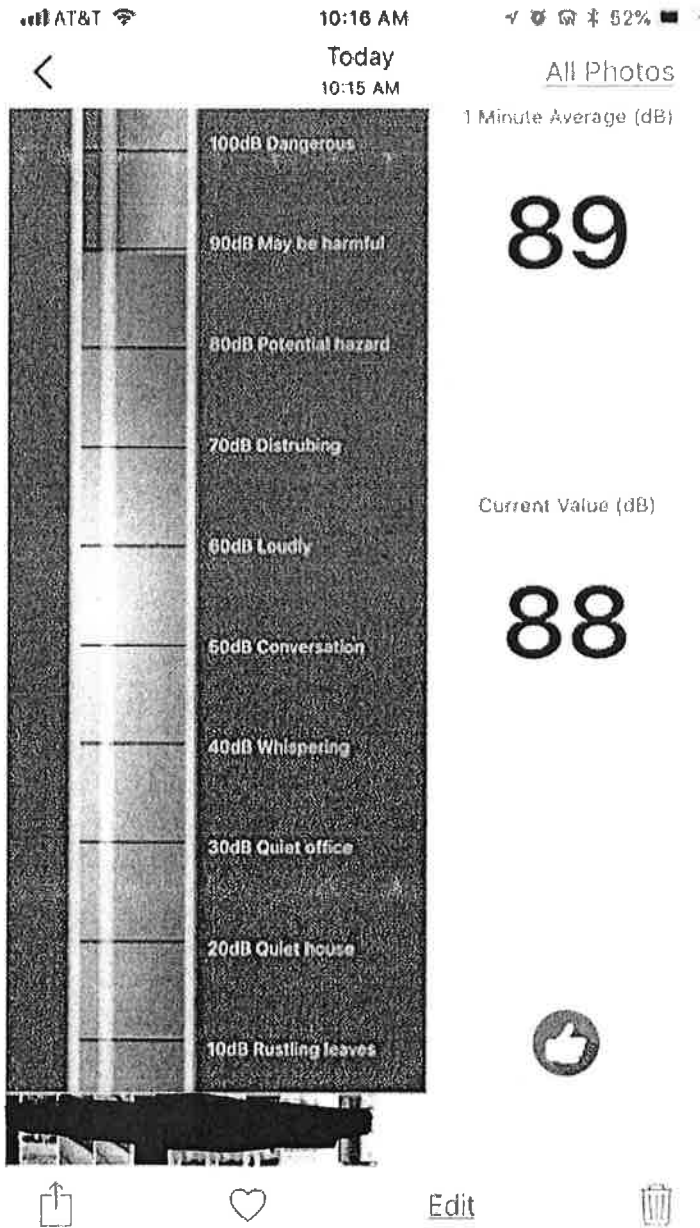
§ 8.36.330 Excessive noise.

No person in a park or on public or private property adjacent to a park shall produce, suffer or allow to be produced any loud noise from a radio, stereo, tape deck or other means, which noise disturbs the peaceful quiet enjoyment of any person in a public park.

(1995 Code, § 8.36.330)

Jeff

From: "Debbie [REDACTED]"
Date: Sunday, October 7, 2018 10:17 AM
To: "Jeff" [REDACTED]
Attach: IMG_0951.PNG
Subject: Decibel



Sent from my iPhone

10/7/2018

**CITY OF TULARE PLANNING COMMISSION
STAFF REPORT**

Agenda Item No.

October 22, 2018

**ZONING ORDINANCE SECTION 10.188.050(J) AMENDMENT
ZONE AMENDMENT NO. 731**

PROJECT PLANNER:	Mario Anaya, Principal Planner
APPLICANT:	City of Tulare
LOCATION:	Citywide
APN:	All properties located within Tulare City limits
ZONING CLASSIFICATION:	All Zoning classifications
GENERAL PLAN DESIGNATION:	All General Plan designations
SURROUNDING LAND USES AND ZONING:	Citywide

RELATED PREVIOUS PROJECTS:

None

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission receive a staff presentation, take public testimony, and approve a resolution recommending that the City Council adopt an Amendment to Section 10.188.050(J) of the Tulare Municipal Code, as described herein.

REQUEST AND DETAILS OF THE PROPOSAL:

Section 10.188.050(J) of the existing Zoning Ordinance includes standards for temporary political signs. However, the ordinance conflicts with recent Case Law, regarding the ability of a jurisdiction to regulate signage based on the “content” of the sign. The proposed revisions to this section of the Sign Ordinance would ensure the incorporation of the “content neutral” provisions of the *Reed v. Town of Gilbert (2015)* decision.

STAFF COMMENTS:

The revised Sign Ordinance text allows the City of Tulare to legally regulate the location and size of Non-commercial signs, without regulating specific non-commercial signs based on the sign’s content (for example, a political message).

Two attachments are provided to this staff report, a document comprising the current Section 10.188.050(J) text and a document depicting the proposed text. Specific changes to the existing text include the following:

10.188.050(J) Temporary political signs – This section has been renamed to “Non-commercial Signage” and a definition added to define non-commercial signs, and distinguish them from commercial signs.

10.188.050(J) (2) Reference to “by any one candidate” has been deleted here, where it provides the maximum area of the sign.

10.188.050(J) (3) Changed “Political” to “Non-commercial.”

10.188.050(J) (4) This section has been deleted, as it refers specifically to political signs.

10.188.050(J) (5) This section has been revised to clarify restrictions on placement of signs in any street right-of-way or on any city owned property, or any portion thereof.

10.188.050(J) (6) Number changed to “5”.

10.188.050(J) (7), (8), and (9) These provisions have been deleted as they all are specific to political signs and would not comply with the Court’s mandate of content-neutral provisions and restrictions on signs.

10.188.050(J) (10) This section is unnecessary as it simply repeated the maximum sign area restriction already mentioned in (2).

Following Planning Commission consideration, the proposed Zoning Ordinance Amendment will be submitted to the City Council at a properly noticed public hearing for consideration. If approved by City Council, the revised language will become effective 30 days after the second reading of the Ordinance before the City Council.

ENVIRONMENTAL:

The proposed Zoning Ordinance Amendment is exempt from Environmental Review under the California Environmental Quality Act (CEQA), pursuant to Section 15061(B)(3).

APPEAL INFORMATION:

Given that the Planning Commission’s action on this matter is a recommendation to the City Council, and that the City Council will take final action on the proposed Zoning Ordinance Amendment, the item will automatically be forwarded to the City Council for review and consideration.

Attachments:

Attachment 1- Resolution of the Planning Commission

- Exhibit 1 – Draft Revised Section 10.188.050(J)

Attachment 2 – Existing Section 10.188.050(J)

RESOLUTION NO. 5298

**A RESOLUTION OF THE CITY OF TULARE PLANNING COMMISSION
RECOMMENDING APPROVAL OF ZONE AMENDMENT NO. 731 TO THE CITY
COUNCIL FOR ADOPTION**

WHEREAS, the City of Tulare Planning Commission at a regular meeting held October 22, 2018 considered a request by the City of Tulare to revise Zoning Ordinance Section 10.188.050(J). The Zoning Ordinance Amendment would affect properties city-wide; and

WHEREAS, the City of Tulare Planning Commission held a public hearing to receive public testimony; and,

WHEREAS, the City of Tulare Planning Commission determined that the proposed amendment is in the public interest; and,

WHEREAS, the City of Tulare Planning Commission determined the proposed action will promote the goals and objectives of the Zoning Title as prescribed in Section 10.04.020 of the Tulare City Code; and,

WHEREAS, the City of Tulare Planning Commission determined that the proposed request will not be detrimental to the public health, safety, and welfare or be materially injurious to properties or improvements in the vicinity; and,

WHEREAS, the proposed Zoning Ordinance Amendment is exempt from Environmental Review under the California Environmental Quality Act (CEQA), pursuant to Section 15061(B)(3).

NOW, THEREFORE, BE IT RESOLVED by the City of Tulare Planning Commission that Zone Amendment Application No. 731 is hereby recommended to the City Council for adoption, as described in Exhibit 1.

PASSED, APPROVED AND ADOPTED this twenty-second day of October, 2018 by the following recorded vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

CHUCK MIGUEL, CHAIRMAN
City of Tulare Planning Commission

ATTEST:

JOSH MCDONNELL, SECRETARY
City of Tulare Planning Commission

EXHIBIT 1

(J) Temporary political signs: Non-commercial Signage.

Commercial signage is defined as any sign likely to be engaged in commerce and where the intended audience is commercial or actual or potential consumers, and where the content of the message is commercial in character. Any signage which is not commercial is allowed in any zoning district, and without review by the City, with the following restrictions:

(1) Signs shall be placed on lots or parcels privately owned with permission of the property owner.

(2) The combined area of sign ~~by any one candidate~~ on any one parcel shall not exceed 32 square feet.

(3) ~~Non-commercial~~Political signs shall not be attached to trees, fence posts, or utility poles, except on private property where signs may be attached to trees and fence posts with permission of the property owner.

~~— (4) Political signs shall not be lighted either directly or indirectly.~~

~~(5) No political signs, or portion thereof, shall not~~ be placed in any street right-of-way or on any city owned property, ~~or any portion thereof.~~

(6) No sign shall be erected in violation of street corner setback requirements, which are established to ensure traffic safety, nor shall any such sign interfere with pedestrian traffic.

~~— (7) Political signs shall be erected no more than 60 days prior to the date of the election.~~

~~— (8) Unless a waiver is granted by the City Council, all political signs shall be removed within 14 days following the date of the election. Signs not removed within this period may be removed by the city and the cost of removal assessed against the candidate.~~

~~— (9) Provisions of this division shall not apply to political advertising on existing commercial billboard structures, which shall be subject to the general provisions of this chapter.~~

~~— (10) Maximum sign area: Thirty two sq. ft.~~

(2) Calculation of area: One square foot of sign area for each lineal foot of building frontage of business to which sign pertains.

(3) Permitted zones: C-1, C-2, C-3, C-4, D, M-1, M-2 and PL except that projecting signs shall not be permitted in the Tulare Improvement Program (TIP) area.

(4) Sign permit needed: Yes.

(5) Location: Projecting signs may extend over public right-of-ways including public sidewalks not to exceed two-thirds of the distance from the building face to which the sign is attached to the curb face of said sidewalk.

(6) Maximum sign area: Fifty sq. ft.

(H) *Canopy sign.*

(1) Maximum height: Not to exceed the height of the underside of a canopy, awning or marquee. A minimum of eight feet of clearance must be provided from bottom of sign to ground to provide proper clearance.

(2) Calculation of area: One-half square feet of sign area for each lineal foot of building frontage to which the sign pertains.

(3) Permitted zones: C-1, C-2, C-3, C-4, M-1, M-2 and PL.

(4) Sign permit needed: Yes.

(5) Location: Under canopy signs may locate over rights-of-way including sidewalks except that no part of the sign may extend beyond the canopy.

(6) Maximum sign area: Fifty sq. ft.

(I) *Sandwich board sign.*

(1) Maximum height and width: Three feet wide and four feet tall, maximum.

(2) Maximum area: Twelve square feet.

(3) Permitted zones: C-1, C-2, C-3, C-4 D, M-1, M-2 and PL.

(4) Location: May be place on public sidewalk but must permit a minimum of four feet of passage area on sidewalk.

(5) Sign permit needed. No.

(6) Maximum sign area: Twelve sq. ft.

(7) Maximum width and height: Three feet by four feet.

(J) *Temporary political signs.*

(1) Signs shall be placed on lots or parcels privately owned with permission of the property owner.

(2) The combined area of sign by any one candidate on any one parcel shall not exceed 32 square feet.

(3) Political signs shall not be attached to trees, fence posts, or utility poles, except on private property where signs may be attached to trees and fence posts with permission of the property owner.

(4) Political signs shall not be lighted either directly or indirectly.

(5) No political sign or portion thereof shall be placed in any street right-of-way or on any city owned property.

(6) No sign shall be erected in violation of street corner setback requirements, which are established to ensure traffic safety, nor shall any such sign interfere with pedestrian traffic.

(7) Political signs shall be erected no more than 60 days prior to the date of the election.

(8) Unless a waiver is granted by the City Council, all political signs shall be removed within 14 days following the date of the election. Signs not removed within this period may be removed by the city and the cost of removal assessed against the candidate.

(9) Provisions of this division shall not apply to political advertising on existing commercial billboard structures, which shall be subject to the general provisions of this chapter.

(10) Maximum sign area: Thirty-two sq. ft.

(K) *Freeway signs.*

(1) Maximum height: To be established by the Planning Commission but not to exceed 100 feet measured from crown of highway (facing perpendicular to site of sign) when crown of highway is above ground level of sign, otherwise sign height is measured from ground level at the site of sign.

(2) Maximum area: To be established by Planning Commission but not to exceed 500 square feet.

(3) Calculation of area: As a guideline only two and five tenths square feet of area per lineal foot of parcel frontage facing towards highway.

(4) Permitted zones: C-3, C-4, M-1, M-2 and PL.

(5) Sign permit needed: Yes.

(6) Conditional use permit needed: Yes.

(7) Location: Limited to within 300 feet of Highway 99 (State Route 99) right-of-way. Freeway signs 70 feet in height or greater shall contain a City of Tulare identification. The design of the identification shall be approved by the Planning Commission.

(L) *Off-premise signs.*

(1) Maximum height: Determined by sign type in accordance with § 10.188.040.

(2) Calculation of area: Determined by sign type in accordance with § 10.188.040.

(3) Permitted zones: C-1, C-2, C-3, C-4, D, M-1, M-2 and PL.

(4) Sign permit needed: Yes.

**CITY OF TULARE PLANNING COMMISSION
STAFF REPORT**

Agenda Item No.

October 22, 2018

CONDITIONAL USE PERMIT NO. 2016-04

PROJECT PLANNER:	Mario Anaya, Principal Planner
APPLICANT:	Pilot Travel Centers
LOCATION:	979 Paige Avenue (SW Corner of Blackstone Street and Paige Avenue)
APN:	191-050-075
ZONING CLASSIFICATION:	M-1
GENERAL PLAN DESIGNATION:	Light Industrial
SURROUNDING LAND USES AND ZONING:	Light & Heavy Industrial (M-1/M-2)

RELATED PREVIOUS PROJECTS:

None

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission approve Conditional Use Permit No. 2016-04 subject to the findings and conditions in Resolution No. 5301. Staff's recommendation is based on the findings and the project's consistency with the policies and intent of the City's General Plan and Municipal Code.

REQUEST:

This is a request by Pilot Travel Center to construct a Pilot Flying J truck stop/travel center on 13.63 acres for regional travel serving uses. The proposed project would be located at the southwest corner of Blackstone Street and Paige Avenue (APN 191-050-075).

DETAILS OF THE PROPOSAL:

The proposed project would include the development of travel support facilities on the Project site that would include:

- 9 diesel fueling lanes (includes Diesel, Diesel Exhaust Fluid (DEF), and Bio Diesel).

- 10 gas fueling dispensers (8 for passenger vehicles, and 2 for RV lanes)
- 137 truck parking spaces
- 84 passenger vehicle parking spaces
- Project signage, including entry and exit signs, building sign, and one 100 foot tall illuminated sign (for SR 99 advertising)
- One 14,967 square foot building that will include:
 - A driver's lounge, game room, pay phones, ATM's, Western Union Check Cashing, and Wi-Fi
 - Restroom facilities, that include 9 showers facilities and laundry
 - Two quick service restaurants

The proposed project includes two points of access to the project site along Paige Avenue, and three points of access along South Blackstone Street. The northern access along Blackstone Street, and the eastern entrance along Paige Avenue, are intended for general automobile traffic access. The two southern access points along Blackstone Street, and the western access point along Paige Avenue, are intended for use by truck traffic.

STAFF COMMENTS:

The proposed site is bordered by a Love's Travel Center and service station to the east, industrial and manufacturing facilities to the north including a food processing and distribution facility, vacant land to the south, and one ranchette style residential use to the west. The proposed use and site can operate in a compatible manner with the surrounding uses.

The proposed site is designated as Heavy Industrial and zoned M-1 (Light Industrial). The City of Tulare Municipal Code states that "truck stops" proposed within either a light industrial or heavy industrial zone district, shall be permitted upon the granting of a conditional use permit in accordance with the provisions of Chapter 10.116 – Conditional Use Permits (Chapter 10.64.030). In addition, the "sale of vehicle fuel" and "sale of alcoholic beverages," as proposed for the project, shall be permitted upon the granting of the conditional use permit in accordance with City Code Chapter 10.116 – Conditional Use Permits (Chapter 10.168.030 and 10.168.040)

The applicant will require a Zoning Code Variance to allow a Freestanding Sign with a maximum height greater than 20 feet. In addition, the proposed project requires a Parcel Map to divide the existing 36.27 acre parcel (APN 191-050-075) to accommodate the Project site under its own site parcel.

The Site Plan Review Committee reviewed the project with the applicant on December 6, 2017 and prepared comments and conditions. The site plan and elevations were reviewed

by the Committee for compliance with the City's adopted Zoning Ordinance and Municipal Code.

The proposed project would be consistent with the City's General Plan, and in particular would provide new commercial opportunities, local jobs, and tax revenue generation for the City of Tulare in accordance with the goals and policies of the General Plan.

ENVIRONMENTAL FINDINGS:

An environmental impact report (EIR) has been prepared for this project, in accordance with the California Environmental Quality Act (CEQA). The City of Tulare published a Notice of Availability (NOA) for the Draft EIR on May 4, 2018, inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH #2016021028), the County Clerk, and published in a newspaper of regional circulation pursuant to the public noticing requirements of CEQA. The public review period was from May 4, 2018 through June 18, 2018 (45 days).

The City of Tulare received three (3) comment letters on the Draft EIR during the public review period, with most of the comments in the comment letters concerning traffic and circulation, the potential for the project to affect operations at surrounding intersections, and air quality impacts/greenhouse gas emissions. The comments letters were received from the law firm Remy Moose Manley LLP (representing Love's Travel Stops & Country Stores), the California Department of Transportation, and the San Joaquin Valley Air Pollution Control District.

In accordance with CEQA Guidelines Section 15088, the Final EIR responds to all comments received during the public review period. The Final EIR also contains minor edits to the Draft EIR, which are included in Section 3.0, Errata, of the Final EIR. The responses to comments do not involve any new significant impacts or "significant new information" that would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5.

The Final Mitigation Monitoring and Reporting Program (MMRP) for the Project is included as attach in Chapter 4.0 of the Final EIR and contains all of the mitigation measures to be implemented and tracked for compliance during development of the project. These mitigation measures would reduce the potential environmental impacts resulting from the project to less than significant levels.

However, even after implementation of the mitigation measures identified in the MMRP, significant unavoidable impacts would remain in the areas of aesthetics, air quality, greenhouse gases/climate change, hydrology, transportation/circulation, and utilities as a result of the proposed project. The City of Tulare Planning Commission, in adopting a Statements of Overriding Considerations related to the Project Findings, has determined in light of the entire record and the Project EIR that the economic and social benefits of

the project in Tulare outweigh and override any significant unavoidable environmental impacts that would result from future project implementation.

FINDINGS:

Staff recommends that the Planning Commission make the following findings with regard to Conditional Use Permit No. 2016-04:

- 1) That the proposed location of the project is in accordance with the objectives of the Zoning Title and the purposes of the District in which the site is located.
- 2) That the proposed location of the use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
- 3) That the proposed conditional use will comply with each of the provisions of the Zoning Title.
- 4) That the proposed conditional use is consistent with the Tulare General Plan, and that existing deficient levels of service at the Blackstone & Paige and SR 99 & Blackstone On/Off Ramps intersections will be mitigated to the acceptable General Plan standard as part of opening day improvements for the Project.
- 5) That the request will not have a significant effect on surrounding properties and improvements in the vicinity of the project site.
- 6) That public convenience and necessity would be served by allowing the applicant to sell vehicle fuel in accordance with the provisions of Chapter 10.116 – Conditional Use Permits (Chapter 10.64.030)
- 7) That public convenience and necessity would be served by the issuance of a permit to “sell beer and wine for off-site consumption” Type 20 license.

Environmental:

- 1) That an Environmental Impact Report (EIR) was prepared pursuant to the California Environmental Quality Act of 1970 and State CEQA Guidelines.
- 2) That in accordance with CEQA Guidelines Section 15088, the Final EIR responds to all comments received during the public review period.
- 3) That responses to comments do not involve any new significant impacts or “significant new information” that would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5.
- 4) That mitigation measures are included as conditions of approval for the EIR, to mitigate the potential impacts of the Project on the environment to the extent feasible,

and that these mitigation measures are approved and will be monitored and tracked for compliance with Planning Commission adoption of the Mitigation Monitoring and Reporting Program (MMRP), included as Attachment VII to this Staff Report and in Chapter 4.0 of the Final EIR.

- 5) That despite the implementation of mitigation measures identified in the MMRP, significant unavoidable impacts would remain to aesthetics, air quality, greenhouse gases/climate change, hydrology, transportation/circulation, and utilities as a result of the proposed project.
- 6) That based on the entire record and the EIR, the economic and social benefits of the project in Tulare outweigh and override any significant unavoidable environmental impacts that would result from future project implementation, and therefore, the Planning Commission adopts the Statements of Overriding Considerations related to the Project Findings, included herein, and attached to this Staff Report (Attachment IX).
- 7) That the Final EIR was presented to the Planning Commission, the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the Project and Certifying the EIR.
- 8) The Planning Commission finds that the Final EIR reflects the independent judgment and analysis of the City of Tulare.

CONDITIONS:

Based on the approved findings, staff recommends that Conditional Use Permit No. 2016-04 be approved subject to the following conditions:

- 1) Adopt and Certify an Environmental Impact Report for the Tulare Pilot Flying J Travel Center.
- 2) All requirements of Title 10 shall be met.
- 3) The conceptual site plan and elevations for the proposed building are approved as shown in the attachments hereto.
- 4) In accordance with Zoning Ordinance Section 10.116.080, this Conditional Use Permit approval shall lapse and become void (3) years from the effective date of approval, unless a building permit is issued by the City and construction is being diligently pursued.
- 5) All roof mounted equipment shall be screened from public view by materials similar to those used in overall structure and approved by the Community Development Director at time of Building Permit review.

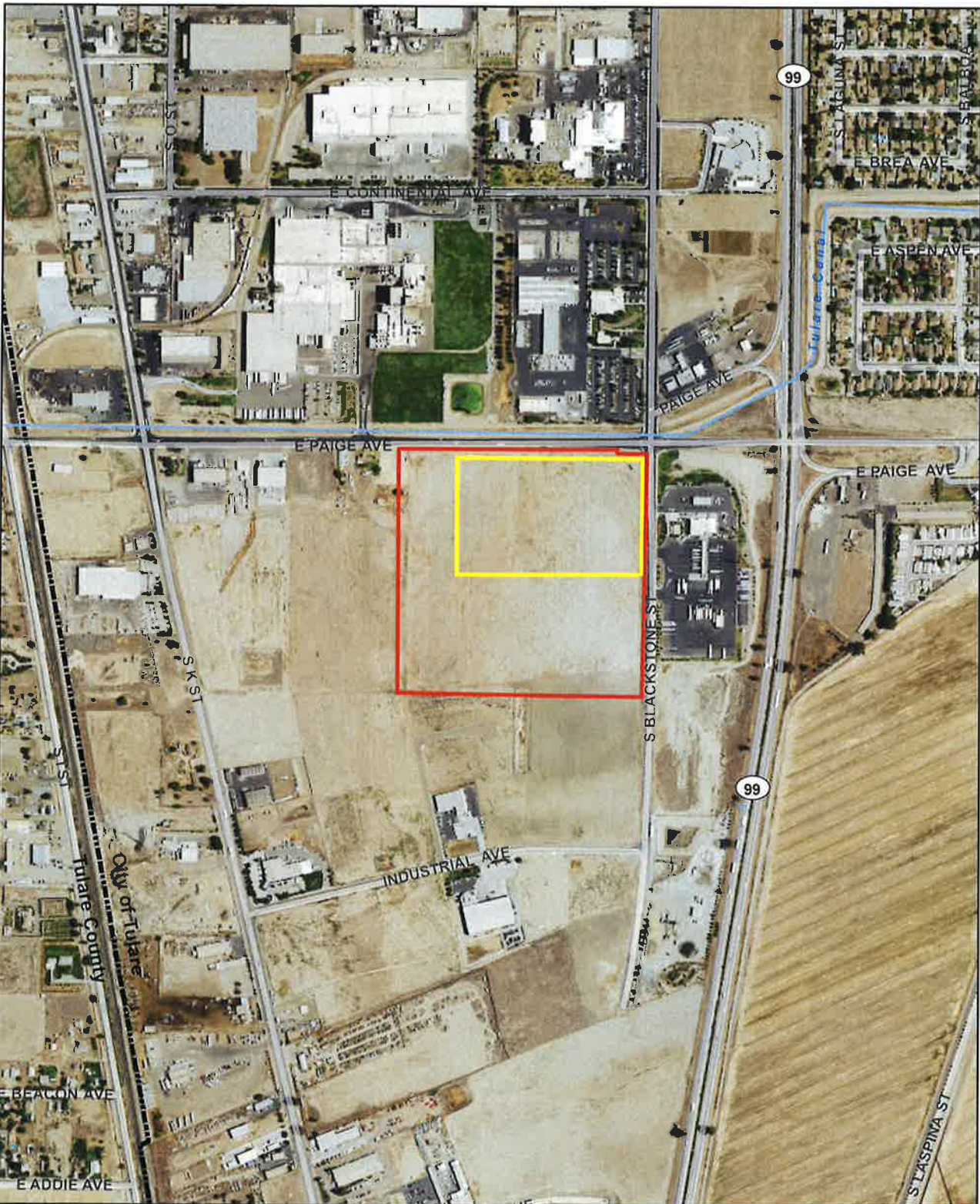
- 6) Landscape and irrigation plans shall be prepared by a licensed Landscape Architect, certified irrigation designer, licensed landscape contractor, or any other person authorized to design an irrigation system and approved prior to building permits being issued.
- 7) Applicant shall comply with San Joaquin Valley Air Pollution Control District regarding dust control during construction as required by SJVAPCD.
- 8) Applicant shall comply with Engineering, Fire, and Parks comments/conditions (Attachments IV, V, and VI).
- 9) Parking provided shall comply with City of Tulare Parking Standards.
- 10) Approval does not authorize any deviation from Fire and Building Codes.
- 11) Any significant changes to the floor plan layout shall be subject to review and approval by the Planning Commission.
- 12) This permit is limited to the sale of beer and wine for off-site consumption.
- 13) Any upgrading of the alcoholic beverage license issued by Alcoholic Beverage Control will be subject to approval by the Planning Commission.
- 14) Applicant to maintain all licenses and/or permits required by the State.
- 15) All Mitigation Measures in the Mitigation Monitoring and Reporting Program (MMRP) are hereby incorporated as Conditions of Approval.
- 16) All Site Plan Review Comments shall be addressed and incorporated into the Project, in a manner meeting the approval of the Community Development Director, or Designee.
- 17) Full compliance with all conditions of approval stated in this document shall be achieved prior to the issuance of any Certificates of Occupancy or as modified by the Community & Economic Development Director. Any minor modifications shall be submitted to the Director to review and determine compliance with the original Conditions of Approval.

APPEAL INFORMATION:

According to the City of Tulare Zoning Ordinance Section 10.20.020, decisions of the Planning Commission may be appealed by filing a letter with the City Clerk, located at 411 East Kern Avenue, Tulare, CA 93274, no later than ten (10) days after the day on which the decision was made. The appeal shall state the name of the person making the appeal, the decision that is being appealed, and the reasons for the appeal, including an error, abuse of discretion or a decision that is not supported by the evidence in the record.

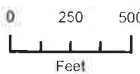
Attachments:

- I. Project Vicinity Map
- II. Site Plan
- III. Exterior Elevations/Renderings
- IV. Engineering Comments
- V. Fire Department Comments
- VI. Parks Comments
- VII. Final Mitigation Monitoring and Reporting Program
- VIII. Final EIR for the Tulare Pilot Flying J Travel Center Project
- IX. CEQA Findings and Statements of Overriding Considerations
- X. Resolution



Legend

- Area to be Developed
- Project Boundary
- City Limits



**PILOT FLYING J TRAVEL CENTER
TULARE, CALIFORNIA**

Figure 2-4: Aerial Photo

Data sources: Tulare County GIS Map data: N/A, 2016

PILOT/FLYING J TRAVEL CENTER

SITE PLAN

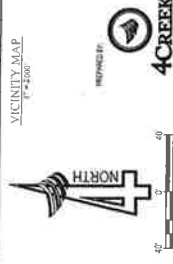
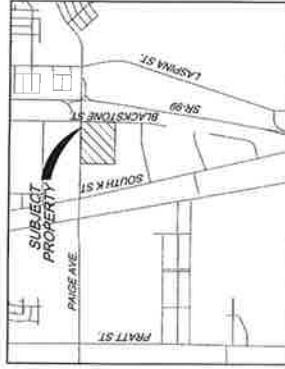
JULY 11, 2017
 PREPARED BY: 4CREEKS, INC.
 1000 N. W. 13TH ST.
 MIAMI, FL 33136

SITE DATA:

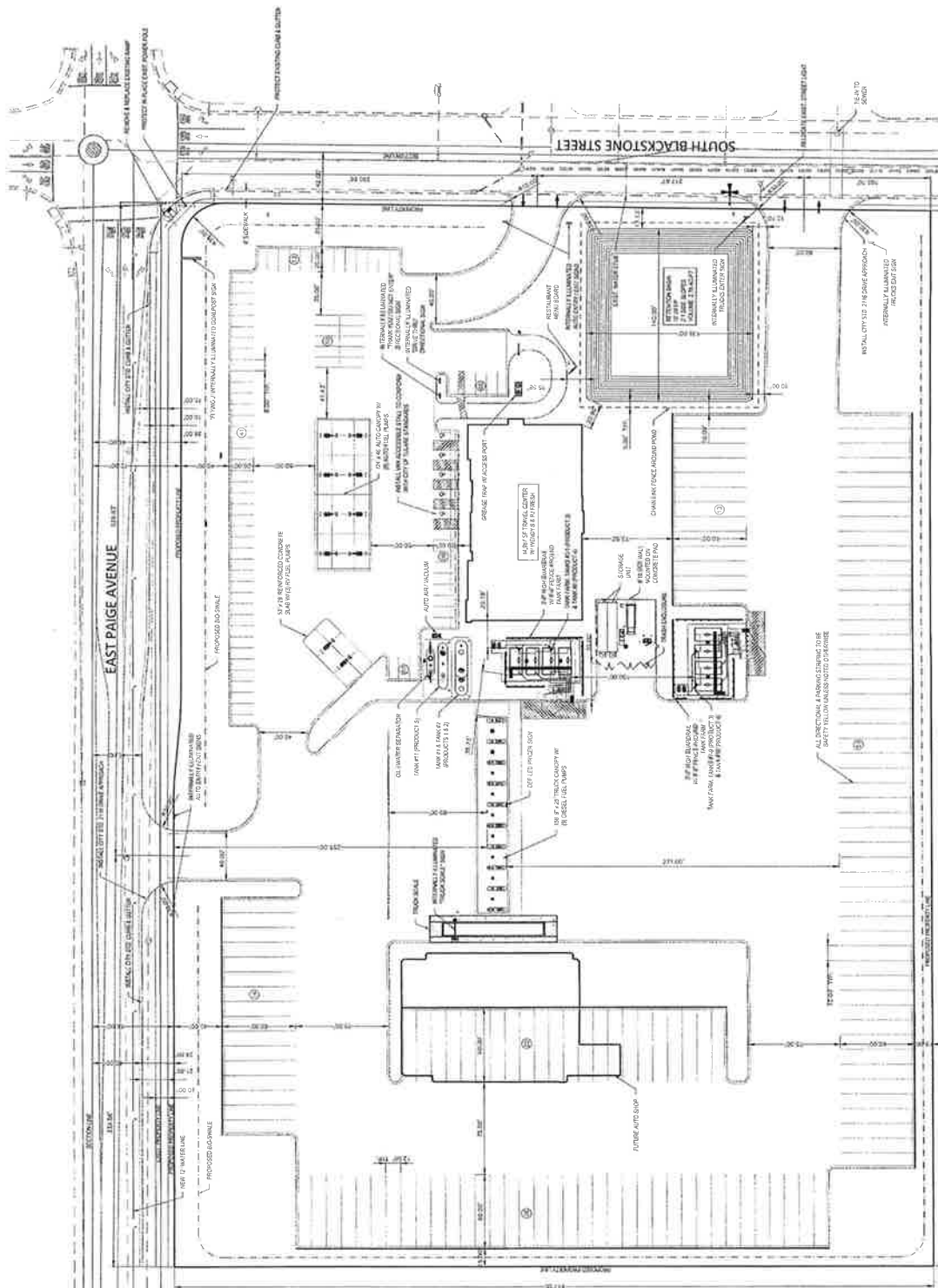
APN: 191-050-029
 AREA: 36.27 AC.
 CURRENT ZONING: M-1
 EXISTING USE: VACANT
 PROPOSED ZONING: TRAVEL CENTER
 CITY OF TULARE
 WATER SERVICE: CITY OF TULARE
 STORM SERVICE: CITY OF TULARE
 GAS SERVICE: SOUTHERN CALIFORNIA
 ELEC. SERVICE: SOUTHERN CALIFORNIA
 REFUSE SERVICE: WASTE MANAGEMENT
 TELEPHONE: CITY OF TULARE
 FLOOD ZONE: ATT. X

PROPOSED PROJECT DATA

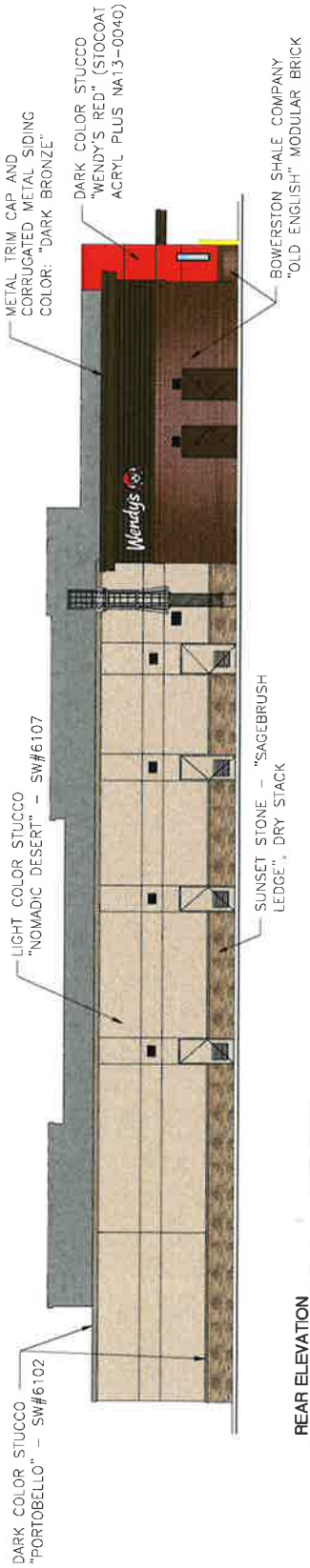
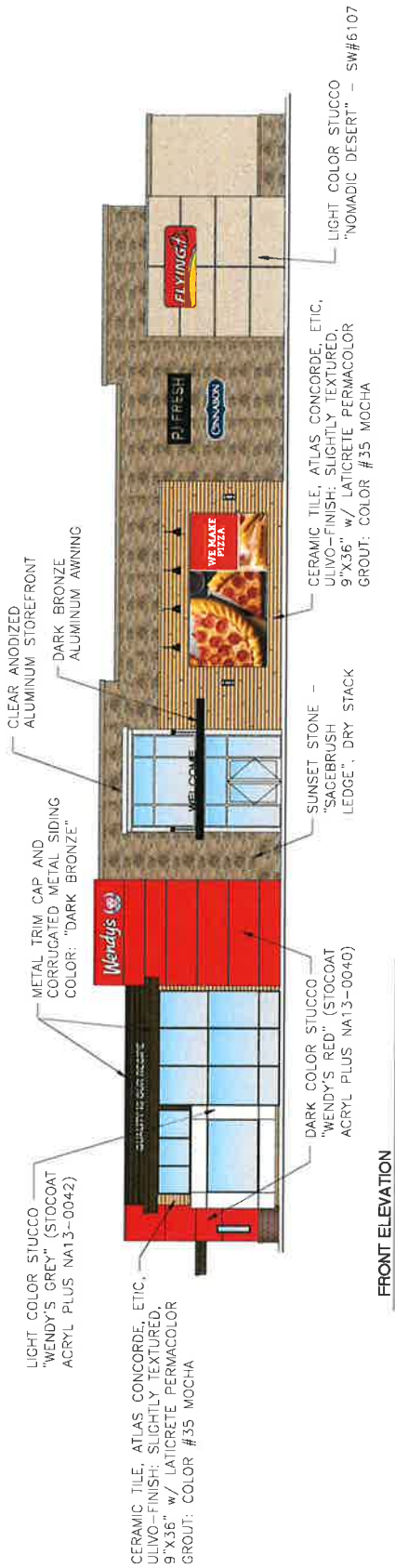
PROPOSED PARCEL SIZE: 12.11 AC.
 8 GAS DISPENSERS
 9 DIESEL LINES
 P1 FRESH AND WENDY'S
 9 SHOWERS
 FUTURE TRUCK SHOP
 BUILDING SIZE: 138 TRUCK PARKING STALLS
 87 CAR PARKING STALLS
 9 ACCESSIBLE STALLS



SCALE: 1/4" = 100'
 4CREEKS
 1 OF 1



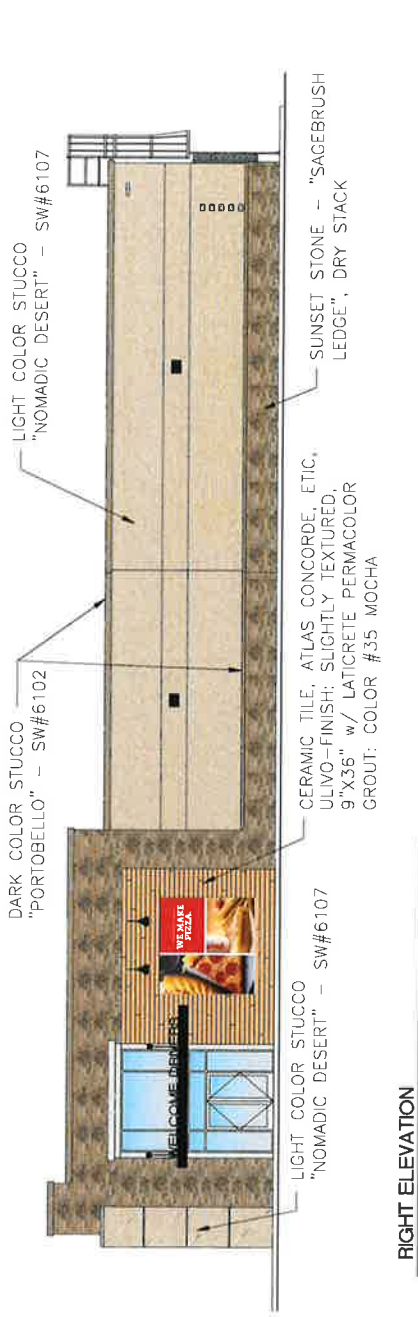
PROPOSED GAS MAIN
 PROPOSED WATER MAIN
 PROPOSED SANITARY MAIN
 PROPOSED ELECTRICAL MAIN
 PROPOSED FLOOD CONTROL DITCH
 PROPOSED FLOOD CONTROL WALL
 PROPOSED FLOOD CONTROL BARRIER
 PROPOSED FLOOD CONTROL CURB
 PROPOSED FLOOD CONTROL DRAINAGE
 PROPOSED FLOOD CONTROL PAVEMENT
 PROPOSED FLOOD CONTROL SIGNAGE
 PROPOSED FLOOD CONTROL LIGHTING
 PROPOSED FLOOD CONTROL FENCE
 PROPOSED FLOOD CONTROL GATE
 PROPOSED FLOOD CONTROL VALVE
 PROPOSED FLOOD CONTROL PUMP
 PROPOSED FLOOD CONTROL STORAGE TANK
 PROPOSED FLOOD CONTROL CONTROL BUILDING
 PROPOSED FLOOD CONTROL OPERATOR'S OFFICE
 PROPOSED FLOOD CONTROL MAINTENANCE SHED
 PROPOSED FLOOD CONTROL STORAGE YARD
 PROPOSED FLOOD CONTROL PAVEMENT
 PROPOSED FLOOD CONTROL SIGNAGE
 PROPOSED FLOOD CONTROL LIGHTING
 PROPOSED FLOOD CONTROL FENCE
 PROPOSED FLOOD CONTROL GATE
 PROPOSED FLOOD CONTROL VALVE
 PROPOSED FLOOD CONTROL PUMP
 PROPOSED FLOOD CONTROL STORAGE TANK
 PROPOSED FLOOD CONTROL CONTROL BUILDING
 PROPOSED FLOOD CONTROL OPERATOR'S OFFICE
 PROPOSED FLOOD CONTROL MAINTENANCE SHED
 PROPOSED FLOOD CONTROL STORAGE YARD



NOTES:
 - REFER TO DRAWING AS A SET FOR ELEVATION HEIGHTS, DIMENSIONS, AND DETAILS



PILOT FLYING J
 DESIGN DEPARTMENT
 6508 LONAS ROAD
 KNOXVILLE, TENNESSEE 37909
 (865) 588-7488



RIGHT ELEVATION



LEFT ELEVATION



NOTES:
- REFER TO DRAWINGS A6 & A6.1 FOR ELEVATION
HEIGHTS, DIMENSIONS, AND DETAILS

PILOT FLYING J
DESIGN DEPARTMENT
5508 LONAS ROAD
KNOXVILLE, TENNESSEE 37909
(865) 568-7488



SITE PLAN REVIEW COMMENTS

Engineering Department

Michael W. Miller, City Engineer

TO: Planning Division

FROM: Engineering Division

MEETING DATE: December 6, 2017

PROJECT: Conditional Use Permit No.: 2016-04

PROJECT LOCATION: SW Corner of Paige Avenue and Blackstone Street

OWNER/DEVELOPER: Pilot Travel Centers

The Engineering Division recommends the following Site Plan Review Status for the subject project:

- Resubmit: Additional Information Required, Redesign Required
 Revise and Proceed, comply with comments checked below
 Final Comments

ITEMS TO ADDRESS IN RESUBMITTAL:

STANDARD CONDITIONS OF APPROVAL:

1. All required engineering plans and calculations shall be prepared by a registered civil engineer. Any elevations shown on plans required for the subject development shall be based on the official City of Tulare datum. The Engineer shall provide three (3) copies of each improvement plan set submitted to the City of Tulare for checking. All public improvements shall be on 24" x 36" sheets, in a plan/profile format at a scale of 1"=50' or larger. Private on-site improvements may be plan-view only format, and may be on sheet sizes consistent with the rest of the on-site construction plans. Following approval of the improvement plans, the Engineer shall provide the City of Tulare with two reproducible plan sets. This shall be done prior to scheduling any pre-construction conferences or commencing any improvements.
2. Any work to be done within City street rights-of-way requires an encroachment permit issued by the Engineering Department, and shall be done under the inspection of the City Public Works Inspector. All contractors working within City street rights-of-way shall possess a valid City of Tulare business license. Separate encroachment permits are also required from the following agencies for work within their rights-of-way or on their facilities: State: State Highway 99, Tulare Irrigation District.
3. All design and construction of public improvements shall be in accordance with applicable City Standards, Specifications, Ordinances, and Standard Operating Procedures, unless specifically

modified elsewhere in these conditions. These engineering conditions are intended to deal with major issues apparent to the Engineering Department while reviewing this development proposal. Nothing in these conditions precludes the City Engineer from applying other conditions/modifications necessary for good design, operation, and maintenance of existing and future City facilities, as might become apparent during design review and/or construction.

4. Easements will be required for all public utilities to be located outside of dedicated rights-of-way. Six-foot public utility easements are required along all street frontages, unless otherwise waived by the City Engineer. Additional easements may be required for ingress/egress, drainage, or shared trash enclosures.
5. Existing curb and gutter, driveway approaches, sidewalk and ramped curb returns shall be subject to inspection by the City Public Works Inspector. As a condition of project approval, Owner/Developer shall be required to replace any existing improvements that are determined to be non-compliant with regard to current City standards, or to be otherwise defective. Examples of deficiencies include, but are not limited to, slopes that exceed accessibility standards, cracked or raised concrete, and lack of truncated dome panels.
6. New City standard curb and gutter shall be installed along the following street frontage(s): Paige Avenue.
7. New City standard sidewalk shall be constructed as indicated below. For adjacent sidewalk pattern, sidewalk shall transition behind driveway approaches and maintain a minimum width of 4 feet while doing so. The maximum slope adjacent to the back of any public sidewalk shall not exceed 5:1 for the first 5 feet. For areas located within a Landscape and Lighting District, the maximum slope between the back of the sidewalk and the wall or fence shall not exceed 10:1.

<u>Street Frontage</u>	<u>Configuration</u>	<u>Sidewalk Width (ft)</u>
Paige Avenue	in a full-width pattern	10-ft
Blackstone Street	adjacent to curb	6-ft

8. New City standard ramped curb returns and/or pedestrian ramps shall be installed at: SW cor Paige Avenue and Blackstone Street.
9. New City standard driveway approach(es) shall be constructed at: Paige Avenue and Blackstone Street project entrances. Any drive approach(es) greater than 36 feet in width requires a variance approved by the City Engineer.
10. The following minimum street improvements are required:
 - a. Full paveout from lip of gutter to the existing edge of pavement along the project's frontages of: Paige Avenue.

Roadway structural section design shall be based upon the results of "R" Value tests at locations approved by the City Engineer, and the design criteria provided below:

<u>Roadway</u>	<u>Classification, Design T.I.</u>
Paige Avenue	Principal Arterial, T.I. = 10.5

11. On-site A.C. pavement design shall be based upon the results of "R" Value tests at locations approved by the City Engineer, and the following traffic index requirements: 4.0 for parking areas, 4.5 for travel lanes, and 6.5 for truck routes (including solid waste collection vehicles).
12. Street Lights (Standard Concrete Marbelite Pole) shall be installed at locations designated by the City Engineer, and shall comply with the following general requirements:

LED, SCE Owned/Maintained on a metered service. Design of the LED street lighting system shall be approved by City Engineer. The following street light design criteria shall be used:

Minimum 9,500 Lumen with cut-off luminaires with 29' pole height and 8' mast arm to be installed in accordance with City standards on: Blackstone Street.

Minimum 16,000 Lumen with cut-off luminaires with 29' pole height and 8' mast arm to be installed in accordance with City standards on: Paige Avenue.

13. Street name signs, traffic control signs, pavement delineation and/or pavement markings shall be installed as required by the City Engineer. Parking shall be restricted along project frontages with appropriate signing and curb markings.
14. The following right-of-way dedications are required for street/alley purposes:
 - a. Chamfer property corner: 20' at SW corner of Paige Avenue and Blackstone Street to accommodate 35' radius curb return.
 - b. Street: Right-of-way dedication of 42' along project's Blackstone Street frontage. Right-of-way dedication varying from 46' to 52' along project's Paige Avenue frontage to accommodate standard widening and eastbound right-turn lane at Blackstone Street. Required length of right-turn lane to be determined during design of public improvements.
15. Project trip generation data is required. A Transportation Impact Study identifying the project impacts and proposed mitigation measures is required as a condition of project approval, and shall be subject to the approval of the City Engineer and Caltrans. Traffic impact studies shall conform to current CEQA "state of the practice" standards, the Caltrans "Guide For The Preparation of Traffic Impact Studies", and City of Tulare General Plan requirements. Traffic impact studies shall address provisions for pedestrian, bicycle and transit access to the project. In evaluating project impacts to existing roadway facilities, traffic impact studies shall utilize the current transportation modeling forecasts provided by the Tulare County Association of Governments (TCAG), and shall specifically address the project impacts and any appropriate mitigations to facilities, including opening day improvements, identified by the City Engineer.
16. All costs associated with the removal, relocation and undergrounding of utilities as necessary to accommodate installation of the required public improvements shall be the responsibility of the project. All utility lines, including but not limited to electric, communications, street lighting and cable television, shall be required to be placed underground in accordance with Section 8.24.160 (B) 3 of the City of Tulare Municipal Code. The cost of such relocations and undergrounding shall be included in the bonding provided for the project.
17. The proposed development shall be responsible for the following water main extensions and connections: 12" from existing end east of "K" Street to stub at Blackstone Street.
18. Fire hydrants and fire suppression systems shall be provided as required by the City of Tulare Fire Marshall. The proposed development shall demonstrate that sufficient flows are available to support the required improvements. All points of connection to the City water system are subject to the approval of the City Engineer.
19. The proposed development shall install water services with back flow devices, as approved by Planning and Building. Water sizing calculations shall be provided at time of building permit application. Domestic and landscaping services shall be metered services using the make and model of meter specified by the City of Tulare Public Works Department. No substitutions are allowed.
20. Water sampling stations shall be installed as follows: Paige Avenue.
21. Existing water wells shall be abandoned, filled and sealed in accordance with applicable City, County of Tulare, and State of California standards.
22. The proposed development shall connect to City sewer. If service from an existing lateral is proposed, said lateral shall be exposed for inspection by the Public Works Inspector and upgraded to current City standards if found to be broken or substandard.
23. Sewer monitoring stations, oil/water separators and/or grease interceptors shall be installed as required by the City wastewater manager.

24. Existing septic tanks shall be abandoned, filled and sealed in accordance with applicable City, County of Tulare, and State of California standards.
25. A grading/drainage plan prepared by a Registered Civil Engineer or Licensed Architect and subject to approval by the City Engineer shall be submitted. The plan shall include existing and proposed contours, and detail the means of collection and disposal of storm water runoff from the site and adjacent road frontages in such a manner that runoff is not diverted to adjacent property. On-site retention of storm water runoff is required not required.

A letter verifying that lot grading was completed according to the approved grading / drainage plan shall be prepared by a Registered Civil Engineer or Licensed Architect and submitted to the City Engineer prior to the issuance of any final occupancy permits or notice of completion for public improvements. The Engineer or Architect shall affix their stamp and seal to the letter.

26. All unused culverts and irrigation lines shall be abandoned and plugged in a manner acceptable to the City Engineer.
27. A trash enclosure is required and shall be shown on the improvement drawings. The type, location and orientation of the enclosure shall be subject to the approval of the Solid Waste Division Manager. For doublewide enclosures, separate bins are required for solid and recyclable waste, and identification signing shall be posted adjacent to all points of direct access. The wording of the signing shall be clear and concise, and shall identify all materials accepted in the recycling bin.
28. A Public Works Inspection Fee is required prior to the construction of improvements.
29. A landscaping plan subject to the review and approval of the Director of Parks and Community Services shall be provided. Approval of the landscaping plan is required prior to approval of engineering improvement plans by the City Engineer. All existing trees that conflict with proposed improvements shall be removed to a depth of two (2) feet below proposed finish grade.
30. If applicable, existing irrigation ditches and/or canals shall be piped, developed into a trail, or relocated outside the project boundaries per the direction of the City Engineer and affected irrigation district. Related irrigation facilities that remain in use shall be subject to the same requirements for piping or relocation.
31. In conformance with the City of Tulare's adopted air pollution control measures, a sign instructing delivery vehicle drivers to turn off their vehicle's engine while making deliveries shall be prominently posted at the location where deliveries are received.
32. Fugitive dust shall be controlled in accordance with the applicable rules of the San Joaquin Valley Air Pollution Control District's Regulation VIII. Copies of any required permits will be provided to the City.
33. If the project requires discretionary approval from the City, it may be subject to the San Joaquin Valley Air Pollution Control District's Rule 9510 Indirect Source Review per the rule's applicability criteria. A copy of the approved AIA application shall be provided to the City.
34. If the project meets the one acre of disturbance criteria of the States Storm Water Program, then coverage under General Permit Order 2009-0009-DWQ is required and a Storm Water Pollution Prevention Plan (SWPPP) is required. A copy of the approved permit and the SWPPP shall be provided to the City.
35. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(a), these conditions constitute a written notice of the amount of such fees, and a description of the dedications, reservations, and other exactions. The Owner/Developer is hereby notified that the 90-day protest period, commencing from the date of approval of the project, begins as of the date of Planning Commission's conditional approval of the project. If the Owner/Developer fails to file a protest regarding any of the fees, dedication requirements, reservation requirements, or other exactions contained in this notice, complying with all the requirements of Government Code Section 66020, the Owner/Developer will be legally barred from later challenging such exactions.

36. All applicable City fees shall apply unless specifically waived or modified elsewhere in these conditions. All fees shall be based on the current fee schedule in effect at the time of recordation of the final map. These fees include, but are not limited to:

- Sewer front foot charges of \$ TBD per front foot for frontages on Blackstone Street.
- Sewer lift station fee of \$ _____ per acre.
- Water front foot charges of \$ 17.50 per front foot for frontages on Paige Avenue and Blackstone Street.
- Street front foot charges of \$ _____ per front foot for frontages on _____.
- Benefit district creation fee (if applicable): \$ 1,008.19 per district.
- Traffic signal in-lieu fee of \$ _____.
- TID ditch piping In-lieu fee of \$ _____.
- Sewer main construction in-lieu fee of \$ _____.
- Water main construction in-lieu fee of \$ _____.
- Street construction in-lieu fee of \$ TBD per findings of Traffic Impact Study.
- Engineering inspection fee based on a percentage of the estimated cost of construction.
- Development impact fees to be paid with building permit. Fees are estimated at approximately \$183,063 based upon available information.
- Engineering plan check fee to be paid at time of plan submittal.
- Final map plan check fee to be paid at time of map submittal.
- Other: _____

Additional Conditions:

- 37. To protect the storm drainage system from contamination from potential fuel spills, all fuel bays shall be covered and runoff shall be directed to a separate collection and disposal system that includes a filtration system and discharges to the sewer system. Said system shall be subject to the approval of the City Engineer and wastewater manager.
- 38. The Project shall be required to construct all opening day improvements and pay fair share costs of future improvements identified in the pending Traffic Impact Study.
- 38. Some of the required public improvements may be eligible for reimbursement through an Oversize Reimbursement Agreement in accordance with the provisions of Tulare City Municipal Code Chapter 8.64, "Oversized Construction Reimbursement". To be eligible, said improvements would need to be included in a development agreement between the City and Owner/Developer to be executed prior to the start of their construction.

Prepared By: Michael W. Miller, City Engineer

SITE ADDRESS: Pilot Travel Centers

DATE: August 9, 2017

OWNER: Pilot Travel Centers

ARCHITECT/ENGINEER: 4Creeks

SITE PLAN REVIEW COMMENTS

The Fire Prevention Bureau conveys the following comments regarding Conditional Use Permit CUP 2016-04:

The project must comply with latest applicable codes.

Based on the occupancy classification/square footage of building a fire alarm and/or an automatic sprinkler system may be required.

When a sprinkler system is required all valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers is more than 20.

For automatic sprinkler systems, underground plans must be submitted with above ground plans. A hydrant will be required within *50 feet* of the Fire Department connection. Project must meet minimum fire flow requirements per the table in Appendix B & C of the California Fire Code.

Commercial cooking equipment that produce grease laden vapors shall be provided with a Type I Hood, in accordance with the California Mechanical Code, and an automatic fire extinguishing system that is listed and labeled for its intended use.

When any portion of the facility or building to be protected is more than 400 feet from a hydrant on a fire apparatus access road as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

An approved water supply for fire protection shall be made available as soon as combustible material arrives on the site. CFC 3312.1

Depending on the location of the existing fire hydrant(s), additional fire hydrants may be required. On site hydrants are required.

Fire hydrant spacing shall be as follows:

In Residential development, one hydrant shall be installed at **500-foot** intervals.

In Commercial development, one hydrant shall be installed at **300-foot** intervals.

Or as required by Appendix C California Fire Code.

All fire suppression systems shall be approved by the City of Tulare Fire Prevention Bureau. Such Systems shall be reviewed for access, redundancy, reliability and quality.

Approved fire apparatus access roads shall (min 20' width/ height 13'6") be provided for every facility, building or portion of a building constructed or moved onto or within the City of Tulare. It shall extend to within 150 feet of all portions of the facility and all portions on the exterior

walls of the first story of the buildings as measured by an approved route around the exterior of the building or facility.

All roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities and comply with CFC 2013 Section D102.1

Additional access may be required per CFC 2013 Section 503.1.2. The Fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access. Areas identified as "Fire Lanes" must be identified as such per requirements set forth in the California Vehicle Code Section 22500.1.

All dead-end access roads in excess of 150 feet must be provided with an approved turn-around complying with City Standards.

When access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the Fire Code Official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the Fire Code Official. An application is available at www.knoxbox.com using department search, *Tulare Cit.*

Shelli Vinson
Fire Inspector III

INTEROFFICE MEMORANDUM

TO: Development Services Division
FROM: Parks Division
SUBJECT: CUP 2016-04 Tulare Pilot Flying J Travel Center
DATE: December 6, 2017

The main objectives of the City of Tulare's Landscaping Ordinance include conserving water through the selection of plants consistent with Tulare's Mediterranean climate; design of water efficient landscapes; and to enhance the aesthetic appearance of the city by promoting development that is well landscaped, properly irrigated and effectively maintained.

All projects that require a landscaping and irrigation plan pursuant to this chapter shall comply with the following development standards.

(A) *General standards.*

(1) All landscape development over 500 square feet (new) or 2,500 square feet (rehabilitated) that requires a permit, plan check or design review shall meet the water efficiency and site design requirements detailed in other sections of this chapter. The project applicant, and owner (if different) shall sign the Landscape Documentation Package as required in § 10.196.060(B)(1)(i).

(2) All exterior areas not devoted to parking, storage, driveways, walkways or loading areas shall be landscaped. A minimum of 5% of the gross lot area shall be landscaped, unless the district in which the project is located does not require yard areas in which case only street trees are required.

(3) Landscaping shall be used to screen storage areas, trash enclosures, parking, public utilities and other similar elements. The landscaping shall screen these elements within three years of installation.

(4) Planting and irrigation shall conform to the water use efficiency sections of this code in such a manner that the site-wide estimated total water use (ETWU) will be less than the maximum applied water allowance (MAWA). Landscape plans shall document compliance with the ordinance by submitting a Landscape Documentation Package and providing supporting documentation as required in the ordinance.

(5) All landscaping on city-owned property shall conform to city landscaping and irrigation standards including the City of Tulare Recreation, Parks and Library Department Improvements Standards; City of Tulare Parking Lot Tree Shading Design and Maintenance Guidelines; area specific plans and other applicable documents, as may be updated from time to time.

(6) Certain landscapes (see § 10.196.040) are exempt from the water efficiency documentation requirements of this section. These landscapes must still comply with the development standards in § 10.196.070 as much as is practical.

(B) *Trees.*

(1) Fifteen-gallon street trees shall be planted in the right-of-way along all public streets. The number of street trees required shall be determined by dividing the total street frontage measured at the property line by 30. Round

up to whole trees. Actual spacing of trees can vary to accommodate driveways, buried and overhead utilities and other obstructions. Trees shall be spaced at reasonable mature canopy width.

(2) Street tree location can be in the landscape parkway between the curb and sidewalk, in tree wells if approved in the site plan, or on the property-side of the sidewalk as appropriate for the particular situation. The species selection shall respect the available root area in the planting zone.

(3) The front, rear and side setbacks facing public streets shall be planted with trees and shrubs to provide an attractive buffer between the building and/or parking and the adjacent roadways and shade for walks and parking lots.

(4) Trees in the setback area, yards and around the parking lot shall be 15 gallon or larger.

(5) Trees planted near sidewalks, curbs or other hardscape shall be appropriately sized for the root area of the trees and shall be irrigated on a dedicated irrigation valve. If the center of the trunk of the tree is within eight feet of a curb, sidewalk, building, trash enclosure or other hardscape improvement the tree shall be installed with an 18-inch by 10-foot root barrier installed in a linear fashion adjacent to the concrete improvement.

(6) Trees shall be planted in locations where they do not interfere with service lines, basic property rights of adjacent owners, or the right of solar access.

(C) *Shrubs.*

(1) Shrubs and living ground covers shall be used in the city right-of-way in lieu of turf. Spacing of shrubs shall not exceed 120% of the mature size stated for the shrubs in the current edition of the Sunset Western Garden Book.

(2) Front, side and rear setback areas that abut public streets shall be planted with a combination of shrubs, groundcovers and mulches in such a manner that the landscape meets the water efficiency requirements elsewhere in this section.

(3) Shrubs and ground covers in setbacks shall be spaced at no more than 120% of the mature size stated in the current edition of the Sunset Western Garden Book.

(4) Unplanted mulch areas may comprise no more than 30% of the planter area. Tree canopy over unplanted mulch areas is encouraged.

(5) Fifty of the shrubs and ground covers shall from be five-gallon containers or larger, the remainder shall be from one-gallon containers.

(6) Vines that self-cling shall be planted on all frontage masonry walls for graffiti control.

(D) *Turf.*

(1) Turf (as defined in § [10.196.030](#)) is only allowable in cases where the water budget will demonstrate that adequate irrigation water is available.

(2) Concrete mow strips shall separate all turf areas from planter beds on city-owned property.

(3) Turf beds shall be a minimum of ten feet in width unless irrigated with subsurface irrigation; turf may not be used in storm drainage ponds with slopes steeper than 1:6 or on mounds or berms with slopes steeper than 1:8, except as provided for by the Recreation and Parks Department.

(4) Use of artificial turf on city-owned property may be used subject to approval by the Recreation and Parks Director.

(E) *Irrigation.*

(1) All components of the irrigation system and the irrigation design must meet the water efficiency requirements elsewhere in this section, including:

(a) Low-volume systems (drip, low volume sprays, or individual bubblers) shall be used whenever feasible. In city-owned shrub areas low-volume irrigation shall be installed using hard pipe underground with low volume sprays or bubblers above grade.

(b) Irrigation for sports turf and recreational turf may use overhead irrigation subject to the restrictions elsewhere in this chapter.

(c) All irrigation systems shall be equipped with an automatic Smart-controller with ET sensing, weather-sensing and with multiple cycle capabilities and a flexible calendar program.

(d) Plants shall be grouped into hydro zones of like water requirements.

(e) Sprinkler heads must have matched application rates within each control valve.

(f) Sprinkler head spacing shall be designed for head-to-head coverage and placed at a maximum of 50% of the diameter of throw for square spacing and 60% for triangular spacing.

(g) Overhead sprays shall not throw water onto hardscape, bare ground areas, or other non-planted areas, including sidewalks between landscaped areas. Irrigation water must stay in landscape areas and not drain off to storm drains or gutters.

(h) Pop-up sprinklers must have a six-inch pop-up height and must clear all plant material and obstacles in their throw zone.

(i) Automatic rain shut-off devices shall be required on all irrigation systems.

(j) One valve shall be dedicated to tree irrigation and shall be able to run independently of any other irrigation valve.

(F) *Mulch.*

(1) As required elsewhere in this chapter, a minimum of three inches of mulch is required in all non-turf planters.

(2) Mulch may be organic (such as bark, compost or straw) or mineral (such as cobble or decomposed granite).

(3) Mulch on city-owned property must be course ground cedar or redwood bark product. Dyed products are prohibited.

(4) Plastic or other non-porous sheeting is prohibited in city-owned and landscape and lighting District planters and discouraged elsewhere.

(G) *Mounding.*

(1) Mounds that contain turf or groundcover shall be no steeper than 1:8 and 1:5, respectively. Slopes steeper than 1:8 may contain shrubs if this material is irrigated with a drip or other low-volume system.

(2) Incorporate compost into the mounds prior to compaction per § 10.196.063(A)(3). Mounds shall be compacted prior to planting.

(H) *Corner lots.* Landscape and irrigations plans for any development involving corner lots at project entries shall include additional special design requirements, including but not limited to the following:

(1) Incorporate significant landscape or hardscape feature, including specimen trees; wall breaks, angled walls or walls with different material treatment; special signing or lighting or statue.

(2) Specimen trees.

(3) Corner landscape and irrigation plans shall be designed so that proper sight lines across the corner are maintained consistent with the Traffic Safety Sight Area as defined in § 10.212.030 (Definitions).

(I) *Walls*. Plans for development project walls facing public streets should include the following special design requirements, including but not limited to the following:

(1) Wall material should vary. Caps, pilasters or corner segments of the wall should vary in appearance from the primary portion of the wall.

(2) Masonry walls shall be planted with vines in order to soften the appearance of the wall and discourage graffiti.

(3) Non-masonry fences facing public streets or property shall be set back from the back of walk a minimum of three feet and planted with shrubs or other plant materials.

(J) *Parking lots*. Parking lot plans for nonresidential developments serving 20 parking stalls or greater should include the following design requirements. These requirements will promote an attractive visual environment, promote a transition between land uses, reduce energy consumption in buildings adjacent to parking lots, and decrease glare and high summer temperatures community-wide by reducing the amount of exposed pavement.

(1) A combination of landscaping and/or low walls and/or mounding shall be installed between the parking lot and the street to screen the parking lot from view from the public right-of-way.

(2) All parking lots with a capacity of 20 cars or more shall contain shade trees, which within ten years from installation, shall shade 50% of the parking lot. All surfacing on which a vehicle can drive is subject to shade calculation, including parking stalls, drive aisles, and all maneuvering areas. Guidelines for shade calculations and a list of approved parking lot trees are contained in the Parking Lot Tree Shading Design Manual.

(3) For each ten parking spaces, a minimum of one 15-gallon or larger shade tree shall be installed, but more may be required to meet the 50% shading requirement. Trees shall be contained in tree wells or planters with an outside measurement of not less than five feet by five feet that are enclosed with a concrete curb not less than six inches high. Continuous planting islands between rows of cars are encouraged to allow for multiple tree plantings and increased soil volume for tree roots.

(4) Shade trees planted within a parking lot should be evenly distributed throughout the lot.

(5) Shrubs and trees shall be planted in locations that do not conflict with the front of cars that extend into a planter area. If within eight feet of the curb, trees shall be located aligned with parking lot stripes and shall be provided with root barriers as in division (B)(5) above.

A complete copy of the City's landscape standards may be viewed on-line at www.ci.tulare.ca.us. If there are questions regarding the above requirements or how they impact the specific project, please contact the City of Tulare, Recreation and Parks Department at 559-684-4310.

This document is the Mitigation Monitoring and Reporting Program (MMRP) for the Tulare Pilot Flying J project. This MMRP has been prepared pursuant to Section 21081.6 of the California Public Resources Code, which requires public agencies to “adopt a reporting and monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment.” A MMRP is required for the proposed project because the EIR has identified significant adverse impacts, and measures have been identified to mitigate those impacts.

The numbering of the individual mitigation measures follows the numbering sequence as found in the EIR, some of which were revised after the Draft EIR was prepared. These revisions are shown in Section 3.0 of the Final EIR. All revisions to mitigation measures that were necessary as a result of responding to public comments and incorporating staff-initiated revisions have been incorporated into this MMRP.

4.1 MITIGATION MONITORING AND REPORTING PROGRAM

The MMRP, as outlined in the following table, describes mitigation timing, monitoring responsibilities, and compliance verification responsibility for all mitigation measures identified in this Final EIR.

The City of Tulare will be the primary agency responsible for implementing the mitigation measures and will continue to monitor mitigation measures that are required to be implemented during the operation of the project.

The MMRP is presented in tabular form on the following pages. The components of the MMRP are described briefly below:

- **Mitigation Measures:** The mitigation measures are taken from the Draft EIR in the same order that they appear in that document.
- **Mitigation Timing:** Identifies at which stage of the project mitigation must be completed.
- **Monitoring Responsibility:** Identifies the agency that is responsible for mitigation monitoring.
- **Compliance Verification:** This is a space that is available for the monitor to date and initial when the monitoring or mitigation implementation took place.

4.0 MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 4.0-1: MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
AIR QUALITY				
Impact 3.2-1: Project operation has the potential to cause a violation of an air quality standard or contribute substantially to an existing or projected air quality violation.	Mitigation Measure 3.2-1: The proposed Project is subject to Rule 9510, as required by the SJVAPCD. The Project Applicant shall pay the Indirect Source Review Rule fee for any required reductions that have not been accomplished through project mitigation commitments, prior to Project construction activities. The fee calculations will be conducted by the SJVAPCD.	City of Tulare Community Development Department	Prior to start of construction or grading activities	
Impact 3.2-5: The proposed Project has the potential to generate objectionable odors.	Mitigation Measure 3.2-2: The proposed Project is required to comply with SLC, Phase 1 EVR, and Pre-EVR Phase II requirements, as required by the California Air Resources Board (CARB). The Project applicant shall also implement all feasible SJVAPCD Best Available Control Technology (BACT) for all motor vehicle gasoline storage and dispensing operations, prior to the initial operational phase of the Project. Mitigation Measure 3.2-3: For the purposes of ensuring compliance with the California Air Resources Board (CARB) regulation requiring heavy-duty (GVWR >10,000 lbs) trucks to idle to no more than 5 minutes per hour, the Project applicant shall post highly visible signage throughout Project site where truck idling may occur (i.e. at multiple high-visibility locations throughout the truck parking area), prior to operation of the Project.	City of Tulare Community Development Department	Prior to operational phase of the Project.	
BIOLOGICAL RESOURCES				
Impact 3.3-3: The proposed Project has the potential to have direct or indirect effects on special-status bird species.	Mitigation Measure 3.3-1: In order to avoid impacts to nesting raptors and migratory birds, Project activities will occur, where possible, outside the nesting season. The nesting season is generally February 1-August 31. If Project activities must occur during the nesting season (February 1-August 31), a qualified biologist will conduct pre-construction surveys for active raptor and migratory bird nests within 30 days of the onset of these activities. For migratory birds and raptors, the survey area will include the Project site and a 250-foot buffer area surrounding the Project site. If no active nests are found within the survey area, no further measures are required. Should any active nests be discovered within the survey area, the biologist will determine the appropriate construction setback distances based on applicable CDFW guidelines and/or the biology of the affected species. Construction-free buffers will be identified on the ground with	City of Tulare Community Development Department and the California Department of Fish and Wildlife	During construction activities	

MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
<p>Impact 3.3-4: The proposed Project has the potential to result in direct or indirect effects on special-status mammal species.</p>	<p>flagging, fencing, or by other easily visible means, and will be maintained until the biologist has determined that the young have fledged. It is noted that cliff swallow nests were observed on the bridge, and impacts are addressed in a separate measure.</p> <p>Mitigation Measure 3.3-2: Mitigation for the loss of Swainson's hawk foraging habitat (and by default other raptor foraging habitat) shall occur at the applicable ratio(s) set forth in the CDFW's Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (<i>Buteo swainsoni</i>) in the Central Valley of California (CDFG 1994). This mitigation shall be applied during construction activities.</p> <p>Mitigation Measure 3.3-3: To avoid and minimize potential impacts to SJKF, the applicant shall implement the following measures, which are consistent with USFWS Standard Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS, 2004).</p> <ul style="list-style-type: none"> No less than 14 days and no more than 30 days prior to initiation of site disturbance and/or construction, a biologist shall conduct a pre-activity (i.e., pre-construction) survey for known or potential sensitive species, including San Joaquin kit fox dens, and submit a letter to the City of Tulare reporting the date the survey was conducted, the survey methodology, survey results, and what measures were necessary (and completed), as applicable, to address any San Joaquin kit fox activity within the Project limits. During construction, a qualified biologist shall conduct full-time monitoring during initial site-disturbance activities (i.e., grading, disk, excavation, stock piling of dirt or gravel, etc.). Upon completion of initial disturbance activities, monitoring shall occur on a weekly basis. During construction, the biologist shall submit monthly monitoring reports to the City of Tulare summarizing compliance with all applicable measures. Prior to or during Project activities, if any observations are made of San Joaquin kit fox, or any known or potential San Joaquin kit fox dens are discovered within the Project limits, the qualified biologist shall notify the City of Tulare. The City of Tulare will notify the California Department of Fish and Wildlife and the U. S. Fish and Wildlife Service. All work in the area of discovery will stop until 	<p>City of Tulare Community Development Department and the California Department of Fish and Wildlife</p>	<p>During construction and or ground disturbing activities</p>	

4.0 MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
	<p>such time that City of Tulare, in coordination with the CDFW and USFWS, determines ways to proceed with the Project and avoid take.</p> <ul style="list-style-type: none"> • <i>During the site-disturbance and/or construction phase, all construction pipes, culverts, or similar structures or materials that contact a hole with a diameter of 4-inches or greater and that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for San Joaquin kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. All pipes, culverts, or similar structures with a diameter of 4-inches or greater that will be stored onsite for more than one night shall be capped after it is inspected for San Joaquin kit fox. Road culverts shall be capped prior to the start of Project activities. If any San Joaquin kit fox is found, and the City of Tulare shall be notified. The City of Tulare will then notify the California Department of Fish and Wildlife and the U. S. Fish and Wildlife Service. All work in the area of discovery will stop until such time that City of Tulare, in coordination with the CDFW and USFWS, determines ways to proceed with the Project and avoid take.</i> • <i>Prior to, during, and after the site-disturbance and/or construction phase, use of pesticides or herbicides shall be in compliance with all federal, state, and local regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.</i> • <i>To prevent inadvertent entrapment of San Joaquin kit foxes or other animals during the construction phase of a Project, all excavated, steep-walled holes or trenches more than 2-feet deep shall be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. If at any time a trapped or injured San Joaquin kit fox is discovered, the City of Tulare shall be notified. The City of Tulare will then notify the California Department of Fish and Wildlife and the U. S. Fish and Wildlife Service. All work in the area of discovery will stop until such time that City of Tulare, in coordination with the CDFW and USFWS, determines ways to proceed with the Project and avoid take.</i> 			

MITIGATION MONITORING AND REPORTING PROGRAM

4.0

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
	<ul style="list-style-type: none"> • During the site-disturbance and/or construction phase, any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the City of Tulare. In the event that any observations are made of injured or dead San Joaquin kit fox, and the City of Tulare shall be notified. The City of Tulare will then notify the California Department of Fish and Wildlife and the U. S. Fish and Wildlife Service. All work in the area of discovery will stop until such time that City of Tulare, in coordination with the CDFW and USFWS, determines ways to proceed with the Project and avoid take. The City of Tulare shall cause any threatened or endangered species found dead or injured to be turned over immediately to the California Department of Fish and Wildlife for care, analysis, or disposition. • Prior to final inspection, should any long internal or perimeter fencing be proposed or installed, the City of Tulare shall do the following to provide for San Joaquin kit fox passage: <ul style="list-style-type: none"> ○ If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12 inches. ○ If a more solid wire mesh fence is used, 8x12-inch openings near the ground shall be provided every 100 yards.. 			
Impact 3.3-10: Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<p>Mitigation Measure 3.3-4: The landscaping plan shall include the planting of native trees, shrubs, and grasslands in order to preserve the visual integrity of the landscape, provide habitat conditions suitable for native vegetation and wildlife, and ensure that a maximum number and variety of well-adapted plants are maintained.</p>	City of Tulare Community Development Department	Prior to the project's operation phase	
CULTURAL RESOURCES				
Impact 3.4-1: Project implementation has the potential to cause a substantial adverse change to a significant historical resource, as defined in CEQA Guidelines §15064.5, or a	<p>Mitigation Measure 3.4-1: If any cultural resources, including prehistoric or historic artifact, or other indications of archaeological resources are found during grading and construction activities, all work shall be halted immediately within a 200-foot radius of the discovery until an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, has evaluated the</p>	City of Tulare Community Development Department	Throughout all ground disturbing activities	

4.0 MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
<p>significant tribal cultural resource, as defined in Public Resources Code §21074.</p>	<p><i>find(s).</i></p> <p><i>Work cannot continue at the discovery site until the archaeologist conducts sufficient research and data collection to make a determination that the resource is either 1) not cultural in origin; or 2) not potentially significant or eligible for listing on the NRHP or CRHR.</i></p> <p><i>if a potentially-eligible resource is encountered, then the archaeologist, lead agency, and project proponent shall arrange for either 1) total avoidance of the resource, if possible; or 2) test excavations to evaluate eligibility and, if eligible, total data recovery as mitigation. The determination shall be formally documented in writing and submitted to the lead agency as verification that the provisions in CEQA for managing unanticipated discoveries have been met.</i></p> <p><i>If Native American resources are identified, a Native American monitor, following the Guidelines for Monitors/Consultants of Native American Cultural, Religious, and Burial Sites established by the Native American Heritage Commission, may also be required and, if required, shall be retained at the Applicant's expense.</i></p>			
<p>Impact 3.4-2: Project implementation has the potential to cause a substantial adverse change to a significant archaeological resource, as defined in CEQA Guidelines §15064.5.</p>	<p>Implement Mitigation Measure 3.4-1</p>	<p>City of Tulare Community Development Department</p>	<p>Throughout all ground disturbing activities</p>	
<p>Impact 3.4-3: Project implementation has the potential to directly or indirectly destroy a unique paleontological resource.</p>	<p>Mitigation Measure 3.4-2: If paleontological resources are discovered during the course of construction, work shall be halted immediately within 50 meters (165 feet) of the discovery, the City of Tulare shall be notified, and a qualified paleontologist shall be retained to determine the significance of the discovery. If the paleontological resource is considered significant, it shall be excavated by a qualified paleontologist and given to a local agency, State University, or other applicable institution, where it could be curated and displayed for public education purposes.</p>	<p>City of Tulare Community Development Department</p>	<p>Throughout all ground disturbing activities</p>	

MITIGATION MONITORING AND REPORTING PROGRAM

4.0

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
<p>Impact 3.4-4: Project implementation has the potential to disturb human remains, including those interred outside of formal cemeteries.</p>	<p>Mitigation Measure 3.4-3: If human remains are discovered during the course of construction, work shall be halted at the site and any nearby area reasonably suspected to overlie adjacent human remains, until the Tulare County Coroner has been informed and has determined that no investigation of the cause of death is required. If the remains are of Native American origin, either of the following steps will be taken:</p> <ul style="list-style-type: none"> • The coroner will contact the Native American Heritage Commission in order to ascertain the proper descendants from the deceased individual. The coroner will make a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods, which may include obtaining a qualified archaeologist or team of archaeologists to properly excavate the human remains. • The landowner shall retain a Native American monitor, and an archaeologist, if recommended by the Native American monitor, and rebury the Native American human remains and any associated grave goods, with appropriate dignity, on the property and in a location that is not subject to further subsurface disturbance when any of the following conditions occurs: <ul style="list-style-type: none"> ○ The Native American Heritage Commission is unable to identify a descendant. ○ The descendant identified fails to make a recommendation. ○ The City of Tulare or its authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner. 	<p>City of Tulare Community Development Department</p>	<p>Throughout all ground disturbing activities</p>	
GEOLOGY AND SOILS				
<p>Impact 3.5-2: Implementation and construction of the proposed Project may result in substantial soil erosion or the loss of topsoil</p>	<p>Mitigation Measure 3.5-1: Prior to clearing, grading, and disturbances to the ground such as stockpiling, or excavation, the Project proponent shall submit a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) to the RWQCB to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit Order 2009-0009-DWQ amended by 2010-</p>	<p>City of Tulare Community Development Department, Public Works Department,</p>	<p>Prior to the issuance of a grading permit</p>	

4.0-7

4.0 MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
Impact 3.5-3: The proposed Project has the potential to be located on a geologic unit or soil that is unstable, or that would become unstable as a result of project implementation, and potentially result in landslide, lateral spreading, subsidence, liquefaction or collapse.	<p>0014-DWQ & 2012-0006-DWQ). The SWPPP shall be designed with Best Management Practices (BMPs) that the RWQCB has deemed as effective at reducing erosion, controlling sediment, and managing runoff. These include: covering disturbed areas with mulch, temporary vegetation, soil stabilizers, binders, fiber rolls or blankets, temporary seeding, soil stabilizers, seeding. Sediment control BMPs, installing silt fences or placing straw wattles below slopes, installing berms and other temporary run-on and runoff diversions. These BMPs are only examples of what should be considered and should not preclude new or innovative approaches currently available or being developed. Final selection of BMPs will be subject to approval by City of Tulare and the RWQCB. The SWPPP will be kept on site during construction activity and will be made available upon request to representatives of the RWQCB.</p> <p>Mitigation Measure 3.5-2: Prior to earthmoving activities, a certified geotechnical engineer, or equivalent, shall be retained to perform a final geotechnical evaluation of the soils at a design-level as required by the California Building Code Title 24, Part 2, Chapter 18, Section 1803.1.1.2 related to subsidence and other soil conditions. The evaluation shall be prepared in accordance with the standards and requirements outlined in California Building Code, Title 24, Part 2, Chapter 16, Chapter 17, and Chapter 18, which addresses structural design, tests and inspections, and soils and foundation standards. The final geotechnical evaluation shall include design recommendations to ensure that soil conditions do not pose a threat to the health and safety of people or structures. The grading and improvement plans shall be designed in accordance with the recommendations provided in the final geotechnical evaluation.</p>	and the RWQCB.		
		City of Tulare Community Development Department	Prior to earthmoving activities	
GREENHOUSE GASES AND CLIMATE CHANGE				
Impact 3.6-1: Potential to generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment or potential to conflict with an applicable plan, policy, or regulation adopted for	<p>Mitigation Measure 3.6-1: Ensure that the pedestrian network within the proposed Project site connects to offsite pedestrian networks, in order to make pedestrian circulation viable within, to, and from the project site and reduce the need to travel by vehicle, helping to reduce emissions and GHG. Project frontage improvements shall be included to ensure the Project is consistent with citywide street design standards and planned nearby circulation improvements. This mitigation shall occur during Project</p>	City of Tulare Community Development Department	During final design, construction activities, and prior to operational phase	

MITIGATION MONITORING AND REPORTING PROGRAM

4.0

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
<p>the purpose of reducing the emissions of greenhouse gases.</p>	<p>construction activities.</p> <p>Mitigation Measure 3.6-2: The City shall ensure that the proposed Project complies with Measure EE 1.3, Action E.1.3.2 of the Tulare Climate Action Plan. Proposed Project construction shall meet all CALGreen measures, as applicable, throughout the entirety of the construction of the Project.</p> <p>Mitigation Measure 3.6-3: The City shall ensure that the proposed Project complies with all City Building Code and other codes appropriate to increasing water efficiency in new non-residential development (as described in Tulare Climate Action Plan EE 1.5, Action E 1.5.4). This mitigation shall be applied prior to the end of Project construction activities.</p> <p>Mitigation Measure 3.6-4: The City shall require the proposed Project to comply with all applicable commercial energy performance measures within the City of Tulare Municipal Code, as described in Tulare Climate Action Measure EE 1.7. This mitigation shall be applied prior to the end of Project construction activities.</p> <p>Mitigation Measure 3.6-5: The City shall require the proposed Project to comply with Tulare Climate Action Measure SW 6.1, by providing on-site recycling throughout heavy-traffic areas of the Project site, to help the City achieve a 65% diversion of landfilled waste by 2020 and a 75% diversion by 2030. This mitigation shall be applied prior to the end of Project construction activities.</p>			
<p>HAZARDS AND HAZARDOUS MATERIALS</p> <p>Impact 3.7-1: Potential to create a significant hazard through the routine transport, use, or disposal of hazardous materials or through the reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.</p>	<p>Mitigation Measure 3.7-1: Prior to the issuance of grading permits, the Project proponent shall have a qualified hazardous waste specialist assess the site for surface staining and if staining is found to be present, perform soil sampling to (1) test for concentrations of commercial or industrial chemicals that may be present as a result of storage activities on the Project site, and (2) test for residual concentrations of agricultural application and storage. The results of soil sampling shall be submitted to the City's Planning Division and Tulare County Health and Human Services Agency, Environmental Health</p>	<p>City of Tulare Community Development Department and the Tulare County Dep't of Environmental Health</p>	<p>Prior to issuance of a grading permit</p>	

4.0

MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
	<p>Division. If evidence of contaminated soils at levels that pose a risk to construction personnel or future users of the Project site are encountered during the assessment, any contaminated areas shall be remediated by the Project applicant to reduce potential exposure to construction personnel and future users of the site to acceptable levels in accordance with recommendations made by Tulare County Health and Human Services Agency, Environmental Health Division, Regional Water Quality Control Board, Department of Toxic Substances Control, or other appropriate federal, state, or local regulatory agencies.</p> <p>Mitigation Measure 3.7-2: Prior to the commencement of a business operation that involves the transport, storage, use, or disposal of a significant quantity hazardous material within the Project site, the business owner shall submit a Hazardous Materials Business Plan (HMBP) for review and approval by the Tulare County Health and Human Services Agency, Environmental Health Division. The HMBP shall establish management practices for handling, storing, and disposal of hazardous materials, including fuels, paints, cleaners, solvents, pesticides, fertilizers, etc., during operations to reduce the potential for spills and to direct the safe handling of these materials if encountered. The areas shall be designed with spillage catchments such that any accidental spillage is prevented from entering waterways. The business owner shall also consult with the Tulare County Health and Human Services Agency, Environmental Health Division to ensure that the particular business operations are compliant with all local, state, and federal regulations relative to their operations (i.e. proper permits for the installation and use of an underground storage of hazardous substances (USTs)). The approved HMBP and any other permit deemed to be required in order to commence the specific business operations shall be maintained onsite and all personnel shall acknowledge that they have reviewed and understand the HMBP and any other permit requirements.</p>	<p>City of Tulare Community Development Department and the Tulare County Dept of Environmental Health</p>	<p>Prior to use or storage of hazardous materials</p>	
<p>Impact 3.7-4: For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for</p>	<p>Mitigation Measure 3.7-3: Prior to design and site plan approval for the proposed Project, the applicant shall provide the Planning Director with FAA and ALUC determinations. If the height of any structure (signage, lighting, etc.) is determined to result in airspace obstructions, the maximum height shall be limited as recommended by the reviewing agencies.</p>	<p>City of Tulare Community Development Department</p>	<p>Prior to design and site plan approval</p>	

MITIGATION MONITORING AND REPORTING PROGRAM

4.0

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
<p>people residing or working in the project area.</p>				
HYDROLOGY AND WATER QUALITY				
<p>Impact 3.8-1: The proposed Project has the potential to violate water quality standards or waste discharge requirements during construction.</p>	<p><i>Implement Mitigation Measure 3.5-1.</i></p>	<p>City of Tulare Community Development, Public Works Department, and the RWQCB.</p>	<p>Prior to the issuance of a grading permit</p>	
<p>Impact 3.8-5 The proposed Project has the potential to otherwise substantially degrade water quality.</p>	<p><i>Implement Mitigation Measure 3.5-1</i></p> <p>Mitigation Measure 3.8-1: The project applicant shall implement the following nonstructural BMPs that focus on preventing pollutants from entering stormwater:</p> <ul style="list-style-type: none"> • Pollution Prevention/Good Housekeeping ○ A spill response and prevention plan shall be developed as a component of (1) SWPPPs prepared for construction activities, (2) SWPPPs for facilities subject to the NPDES 	<p>City of Tulare Community Development, Public Works Department, and the RWQCB.</p> <p>City of Tulare Community Development, Public Works Department, and the RWQCB.</p>	<p>Prior to the issuance of a grading permit</p> <p>Prior to the issuance of a grading permit</p>	

4.0 MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
	<p>general Industrial Stormwater Permit, and (3) spill prevention control and countermeasure plans for qualifying facilities.</p> <ul style="list-style-type: none"> ○ Streets and parking lots shall be swept at least once every two weeks. • Operation and Maintenance (O&M) of Treatment Controls ○ An Operation and Maintenance (O&M) Plan shall be developed for the storm drainage facilities to ensure long-term performance. The O&M plan shall incorporate the manufacturers' recommended maintenance procedures and include (1) provisions for debris removal, (2) guidance for addressing public health or safety issues, and (3) methods and criteria for assessing the efficacy of the storm drainage system. An annual report shall be submitted to the City certifying that maintenance of the facilities was conducted according to the O&M plan. <p>Mitigation Measure 3.8-2: The project applicant shall implement the following structural BMPs that focus on preventing pollutants from entering stormwater, or alternative BMPs approved by the City of Tulare:</p> <ul style="list-style-type: none"> • Grassed Swales: A swale is a vegetated, open channel management practice designed to treat and attenuate stormwater runoff for a specified water quality volume. Stormwater runoff flowing through these channels is treated by being filtered through vegetation in the channel, through a subsoil matrix, and/or through infiltration into the underlying soils. Swales can be used throughout the proposed project area where feasible in the landscape design to treat parking lot runoff. <p>Proprietary Devices: There are a variety of commercially available stormwater treatment devices designed to remove contaminants from drainage once flows enter the conveyance systems. StormFilter™ units, or equivalent filtration-type systems, are recommended within the commercial and industrial areas as the main structural BMP for these areas. Bioswales are also recommended for streets and parking areas. Drop inlet filters should also be used to control drainage runoff water quality.</p>	<p>City of Tulare Community Development Department, Public Works Department, and the RWQCB.</p>	<p>Prior to the operational phase</p>	

MITIGATION MONITORING AND REPORTING PROGRAM

4.0

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
TRANSPORTATION AND CIRCULATION				
Impact 3.12-1: The proposed Project would not cause significant impacts at intersections.	Mitigation Measure 3.12-1: Prior to the operational phase, the Project proponent shall enter into a development agreement to ensure the installation of traffic signals and improvements at the affected intersections of Laspina Street/Paige Avenue, SR 99 SB Off-Ramp/Blackstone Street, SR 99 NB Off-Ramp/Paige Avenue, and Blackstone Street/Paige Avenue are provided as opening day improvements. All improvements are to be in accordance with the City of Tulare Improvement Standards, and sufficient to reduce LOS at affected intersections to acceptable levels (LOS D or better).	City of Tulare Community Development Department and the City of Tulare Public Works Department	Prior to the operational phase	
Impact 3.12-3: The proposed Project would not adversely affect pedestrian and bicycle facilities.	Mitigation Measure 3.12-2: Prior to Design Approval, the project proponent shall coordinate with the City to determine a potential need for new and/or upgraded bicycle lanes along adjacent roadways (i.e. Paige Avenue and Blackstone Street).	City of Tulare Community Development Department and the City of Tulare Public Works Department	Prior to final streetscape design approval	
Impact 4.17: Under cumulative conditions, project implementation would exacerbate levels of service at local intersections or exacerbate cumulatively levels of service on SR-99 Highway Facilities	Mitigation Measure 4.0-1: The project applicant shall pay its equitable share cost toward all identified improvements. Additionally, the City shall monitor and evaluate traffic at the first-year, 5-Year, 10-year and 15-year time period, and every year when the intersection operates at LOS D, to determine if a signal would be required at the first driveway in order to ensure that it operates at an acceptable LOS. If the results of the traffic monitoring show that a signal warrant is met at that time, the Project Applicant shall be responsible for funding the addition of a median and the modification of the intersection into a right-in and right-out only driveway. All future improvements shall ensure adequate access to neighboring facilities.	City of Tulare Community Development Department and the City of Tulare Public Works Department	Prior to project obtaining a building permit, and during the operational phase for monitoring	

**FINDINGS AND STATEMENTS OF OVERRIDING
CONSIDERATION FOR THE
TULARE PILOT FLYING J PROJECT**

REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(Public Resources Code, Section 21000 et seq)

I. INTRODUCTION

The California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) requires the City of Tulare (City), as the CEQA lead agency, to: 1) make written findings when it approves a project for which an environmental impact report (EIR) was certified, and 2) identify overriding considerations for significant and unavoidable impacts identified in the EIR.

This document explains the City's findings regarding the significant and potentially significant impacts identified in the environmental impact report (EIR) prepared for the Tulare Pilot Flying J (the Project). The statement of overriding considerations in section VII, below, identifies economic, social, technical, and other benefits of the Project that override any significant environmental impacts that would result from the Project.

As required under CEQA, the Final EIR describes the Project, adverse environmental impacts of the Project, and mitigation measures and alternatives that would substantially reduce or avoid those impacts. The information and conclusions contained in the EIR reflect the City's independent judgment.

The Final EIR (which includes the Draft EIR, comments, responses to comments, and revisions to the Draft EIR) for the Project, examined the proposed Project and several alternatives to the project including: (1) No Project Alternative; (2) Reduced Project Alternative; and (3) Alternative Location.

The Findings and Statement of Overriding Considerations are presented for adoption by the City Planning Commission, as the City's findings under CEQA and the CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of this Planning Commission regarding the Project's environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations, which in this Planning Commission's view, justify approval of the Project, despite its environmental effects.

II. GENERAL FINDINGS AND OVERVIEW

Project Overview

CEQA FINDINGS

As shown on Figure 2-7 (Section 2.0 of the DEIR), a site plan has been prepared by the Project applicant. The proposed Project includes the development of a Pilot Flying J Travel Center on the 13-acre Project site. The development would include:

- 9 diesel fueling lanes (includes Diesel, Diesel Exhaust Fluid (DEF), and Bio Diesel).
- 10 gas fueling dispensers (8 for passenger vehicles, and 2 for RV lanes)
- 137 truck parking spaces
- 84 passenger vehicle parking spaces
- Project signage, including entry and exit signs, building sign, and one 100-foot-tall illuminated sign (for State Route [SR] 99 advertising)
- One 14,967 square foot building that will include:
 - A driver's lounge, game room, pay phones, ATM's, Western Union Check Cashing, and Wi-Fi
 - Restroom facilities, that include 9 showers facilities and laundry
 - Two quick service restaurants

REQUESTED LAND USE APPROVALS

Parcel Map: The proposed Project includes a Parcel Map that would divide the existing 36.27-acre parcel (Assessor's Parcel Number [APN] 191-050-075) to accommodate the Project site under its own site parcel. The proposed parcel layout is shown on Figure 2-8 of the DEIR.

Other Actions that would be required from the City include, the following:

- Approval of a Zoning Code Variance for signage requirements
- Approval of the Conditional Use Permit (CUP)
- Approval of a Development Agreement for required improvements

PROCEDURAL BACKGROUND

NOP Public Circulation:

The City of Tulare circulated a Notice of Preparation (NOP) of an EIR for the Pilot Flying J Travel Center on February 5, 2016 to responsible agencies, trustee agencies, the State Clearinghouse, the Native American Heritage Commission, and the public. A public scoping meeting was held on February 25, 2016 to present the Project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. Concerns raised in response to the NOP were considered during preparation of the Draft EIR. The NOP and comments received on the NOP by interested parties are presented in Appendix A of the Draft EIR.

Recirculated Notice of Preparation:

Since the initial circulation of the NOP, the project was refined, including proposed changes to the development footprint and development site Project characteristics. Based on the changes since initial publication of the NOP, the City determined that the NOP should be recirculated with the

current Project description as refined/modified. The City of Tulare recirculated a NOP of an EIR for the Pilot Flying J Travel Center on August 15, 2016 to responsible agencies, trustee agencies, the State Clearinghouse, the Native American Heritage Commission, and the public. A public scoping meeting was held on September 6, 2016 to present the Project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. Concerns raised in response to the NOP were considered during preparation of the Draft EIR. The NOP and comments received on the NOP by interested parties are presented in Appendix A of the Draft EIR.

Notice of Availability and Draft EIR: The City of Tulare published a public Notice of Availability (NOA) for the Draft EIR on May 4, 2018, inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2016021028) and the County Clerk, a newspaper of regional circulation pursuant to the public noticing requirements of CEQA. The public review period was from May 4, 2018 through June 18, 2018 (45 days).

The Draft EIR contains a description of the Project, description of the environmental setting, identification of Project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of Project alternatives, identification of significant irreversible environmental changes, growth-inducing impacts, and cumulative impacts. The Draft EIR identifies issues determined to have no impact or a less than significant impact, and provides detailed analysis of potentially significant and significant impacts. Comments received in response to the NOP were considered in preparing the analysis in the Draft EIR.

Final EIR: The City of Tulare received three (3) comment letters on the Draft EIR during the public review period. In accordance with CEQA Guidelines Section 15088, the Final EIR responds to the comments received during the public review period. The Final EIR also responds to all comments received after the public review period had ended. The Final EIR also contains minor edits to the Draft EIR, which are included in Section 3.0, Errata. The Final EIR and the Draft EIR, constitute the Final EIR.

Responses to comments do not involve any new significant impacts or “significant new information” that would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5. Each response is provided in the Final EIR.

RECORD OF PROCEEDINGS AND CUSTODIAN OF RECORD

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City’s findings and determinations consists of the following documents and testimony, at a minimum:

- The NOP, comments received on the NOP, and all other public notices issued by the City in relation to the Project (e.g., Notice of Availability).
- The Draft EIR and Final EIR, including comment letters, and technical materials cited in the documents.

CEQA FINDINGS

- All non-draft and/or non-confidential reports and memoranda prepared by the City and consultants in relation to the EIR.
- Minutes and transcripts of the discussions regarding the Project and/or Project components at public hearings held by the City.
- Staff reports associated with Planning Commission meetings on the Project.
- Those categories of materials identified in Public Resources Code Section 21167.6.

The City Clerk is the custodian of the administrative record. The documents and materials that constitute the administrative record are available for review at the City of Tulare at 411 East Kern Ave. Tulare, CA 93274

FINDINGS REQUIRED UNDER CEQA

Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” Further, the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” (*Id.*) Section 21002 also provides that “in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles established by the Legislature in Public Resources Code section 21002 are implemented, in part, through the requirement in Public Resources Code section 21081 that agencies must adopt findings before approving projects for which an EIR is required.

CEQA Guidelines section 15091 provides the following direction regarding findings:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make

infeasible the mitigation measures or project alternatives identified in the final EIR.

(See also Pub. Resources Code, § 21081, subd. (a)(1)-(3).)

As defined by CEQA, “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors. (Pub. Resources Code, § 21061.1; see also CEQA Guidelines, § 15126.6(f)(1) [determining the feasibility of alternatives].) The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (See *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1400 [court upholds findings rejecting a “reduced herd” alternative to a proposed dairy as infeasible because the alternative failed to meet the “fundamental objective” of the project to produce milk]; *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1508 [agency decision-makers, in rejecting alternatives as infeasible, appropriately relied on project objective articulated by project applicant].) Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002.

With respect to a project for which significant impacts cannot be feasibly avoided or substantially lessened, a public agency may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons that the project’s benefits outweigh its significant unavoidable adverse environmental effects. (Pub. Resources Code, §§ 21001, 21002.1(c), 21081(b).)

CEQA Guidelines section 15093 provides the following direction regarding a statement of overriding considerations:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of

CEQA FINDINGS

determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

MITIGATION MONITORING PROGRAM

A Mitigation Monitoring Program has been prepared for the Project and has been adopted concurrently with these Findings. (See Pub. Resources Code, § 21081.6, subd. (a)(1).) The City will use the Mitigation Monitoring Program to track compliance with Project mitigation measures.

CONSIDERATION OF THE ENVIRONMENTAL IMPACT REPORT

In adopting these Findings, this Planning Commission finds that the Final EIR was presented to this Planning Commission, the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the Project. By these findings, this Planning Commission ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the Final EIR. The Planning Commission finds that the Final EIR was completed in compliance with CEQA. The Final EIR represents the independent judgment of the City.

SEVERABILITY

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City.

III. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS

A. AESTHETICS

1. IMPACT 3.1-1: PROJECT IMPLEMENTATION MAY HAVE A SUBSTANTIAL ADVERSE EFFECT ON A SCENIC VISTA

(a) Potential Impact. The potential for the Project to result in a substantial adverse effect on a scenic vista is discussed on pages 3.1-6 and 3.1-7 of the Draft EIR.

(b) Mitigation Measures. No feasible mitigation measures were identified.

(c) Findings. Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:

(1) Remaining Impacts. Tulare General Plan Policy LU-P13.14 notes that the City shall preserve its scenic features and view corridors to the mountains. The Project site is located at the southern portion of the City of Tulare, west of State Route 99. On a clear day, the Sierra Nevada mountain range is visible to the east of the Project site. The Project site is not located in an area that contains structures that are distinctive due to their aesthetic, historical, social, or cultural significance or characteristics. The Project site is located in an area that contains existing and

future industrial development. Nearby buildings, vegetation, and SR 99 block views between the proposed Project site and the land immediately east of SR 99.

Nevertheless, construction of the proposed Pilot Flying J Travel Center building and 100-foot-tall sign at the Project site could limit views of the Sierra Nevada mountain range to the east from a few points of view directly west of the site. The proposed Project would be subject to the landscaping, design review, and signage requirements. Nevertheless, development of the proposed building and signage would block existing views of mountains to the east. There is no feasible mitigation available that would reduce this impact to a less than significant level while meeting the Project objective to include illuminated, freeway-oriented signage. As such, the Project would result in a significant and unavoidable impact relative to substantial adverse effects on a scenic vista.

- (2) Overriding Considerations. The environmental, economic, social and other benefits of the proposed Project override any remaining significant adverse impact of the proposed Project associated with substantial adverse effects on a scenic vista, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

2. IMPACT 3.1-3: PROJECT IMPLEMENTATION MAY SUBSTANTIALLY DEGRADE THE EXISTING VISUAL CHARACTER OR QUALITY OF THE SITE AND ITS SURROUNDINGS AND RESULT IN LIGHT AND GLARE IMPACTS

- (a) Potential Impact. The potential for the Project to substantially degrade the existing visual character of the site and result in light and glare impacts is discussed on pages 3.1-7 through 3.1-9 of the Draft EIR.

- (b) Mitigation Measures. No feasible mitigation measures were identified.

- (c) Findings. Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:

- (1) Remaining Impacts. Implementation of the proposed Project would change the existing visual character of the Project site. Project implementation would develop the eastern portion of the proposed Project site from an undeveloped lot to a Pilot Flying J Travel Center, consisting of a new travel center with multiple facilities, gasoline and diesel refueling stations, and parking lots. The Project would also install a 100-foot-tall pole sign with LED lights (advertising for interstate traffic). The new signs and sign lighting would be visible from miles away, and the proposed 100-foot-tall sign with LED lights would still result in an increase in ambient lighting levels and would contribute to the nighttime lighting in the surrounding industrial area. The signage would be visible from adjacent residences and businesses in the City of Tulare and portions of unincorporated Tulare County.

As such, the Project would result in a significant and unavoidable impact relative to substantial adverse effects on a scenic vista.

- (2) **Overriding Considerations.** The environmental, economic, social and other benefits of the proposed Project override any remaining significant adverse impact of the proposed Project associated with degradation of the existing visual character of the site and increases in light and glare, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

3. **IMPACT 4.2: HAVE A SUBSTANTIAL ADVERSE EFFECT ON A SCENIC VISTA.**

- (a) **Potential Impact.** The potential for the Project to result in cumulative substantial adverse effects on a scenic vista is discussed on page 4.0-4 of the Draft EIR.

- (b) **Mitigation Measures.** No feasible mitigation measures were identified.

- (c) **Findings.** Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:

- (1) **Remaining Impacts.** Under cumulative conditions, development of the proposed Pilot Flying J Travel Center building and 100-foot-tall sign at the Project site could limit views of the Sierra Nevada mountain range to the east from a few points of view directly west of the site. The area surrounding the proposed Project site is a built-up industrial and commercial area and the proposed Project is consistent with the type of urban development planned for the site by the City's General Plan. Additionally, the proposed Project would be subject to the landscaping, design review, and signage requirements. Nevertheless, development of the proposed building and signage would block existing views of mountains to the east. There are no mitigation measures that could reduce this impact while meeting the objective of the Project to include illuminated, free-way oriented signage. As such, the impact would be a cumulatively considerable and significant and unavoidable impact relative to substantial adverse effects on a scenic vista.

- (2) **Overriding Considerations.** The environmental, economic, social and other benefits of the proposed Project override any remaining significant adverse impact of the proposed Project associated with cumulative impacts to a scenic vista, as more fully stated in the Statement of Overriding Considerations in Section VII, below

4. **IMPACT 4.3: PROJECT IMPLEMENTATION MAY SUBSTANTIALLY DEGRADE THE EXISTING VISUAL CHARACTER OR QUALITY OF THE SITE AND ITS SURROUNDINGS AND RESULT IN LIGHT AND GLARE IMPACTS.**

- (a) **Potential Impact.** The potential for the Project to result in cumulative degradation of the existing visual character or quality of the site and its surroundings and result in cumulative light and glare impacts is discussed on pages 4.0-4 and 4.0-5 of the Draft EIR.

CEQA FINDINGS

- (b) Mitigation Measures. No feasible mitigation measures were identified.
- (c) Findings. Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:
 - (1) Remaining Impacts. Under cumulative conditions, development of the proposed project, in addition to other future projects in the area, would change the existing visual and scenic qualities of the City. The building and new impervious surface, in and of itself, would not substantially degrade the existing visual character or quality of the proposed Project site and its surroundings, since uses would be similar to current uses on and near the proposed Project site. However, the new signs and sign lighting would be visible from miles away. The signage would be visible from adjacent residences and businesses in the City of Tulare and portions of unincorporated Tulare County. Additionally, implementation of the proposed Project would introduce new sources of light and glare to the Project vicinity. There are no mitigation measures that could reduce this impact except a ceasing of all future development, which is not a feasible option. As such, the impact would be a cumulatively considerable and significant and unavoidable impact relative to the cumulative degradation of the existing visual character of the region and cumulative light and glare.
 - (2) Overriding Considerations. The environmental, economic, social and other benefits of the proposed Project override any remaining significant adverse impact of the proposed Project associated with cumulative degradation of the existing visual character or quality of the site and its surroundings and cumulative light and glare impacts, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

B. AIR QUALITY

- 1. IMPACT 3.2-1: PROJECT OPERATION HAS THE POTENTIAL TO CAUSE A VIOLATION OF AN AIR QUALITY STANDARD OR CONTRIBUTE SUBSTANTIALLY TO AN EXISTING OR PROJECTED AIR QUALITY VIOLATION
 - (a) Potential Impact. The potential for the Project to cause a violation of an air quality standard or contribute substantially to an existing or projected air quality violation is discussed on pages 3.2-18 through 3.3-20 of the Draft EIR.
 - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.2-1.
 - (c) Findings. Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:

- (1) Effects of Mitigation and Remaining Impacts. Annual of oxides of nitrogen (NO_x) exceed the San Joaquin Valley Air Pollution Control District (SJVAPCD) thresholds of significance. The Project would be subject to SJVAPCD Rule 9510, which requires a reduction in the growth of operational NO_x emissions by 33.3% and particulate matter (PM₁₀) by 50% when compared to the unmitigated project. These reductions are accomplished by the incorporation of mitigation measures into projects and/or by the payment of an Indirect Source Rule (ISR) fee for any required reductions that have not been accomplished through project mitigation commitments. The actual calculations will be accomplished by the SJVAPCD and Project applicant under Rule 9510. Compliance with Rule 9510 is required by Mitigation Measure 3.2-1. Nevertheless, operation of the Project has the potential to cause a violation of an air quality standard or contribute substantially to an existing or projected air quality violation, which is considered significant and unavoidable.
 - (2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the proposed Project associated with causing a violation of an air quality standard or contributing substantially to an existing or projected air quality violation, as more fully stated in the Statement of Overriding Considerations in Section VII, below.
2. IMPACT 3.2-5: THE PROPOSED PROJECT HAS THE POTENTIAL TO GENERATE OBJECTIONABLE ODORS
- (a) Potential Impact. The potential for the project to result in objectionable odors is discussed on pages 3.2-26 through 3.3-28 of the Draft EIR.
 - (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.2-2 and 3.2-3.
 - (c) Findings. Based upon the EIR and the entire record before this Planning Commission, this Planning commission finds that:
 - (1) Effects of Mitigation and Remaining Impacts. The proposed Project would include truck diesel and gasoline refueling stations. Although fumes from gasoline and diesel refueling pump stations are unlikely to cause a substantial odor issue for nearby residents, it is possible that some residents that located in close proximity to the Project site (included the residential receptor located approximately 450 feet west of the Project site) could be affected. Compliance with existing California Air Resources Board (CARB) gasoline vapor regulations and implementation of feasible Best Available Control Technology (BACT) measures, as described by Mitigation Measure 3.2-2, would reduce the level of odors from on-site refueling pumping. Additionally, Mitigation Measure 3.2-3, which would limit idling times for all vehicles on the Project site, would further reduce the potential for odors

CEQA FINDINGS

generated by on-site idling. Nevertheless, the impact would be significant and unavoidable impact relative to odors.

- (2) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the proposed Project associated with impacts related to objectionable odors, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

C. GREENHOUSE GASES AND CLIMATE CHANGE

1. IMPACT 3.6-1: POTENTIAL TO GENERATE GREENHOUSE GAS EMISSIONS, EITHER DIRECTLY OR INDIRECTLY, THAT MAY HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT OR POTENTIAL TO CONFLICT WITH AN APPLICABLE PLAN, POLICY, OR REGULATION ADOPTED FOR THE PURPOSE OF REDUCING THE EMISSIONS OF GREENHOUSE GASES

- (a) **Potential Impact.** The potential for the Project to generate greenhouse gas (GHG) emissions that may have a significant impact on the environment or potential to conflict with an applicable plan, policy, or regulation is discussed on pages 3.6-17 through 3.6-21 of the Draft EIR.
- (b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.6-1, 3.6-2, 3.6-3, 3.6-4, and 3.6-5.
- (c) **Findings.** Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:
 - (1) **Effects of Mitigation and Remaining Impacts.** The proposed project would be a direct and indirect source of GHG emissions, in that it would generate and attract vehicle trips in the region (mobile source emissions) and it would increase area source emissions and energy consumption. The mobile source emissions would be entirely from vehicles, while the area source emissions would be from utility and water usage, and wastewater and solid waste generation.

The significance thresholds for GHG emissions should be related to compliance with the SJVAPCD guidance, and the City of Tulare, as lead agency, has chosen to utilize a threshold of significance for GHG emissions based on the guidance from the SJVAPCD that a development project must show a minimum GHG emission reduction of 29 percent from projected Business as Usual (BAU) levels (i.e., 2005 scenario) by the year 2020. Thus, the proposed project's Business as Usual levels were evaluated in order to determine the net decrease in the project's GHG emissions over time. The proposed Project would result in approximately a 12.7 percent reduction in annual GHG emissions from the BAU level by 2020. This is below the 29 percent from BAU level by 2020 threshold.

The proposed Project has incorporated mitigation measures that are intended to reduce emissions to the extent feasible. Mitigation Measure 3.6-1 requires pedestrian improvements within the Project site that connect to offsite pedestrian networks. Mitigation Measure 3.6-2 requires compliance with Measure EE 1.3, Action E.1.3.2 of the Tulare Climate Action Plan. Mitigation Measure 3.6-3 requires compliance with all City Building Code and other codes appropriate to increase water efficiency in new non-residential development. Mitigation Measure 3.6-4 requires compliance with all applicable commercial energy performance measures within the City Municipal Code. Mitigation Measure 3.6-5 requires compliance with Tulare Climate Action Measures SW 6.1.

The State continues to implement measures that are intended to reduce emissions on a State-wide scale (i.e. vehicle fuel efficiency standards in fleets, low carbon fuels, etc.) that are consistent with AB 32. These types of State-wide measures will benefit the proposed Project (and City as a whole) in the long-term as they come into effect; however, the City does not have the jurisdiction to create far reaching (i.e. State-wide) measures to reduce GHG s emissions. On a Project-by-Project case, the City of Tulare evaluates a Project and the potential to impose Project-specific mitigation, which has been done through this GHG analysis. However, because the Project would result in a net increase in GHG emissions even with mitigation measures incorporated into the Project, the impact would be significant and unavoidable impact relative to operational air emissions.

- (2) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the proposed Project associated with impacts to greenhouse gases and climate change, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

2. **IMPACT 4.8: THE PROPOSED PROJECT HAS THE POTENTIAL TO CAUSE A CUMULATIVE IMPACT ON CLIMATE CHANGE FROM INCREASED PROJECT-RELATED GREENHOUSE GAS EMISSIONS**

- (a) **Potential Impact.** The potential for the Project to cause a cumulative impact on climate change from increased project-related GHG emissions is discussed on pages 4.0-9 through 4.0-11 of the Draft EIR.

- (b) **Mitigation Measures.** No feasible mitigation measures were identified.

- (c) **Findings.** Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:

- (1) **Remaining Impacts.** The proposed Project would be a direct and indirect source of GHG emissions. The proposed Project has incorporated mitigation measures that are intended to reduce emissions to the extent feasible. The State continues to implement measures that are intended to reduce emissions on a State-wide scale (i.e. vehicle fuel efficiency standards in fleets, low carbon fuels, etc.) that are

consistent with AB 32. These types of State-wide measures will benefit the proposed Project (and City as a whole) in the long-term as they come into effect; however, the City does not have the jurisdiction to create far reaching (i.e. State-wide) measures to reduce GHG emissions. On a project-by-project case, the City of Tulare evaluates a Project and the potential to impose Project-specific mitigation, and ensures compliance with the Tulare Climate Action Plan. However, because the Project would result in a net increase in carbon dioxide equivalents (CO₂e) emissions even with mitigation measures incorporated into the Project, the impacts associated with cumulative GHG emissions would be significant and unavoidable.

- (2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with impacts to greenhouse gas emissions and climate change, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

D. HYDROLOGY AND WATER QUALITY

1. IMPACT 3.8-3: THE PROPOSED PROJECT HAS THE POTENTIAL TO SUBSTANTIALLY DEplete GROUNDWATER SUPPLIES OR INTERFERE SUBSTANTIALLY WITH GROUNDWATER RECHARGE
 - (a) Potential Impact. The potential for the Project to substantially deplete groundwater supplies or interfere substantially with groundwater recharge is discussed on pages 3.8-19 and 3.8-20 of the Draft EIR.
 - (b) Mitigation Measures. No feasible mitigation measures were identified.
 - (c) Findings. Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:
 - (1) Remaining Impacts. The proposed Project would add demand for water to the City of Tulare water system, which is reliant on groundwater to serve its customers. Additionally, the proposed Project would result in new impervious surface in the form of asphalt and an approximately 13,000 square foot building to the project site that is currently vacant land, which could reduce groundwater resupply. However, it should be noted that the Project would not develop protected groundwater recharge areas identified under General Plan Policy COS-P1.2. However, the City and Project site are located in the Kaweah Sub basin which is critically overdrafted. Although the City has developed strategies to assure that this source of supply remains available and viable in future years, these conservation strategies to assure long-term water supply have not been assured and recharges have not yet been measured. Therefore, the proposed project would result in a significant and unavoidable impact.
 - (2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project

associated with the potential to deplete groundwater supplies or interfere substantially with groundwater recharge, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

2. **IMPACT 4.12: CUMULATIVE IMPACTS RELATED TO DEGRADATION OF GROUNDWATER SUPPLY OR RECHARGE**

(a) **Potential Impact.** The potential for the Project to result in cumulative impacts related to degradation of groundwater supply or recharge is discussed on pages 4.0-13 and 4.0-14 of the Draft EIR.

(b) **Mitigation Measures.** No feasible mitigation measures were identified.

(c) **Findings.** Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:

(1) **Remaining Impacts.** Impacts to groundwater are regionally significant to the entire groundwater basin, and the underlying groundwater basin is currently in overdraft. As described further in Section 3.8 (Hydrology and Water Quality), and Section 3.13 (Utilities), significant and unavoidable impacts to groundwater supply are identified. The proposed Project would result in increased demand on groundwater supplies, which come from groundwater basins that are currently in overdraft. The proposed Project would contribute to a significant and unavoidable cumulative impact to groundwater supply. This would be a significant and unavoidable impact.

(2) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with the potential to result in cumulative impacts related to degradation of groundwater supply or recharge, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

D. NOISE

1. **IMPACT 4.15: CUMULATIVE EXPOSURE OF EXISTING AND FUTURE NOISE- SENSITIVE LAND USES TO INCREASED NOISE RESULTING FROM CUMULATIVE DEVELOPMENT**

(a) **Potential Impact.** The potential for the Project to cause a cumulative exposure of existing and future noise-sensitive land uses to increase noise resulting from cumulative development is discussed on pages 4.0-15 and 4.0-16 of the Draft EIR.

(b) **Mitigation Measures.** No feasible mitigation measures were identified.

(c) **Findings.** Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:

- (1) **Remaining Impacts.** As indicated by Table 4.0-2, the related noise level increases under development of the proposed Project are predicted to range between 0.1 to 1.0 decibels (dB). The data also indicates that some noise sensitive receptors located along the project-area roadways are currently exposed to exterior traffic noise levels exceeding the City of Tulare 60 dB day-night equivalent level (L_{DN}) / Community Noise Equivalent Level (CNEL) exterior noise level standard for residential uses. These receptors will continue to experience elevated exterior noise levels with implementation of the proposed Project. The project's contribution to existing traffic noise increases is predicted to be 0.1 to 1.0 dB, or less, which is less than the Federal Interagency Committee on Noise (FICON) substantial increase criteria of 1.5-5 dB. While this existing condition is not directly caused by the proposed project, the proposed project will contribute to an exceedance of traffic noise at these receptors. This would be a significant and unavoidable impact.
- (2) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with the potential to increase traffic noise levels at existing receptors, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

E. TRANSPORTATION AND CIRCULATION

1. **IMPACT 4.17: UNDER CUMULATIVE CONDITIONS, PROJECT IMPLEMENTATION WOULD EXACERBATE LEVELS OF SERVICE AT LOCAL INTERSECTIONS OR EXACERBATE CUMULATIVELY LEVELS OF SERVICE ON SR-99 HIGHWAY FACILITIES**
 - (a) **Potential Impact.** The potential for project implementation to result in unacceptable levels of service at the local intersections of SR-99 Highway Facilities is discussed on pages 4.0-17 through 4.0-27 of the Draft EIR.
 - (b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 4.0-1.
 - (c) **Findings.** Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:
 - (1) **Mitigation and Remaining Impacts.** Similar to the 20-Year Cumulative No Project scenario, under the existing traffic control for the seven study intersections, all stop control intersections would operate at LOS F. The signalized intersection of K Street/Paige Avenue would operate at LOS D or better. Table 4.0-8 shows the results of the 20-Year Cumulative plus Project intersection level of service analysis for the study intersections during the AM and PM peak hour conditions. The intersections of Foster Street/ Turner Drive and Foster Street/ Sunrise Street met peak hour signal warrants. The assumed cycle length is similar to the base 20-Year

Cumulative No Project scenario. All intersections would operate at LOS D or better.

Compared to the 20-Year Cumulative No Project condition, the northbound freeway segments would deteriorate at an unacceptable LOS E condition to LOS F during the PM peak hour. Additionally, a signal may be required at the first driveway in order for it to operate at LOS B or better. However, given that the driveway operational analysis is based on a future 20-year estimate of traffic conditions, it is possible that actual future traffic volumes could vary substantially, depending on the adopted future "South Tulare" PAED alternative as well as choice of driveways by drivers. Therefore, it is recommended that traffic should be monitored and evaluated at the 10-year and 15-year time period. If signal warrants are met at that time, a median would be added and the intersection would be modified into a right-in and right-out only driveway. It is estimated that project equitable share of traffic is approximately 44 percent at this driveway and the project proponent would contribute an equitable share of all identified improvements.

In summary, due to the fact that the timing of the signalization of all intersections identified under the signalization alternative cannot be guaranteed at this time, this would be a significant and unavoidable impact.

- (2) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with the potential to result in unacceptable levels of service at the local intersections of SR-99 Highway Facilities cumulative conditions, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

F. UTILITIES

1. IMPACT 4.19: CUMULATIVE IMPACT ON WATER UTILITIES

- (a) **Potential Impact.** The potential for the project to result in cumulative impacts on water utilities is discussed on pages 4.0-28 and 4.0-29 of the Draft EIR.
- (b) **Mitigation Measures.** No feasible mitigation measures were identified.
- (c) **Findings.** Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:
 - (1) **Remaining Impacts.** As noted previously, the Kaweah Sub basin is one of many in the Central Valley that is critically over-drafted. The City has developed strategies to assure that this source of supply remains available and viable in future years. For example, the City maintains the Water Conservation Ordinance to eliminate waste of water and will continue to periodically drill new supply wells in the future. Additionally, the City has joined the City of Visalia and the TID to form the

CEQA FINDINGS

Mid-Kaweah Groundwater Sustainability Agency (GSA) Joint Powers Authority (MKJPA) in an attempt to create a coordinated plan for the Sub basin. The City has also invested significantly in their detention basins to increase their recharge capacity. Nevertheless, these conservation strategies to assure long-term water supply have not been assured and recharges have not yet been measured. Therefore, this would be a significant and unavoidable impact.

- (2) **Overriding Considerations.** The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with cumulative impacts on water utilities, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

2. IMPACT 4.21: CUMULATIVE IMPACT ON SOLID WASTE FACILITIES

- (a) **Potential Impact.** The potential for project implementation to result in cumulative impacts on solid waste facilities is discussed on pages 4.0-30 and 4.0-31 of the Draft EIR.
- (b) **Mitigation Measures.** No feasible mitigation measures were identified.
- (c) **Findings.** Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:
 - (1) **Remaining Impacts.** Solid waste generated in the City is disposed at the Teapot Dome facility and the Visalia Facility. The total permitted capacity of the landfill is 6,546,407 cubic yards, which is expected to accommodate an operational life until December 31, 2022. The remaining capacity is 1,138,829 cubic yards. Permitted maximum disposal at Visalia Facility is 2,000 tons per day. The total permitted capacity of the landfill is 18,630,666 cubic yards, which is expected to accommodate an operational life until January 1, 2024. The remaining capacity is 14,815,501 cubic yards at this landfill.

The total solid waste that would be generated by the Project is estimated to be 467 pounds per day, or 0.2 tons per day. The proposed Project would be required to comply with applicable state and local requirements including those pertaining to solid waste, construction waste diversion, and recycling. To accommodate future solid waste needs resulting from additional growth associated with buildout of various cities within the region, Tulare County concluded in their General Plan DEIR that additional landfill capacity or waste disposal locations may be required. The incorporated cities in Tulare County oversee solid waste collection within their city limits. Private companies offer solid waste collection services in other unincorporated areas of the County. It is assumed that these companies would continue to maximize the use of existing disposal options and plan for future waste disposal opportunities once existing disposal options reach their capacity, although future waste disposal opportunities may require greater handling costs

depending on their location and method of transfer. Consequently, because of the uncertain availability of where and what these future waste disposal options may be by 2030, this impact remains significant, and no additional feasible mitigation measures are currently available. Therefore, this would be a significant and unavoidable impact.

- (2) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with cumulative impacts on solid waste facilities, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

IV. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT IMPACTS WHICH ARE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

A. BIOLOGICAL RESOURCES

1. IMPACT 3.3-3: THE PROPOSED PROJECT HAS THE POTENTIAL TO HAVE A DIRECT OR INDIRECT EFFECT ON SPECIAL-STATUS BIRD SPECIES

- (a) Potential Impact. The potential for the project to have a direct or indirect effect on special-status bird species is discussed on pages 3.3-15 through 3.3-17 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.3-1 and 3.3-2.
- (c) Findings. Special-status birds that are documented within a nine-quad radius of the Project site include: Tricolored blackbird (*Agelaius tricolor*), Mountain plover (*Charadrius montanus*), Swainson's hawk (*Buteo swainsoni*), yellow-billed cuckoo (*Coccyzus americanus occidentalis*), raptors (birds of prey: falcons, hawks, owls, etc.) burrowing owl (*Athene cunicularia*) and other migratory and resident birds. Suitable habitat is not present for the majority of these species. However, potentially suitable habitat for Swainson's hawk and other nesting raptors exists.

Mitigation Measure 3.3-1 requires construction activities to occur outside the nesting season for nesting raptors and migratory birds. If Project activities must occur during the nesting season (February 1-August 31), a qualified biologist will conduct pre-construction surveys for active raptor and migratory bird nests within 30 days of the onset of these activities. For migratory birds and raptors, the survey area will include the Project site and a 250-foot buffer area surrounding the Project site. Mitigation Measure 3.3-2 requires mitigation for the loss of Swainson's hawk foraging habitat. Implementation of the proposed project, with Mitigation Measures 3.3-1 and 3.3-2, would ensure that potential impacts to special status birds would be less than significant.

CEQA FINDINGS

2. IMPACT 3.3-4: THE PROPOSED PROJECT HAS THE POTENTIAL TO RESULT IN DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS MAMMAL SPECIES

- (a) Potential Impact. The potential for the Project to result in direct or indirect effects on special-status mammal species is discussed on pages 3.3-17 through 3.3-21 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.3-3.
- (c) Findings. Special-status mammals that are documented within a nine-quad radius of the Project site include: Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), San Joaquin Kit fox (*Vulpes macrotis mutica*), and western mastiff bat (*Eumops perotis californicus*). Suitable habitat for Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), and western mastiff bat (*Eumops perotis californicus*) is not present on-site.

San Joaquin Kit fox (*Vulpes macrotis mutica*) was not observed during field surveys, but documented occurrences of the species are found in the City of Tulare. Project construction (e.g., disturbance from construction) has the potential to cause direct effects to this species. Mitigation Measure 3.3-3 requires implementation of various measures, which are consistent with the U.S. Fish and Wildlife Standard *Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS, 2004)*. Implementation of this mitigation measure would ensure that a potential impact to this mammal species is reduced to a less than significant level.

B. CULTURAL RESOURCES

1. IMPACT 3.4-1: PROJECT IMPLEMENTATION HAS THE POTENTIAL TO CAUSE A SUBSTANTIAL ADVERSE CHANGE TO A SIGNIFICANT HISTORICAL RESOURCE, AS DEFINED IN CEQA GUIDELINES §15064.5, OR A SIGNIFICANT TRIBAL RESOURCE

- (a) Potential Impact. The potential for the project to have an impact on significant historical resources or significant tribal resources is discussed on pages 3.4-8 and 3.4-9 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.4-1.
- (c) Findings. Tulare County is located in an area known to have historical resources. According to the Southern San Joaquin Valley Information Center, no previously identified prehistoric or historic period cultural resources are known within the Project site or within a 0.25-mile radius. However, as with most projects in the region that

involve ground-disturbing activities, there is the potential for discovery of a previously unknown cultural, historical, and or tribal resource or human remains that are buried and unidentifiable from surface observations. Mitigation Measure 3.4-1 requires steps to be taken should any cultural resources be found during grading and construction activities. Implementation of Mitigation Measure 3.4-1 would ensure that a potential impact to this topic is reduced to a less than significant level.

2. IMPACT 3.4-2: PROJECT IMPLEMENTATION HAS THE POTENTIAL TO CAUSE A SUBSTANTIAL ADVERSE CHANGE TO A SIGNIFICANT ARCHAEOLOGICAL RESOURCE, AS DEFINED IN CEQA GUIDELINES §15064.5

(a) Potential Impact. The potential for the project to have an impact on significant archaeological resources is discussed on page 3.4-9 of the Draft EIR.

(b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.4-1.

(c) Findings. The Project site is located in an area known to have archaeological resources. According to the Southern San Joaquin Valley Information Center, no previously identified prehistoric or historic period cultural resources are known within the Project site or within a 0.25-mile radius. However, as with most projects in the region that involve ground-disturbing activities, there is the potential for discovery of a previously unknown cultural, historical, and or tribal resource or human remains that are buried and unidentifiable from surface observations. The implementation of Mitigation Measure 3.4-1, as described in Impact 3.4-1 (above) would ensure that this potential impact is less than significant.

3. IMPACT 3.4-3: PROJECT IMPLEMENTATION HAS THE POTENTIAL TO DIRECTLY OR INDIRECTLY DESTROY A UNIQUE PALEONTOLOGICAL RESOURCE

(a) Potential Impact. The potential for the project to have an impact on significant paleontological resources is discussed on page 3.4-10 of the Draft EIR.

(b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.4-2.

(c) Findings. Tulare County is located in an area known to have paleontological resources. Twelve paleontological resources have been recorded in Tulare County, generally within the valley portion of the County. These resources primarily consist of invertebrate, vertebrate, and plant fossils. Additionally, according to the Southern San Joaquin Valley Information Center, no previously identified prehistoric or historic period cultural resources are known within the Project site or within a 0.25-mile radius.

CEQA FINDINGS

Damage to or destruction of a paleontological resource would be considered a potentially significant impact under local, state, or federal criteria. Implementation of the Mitigation Measure 3.4-2 would ensure steps would be taken to reduce impacts to paleontological resources in the event that they are discovered during construction. Implementation of Mitigation Measure 3.4-2 would ensure that this potential impact is less than significant.

4. IMPACT 3.4-4: PROJECT IMPLEMENTATION HAS THE POTENTIAL TO DISTURB HUMAN REMAINS, INCLUDING THOSE INTERRED OUTSIDE OF FORMAL CEMETERIES
 - (a) Potential Impact. The potential for the project to have an impact on significant paleontological resources is discussed on pages 3.4-10 and 3.4-11 of the Draft EIR.
 - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.4-3.
 - (c) Findings. Indications are that humans have occupied Tulare County for over 10,000 years and it is not always possible to predict where human remains may occur outside of formal burials. Therefore, excavation and construction activities, regardless of depth, may yield human remains that may not be interred in marked, formal burial sites

Implementation of the Mitigation Measure 3.4-3 would ensure steps would be taken to reduce impacts to human remains in the event that they are discovered during construction. Implementation of Mitigation Measure 3.4-3 would ensure that this potential impact is less than significant.

C. GEOLOGY AND SOILS

1. IMPACT 3.5-2: IMPLEMENTATION AND CONSTRUCTION OF THE PROPOSED PROJECT MAY RESULT IN SUBSTANTIAL SOIL EROSION OR THE LOSS OF TOPSOIL
 - (a) Potential Impact. The potential for the Project to result in substantial soil erosion or the loss of topsoil is discussed on pages 3.5-12 through 3.5-14 of the Draft EIR.
 - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.5-1.
 - (c) Findings. According to the United States Environmental Protection Agency, polluted stormwater runoff is a leading cause of impairment to the nearly 40 percent of surveyed U.S. water bodies which do not meet water quality standards. Over land or via storm sewer systems, polluted runoff is discharged, often untreated, directly into local water bodies. Soil erosion and the loss of topsoil is one of the most common sources of polluted stormwater runoff during construction activities. When left

uncontrolled, storm water runoff can erode soil and cause sedimentation in waterways, which collectively result in the destruction of fish, wildlife, and aquatic life habitats; a loss in aesthetic value; and threats to public health due to contaminated food, drinking water supplies, and recreational waterways.

Mandated by Congress under the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) Stormwater Program is a comprehensive two-phased national program for addressing the non-agricultural sources of stormwater discharges which adversely affect the quality of our nation's waters. The program uses the (NPDES permitting mechanism to require the implementation of controls designed to prevent harmful pollutants, including soil erosion, from being washed by stormwater runoff into local water bodies. The construction activities for the proposed project would be governed by the General Permit 2009-0009-DWQ (amended by 2010-0014-DWQ & 2012-0006-DWQ).

To ensure that construction activities are covered under General Permit 2009-0009-DWQ (amended by 2010-0014-DWQ & 2012-0006-DWQ), projects in California must prepare a Stormwater Pollution Prevention Plan (SWPPP) containing Best Management Practices (BMPs) to reduce erosion and sediments to meet water quality standards. Such BMPs may include: temporary erosion control measures such as silt fences, staked straw bales/wattles, silt/sediment basins and traps, check dams, geofabric, sandbag dikes, and temporary revegetation or other ground cover. The BMPs and overall SWPPP is reviewed by the Regional Water Quality Control Board as part of the permitting process. The SWPPP, once approved, is kept on site and implemented during construction activities and must be made available upon request to representatives of the RWQCB and/or the lead agency.

The *Soil Survey of Tulare County, California, Western Part* (USDA NRCS, 2003) identified the erosion potential for the soil found on the Project site is moderate (K factor of approximately 0.28 to 0.32). Erosion factor K indicates the susceptibility of a soil to sheet and rill erosion by water. Values of K range from 0.02 to 0.69. Other factors being equal, the higher the value, the more susceptible the soil is to sheet and rill erosion by water. However, despite a K factor near the middle of the range, because the Project site is essentially flat, the erosion potential is reduced.

Regardless of the potential for erosion, there is always the potential for human caused erosion associated with construction activities or through the operational phase of a Project. Grading, excavation, removal of vegetation cover, and loading activities associated with construction activities temporarily expose soils and increase the potential for soil erosion and sedimentation during rain events. Construction activities can also result in soil compaction and wind erosion effects that can adversely affect soils and reduce the revegetation potential at construction sites and staging areas.

In accordance with the NPDES Stormwater Program, Mitigation Measure 3.5-1 requires an approved SWPPP designed to control erosion and the loss of topsoil to the

CEQA FINDINGS

extent practicable using BMPs that the RWQCB has deemed effective in controlling erosion, sedimentation, runoff during construction activities. The RWQCB has stated that these erosion control measures are only examples of what should be considered and should not preclude new or innovative approaches currently available or being developed. The specific controls are subject to the review and approval by the RWQCB and are existing regulatory requirements. Implementation of Mitigation Measure 3.5-1 would ensure that the proposed project would have a less than significant impact relative to this topic.

2. **IMPACT 3.5-3: THE PROPOSED PROJECT HAS THE POTENTIAL TO BE LOCATED ON A GEOLOGIC UNIT OR SOIL THAT IS UNSTABLE, OR THAT WOULD BECOME UNSTABLE AS A RESULT OF PROJECT IMPLEMENTATION, AND POTENTIALLY RESULT IN LANDSLIDE, LATERAL SPREADING, SUBSIDENCE, LIQUEFACTION OR COLLAPSE**

- (a) **Potential Impact.** The potential to be located on a geologic unit or soil that is unstable, or that would become unstable as a result of project implementation, and potentially result in landslide, lateral spreading, subsidence, liquefaction or collapse is discussed on pages 3.5-14 through 3.5-16 of the Draft EIR.
- (b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.5-2.
- (c) **Findings.** Soil types in the area are generally not conducive to liquefaction because they are either too coarse or too high in clay content. Additionally, soil data from the *Web Soil Survey* (USDA NRSC, 2013) suggests a low potential for liquefaction on the Project site due to the low percentage of sand content of the soil. Further, due to the lack of slopes on the Project site and vicinity, the potential for lateral spreading is considered low, and the potential for landsliding is non-existent.

The Project site and vicinity has not been identified by the City of Tulare or Tulare County General Plans as containing collapsible soils. Additionally, according to the Tulare County General Plan EIR, subsidence has occurred in various parts of the County. In the Kaweah Sub-basin, subsidence of up to four feet has occurred due to compaction. Additionally, some areas of the Central Valley have subsided more than 20 feet during the past 50 years, although most of those areas are associated with wetlands that have been converted to upland. No mapping or local records identifying this occurrence in Tulare County are currently available.

Mitigation Measure 3.5-2 provides the requirement for a final geotechnical evaluation in accordance with the standards and requirements outlined in the California Building Code, Title 24, Part 2, Chapter 16, 17, and Chapter 18, which addresses structural design, tests and inspections, and soils and foundation standards. The final geotechnical evaluation would include design recommendations to ensure that soil conditions do not pose a threat to the health and safety of people or structures.

Implementation of Mitigation Measure 3.5-2 would ensure that the proposed Project would have a less than significant impact relative to this topic.

D. HAZARDS AND HAZARDOUS MATERIALS

1. IMPACT 3.7-1: POTENTIAL TO CREATE A SIGNIFICANT HAZARD THROUGH THE ROUTINE TRANSPORT, USE, OR DISPOSAL OF HAZARDOUS MATERIALS OR THROUGH THE REASONABLY FORESEEABLE UPSET AND ACCIDENT CONDITIONS INVOLVING THE RELEASE OF HAZARDOUS MATERIALS INTO THE ENVIRONMENT

- (a) Potential Impact. The potential for the Project to create a significant hazard through the routine transport, use, or disposal of hazardous materials or through the reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment is discussed on pages 3.7-13 through 3.7-15 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.7-1 and 3.7-2.
- (c) Findings. Construction Phase: Construction equipment and materials would likely require the use of petroleum based products (oil, gasoline, diesel fuel), and a variety of chemicals including paints, cleaners, and solvents. The use of these materials at a construction site will pose a reasonable risk of release into the environment if not properly handled, stored, and transported. A release into the environment could pose significant impacts to the health and welfare of people and/or wildlife, and could result in contamination of water (groundwater or surface water), habitat, and countless important resources. This is a potentially significant impact. Mitigation Measure 3.7-1 requires soil sampling for residual concentrations of agrichemicals that may be present in soil as a result of potential agricultural application and storage. Additionally, Mitigation Measure 3.7-1 requires a hazardous waste specialist to be engaged to assess any stained areas found on the soil before grading and construction activities commence.

Operational Phase: The proposed Project permits industrial uses that will store, use and possibly generate a variety of hazardous materials (e.g., diesel fuels and gasoline). There is a risk of release of these materials into the environment if they are not stored and handled in accordance with best management practices. The proposed Project does not involve uses or operations that would allow for the manufacture of hazardous materials; however, hazardous materials will be present via shipping to and from the Project area in route to their destination. The transport of these hazardous materials on area roadways are regulated by the California Highway Patrol and Caltrans. The Tulare County Agricultural Commissioner is responsible for regulating agrichemicals in Tulare County. Farmers are required by law to notify the Commissioner's Office related to their agrichemical use. Consistency with local, state,

and federal regulations related to agrichemical use ensures that the potential risk of upset and accident conditions from a release is minimized to the extent practical.

Implementation of the Mitigation Measure 3.7-2 will ensure that business operators on the Project site consult with the Tulare County Health and Human Services Agency, Environmental Health Division for education/guidance related to specific requirements that their businesses must implement in the day-to-day operations. This includes the establishment of management practices for handling, storing, and disposal of hazardous materials, including fuels, paints, cleaners, solvents, pesticides, etc., during operations to reduce the potential for spills and to direct the safe handling of these materials if encountered. It also includes consultation related to specific permits that a business may require in order to operate (i.e., permits of underground storage tanks if they are part of the business).

Implementation of Mitigation Measures 3.7-1 and 3.7-2 would ensure that these potential impacts are reduced to a less than significant level.

2. IMPACT 3.7-4: FOR A PROJECT LOCATED WITHIN AN AIRPORT LAND USE PLAN OR, WHERE SUCH A PLAN HAS NOT BEEN ADOPTED, WITHIN TWO MILES OF A PUBLIC AIRPORT OR PUBLIC USE AIRPORT, WOULD THE PROJECT RESULT IN A SAFETY HAZARD FOR PEOPLE RESIDING OR WORKING IN THE PROJECT AREA
 - (a) Potential Impact. The potential for the project to result in a safety hazard for people residing or working in the project area, for a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, is discussed on pages 3.7-16 and 3.7-17 of the Draft EIR.
 - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.7-3.
 - (c) Findings. In California, potential hazards to airport operations are generally regulated by the Federal Aviation Administration (FAA) (FAR Part 77), with local planning and evaluation of proposed projects (in terms of a proposed project's compatibility in relationship to air and ground operations and the safety of the public) under the authority of the Airport Land Use Commission (ALUC).

The ALUC policies determines a project's compatibility with respect to the ALUCP and notifies the lead agency of its recommendation. Legislation passed in the 1994 ALUP Handbook requires that when preparing an environmental impact report for any project situated within an airport influence area as defined in an ALUC compatibility plan, lead agencies should utilize the California Airport Land Use Planning Handbook as a technical resource with respect to airport noise and safety compatibility issues. The Federal Aviation Administration (FAA) also evaluates projects located within two miles of a public use airport, and other projects that may pose a potential hazard for people

residing or working in the project area, due to height, visual hazard, or the attraction of wildlife. The proposed Project development would occur within two miles of a public airport, Mefford Field Airport.

Implementation of the proposed Project includes the construction of one 100-foot-tall pole sign with LED lights (advertising for interstate traffic). Ultimately, the FAA and Tulare County ALUC will determine if the Project signage structure is compatible with the ALUCP. Mitigation Measure 3.7-3 requires the Project to comply with all FAA and ALUC regulations and determinations regarding the siting and height of the proposed structure.

Implementation of the Mitigation Measure 3.7-3 would ensure that these potential impacts are reduced to a less than significant level.

E. HYDROLOGY AND WATER QUALITY

1. IMPACT 3.12-3: THE PROPOSED PROJECT HAS THE POTENTIAL TO VIOLATE WATER QUALITY STANDARDS OR WASTE DISCHARGE REQUIREMENTS DURING CONSTRUCTION

- (a) Potential Impact. The potential for proposed project to violate water quality standards or waste discharge requirements during construction is discussed on pages 3.8-16 through 3.8-18 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.5-1.
- (c) Findings. As noted previously, according to the United States Environmental Protection Agency, polluted stormwater runoff is a leading cause of impairment to the nearly 40 percent of surveyed U.S. water bodies which do not meet water quality standards. Over land or via storm sewer systems, polluted runoff is discharged, often untreated, directly into local water bodies. Soil erosion and the loss of topsoil is one of the most common sources of polluted stormwater runoff during construction activities. When left uncontrolled, storm water runoff can erode soil and cause sedimentation in waterways, which collectively result in the destruction of fish, wildlife, and aquatic life habitats; a loss in aesthetic value; and threats to public health due to contaminated food, drinking water supplies, and recreational waterways.

Mandated by Congress under the Clean Water Act, the NPDES Stormwater Program is a comprehensive two-phased national program for addressing the non-agricultural sources of stormwater discharges which adversely affect the quality of our nation's waters. To ensure that construction activities are covered under General Permit 2009-0009-DWQ (amended by 2010-0014-DWQ & 2012-0006-DWQ), projects in California must prepare a SWPPP containing BMPs to reduce erosion and sediments to meet water quality standards. Such BMPs may include: temporary erosion control measures such as silt fences, staked straw bales/wattles, silt/sediment basins and

traps, check dams, geofabric, sandbag dikes, and temporary revegetation or other ground cover. The BMPs and overall SWPPP is reviewed by the Regional Water Quality Control Board as part of the permitting process. The SWPPP, once approved, is kept on site and implemented during construction activities and must be made available upon request to representatives of the RWQCB and/or the lead agency.

In accordance with the NPDES Stormwater Program, Mitigation Measure 3.5-1 requires an approved SWPPP designed to control erosion and the loss of topsoil to the extent practicable using BMPs that the RWQCB has deemed effective in controlling erosion, sedimentation, and runoff during construction activities. The RWQCB has stated that these erosion control measures are only examples of what should be considered and should not preclude new or innovative approaches currently available or being developed. The specific controls are subject to the review and approval by the RWQCB and are existing regulatory requirements.

Implementation of Mitigation Measure 3.5-1 would ensure that the proposed project would have a less than significant impact relative to this topic.

F. TRANSPORTATION AND CIRCULATION

1. IMPACT 3.12-1: THE PROPOSED PROJECT WOULD NOT CAUSE SIGNIFICANT IMPACTS AT INTERSECTIONS

(a) Potential Impact. The potential for the project to cause significant impacts at intersections is discussed on pages 3.12-15 and 3.12-16 of the Draft EIR.

(b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.12-1.

(c) Findings. The results of the intersection operations analysis included in the Traffic Impact Study (Appendix F of the DEIR) indicates that under Existing Condition all the study intersections operate at acceptable Level of Service (LOS) D or better, except the intersection of Laspina Street/Paige Avenue that operates at LOS F during the PM peak hour, and all freeway study segments operate at an acceptable LOS (D or better) during both the AM and PM peak hour. Under Existing plus Proposed Project and Existing plus Approved Projects plus Proposed Project conditions, the intersection of Laspina Street/Paige Avenue will operate at LOS F, and would operate at an acceptable LOS if it is signalized. Project traffic contributes approximately 4.9 percent to the intersection. In addition, both of the SR 99 unsignalized off-ramps would operate at unacceptable LOS F during the peak hours and would operate at acceptable LOS if they were signalized. Project traffic contributes approximately 14.5 percent and 16 percent to the intersection of SR 99 NB Off-Ramp/Paige Avenue and SR 99 SB Off-Ramp/Paige Avenue respectively. Additionally, under this scenario the intersection of Blackstone Street/Paige Avenue will deteriorate from LOS C to LOS E during the PM peak hour.

The intersection would operate at acceptable LOS if signalized. Project traffic contributes approximately 21.6 percent to the intersection.

Caltrans has recommended improvements to ensure that the affected Project intersections would be mitigated for the above four intersections. These recommendations include signalization of the intersections at Laspina Street/Paige Avenue, SR 99 SB Off-Ramp/Blackstone Street, SR 99 NB Off-Ramp/Paige Avenue, and Blackstone Street/Paige Avenue. In addition, Caltrans has recommended the widening of intersections, installation of additional turn lanes, and the provision of bicycle connectivity and accessibility. Once all of the intersection improvements identified in Mitigation Measure 3.12-1 are completed as opening day improvements, all intersections would be expected to operate at acceptable LOS.

Implementation of Mitigation Measure 3.12-1 would ensure that this potential impact is reduced to a less than significant level.

2. IMPACT 3.12-3: THE PROPOSED PROJECT WOULD NOT ADVERSELY AFFECT PEDESTRIAN AND BICYCLE FACILITIES

(c) Potential Impact. The potential for proposed project to adversely affect pedestrian and bicycle facilities is discussed on page 3.12-17 of the Draft EIR.

(d) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.12-2 and 3.6-1.

(c) Findings. The proposed Project would provide sidewalks at Project site frontage along the Paige Avenue and Blackstone Street roadways, as described by Mitigation Measure 3.6-1 (reprinted from Section 3.6, Greenhouse Gases and Climate Change). The proposed Project would not disrupt or interfere with existing bicycle/pedestrian facilities. However, since the project description does not describe any planned on-street bicycle facilities, the project could create an inconsistency with policies related to bicycle systems. The 2010 Tulare County Regional Bicycle Transportation Plan provides a guideline for improving bicycle routes throughout the County. Therefore, this impact is considered a potentially significant impact. Mitigation Measure 3.12-2 would provide consistency with the *2010 Tulare County Regional Bicycle Transportation Plan* (2010).

Implementation of the Mitigation Measure 3.12-2 would ensure that this potential impact is reduced to a less than significant level.

V. FINDINGS AND RECOMMENDATIONS REGARDING THOSE IMPACTS WHICH ARE LESS THAN SIGNIFICANT OR LESS THAN CUMULATIVELY CONSIDERABLE

CEQA FINDINGS

Specific impacts within the following categories of environmental effects were found to be less than significant as set forth in more detail in the Draft EIR and subsequent errata.

Aesthetics: The following specific impact was found to be less than significant: 3.1-2.

Air Quality: The following specific impacts were found to be less than significant: 3.2-2, 3.2-3, and 3.2-4.

Biological Resources: The following specific impacts were found to be less than significant: 3.3-1, 3.3-2, 3.3-5, 3.3-6, 3.3-7, 3.3-8, and 3.3-9.

Geology and Soils: The following specific impacts were found to be less than significant: 3.5-1 and 3.5-4.

Greenhouse Gases and Climate Change: The following specific impact was found to be less than significant: 3.6-2.

Hazards and Hazardous Materials: The following specific impacts were found to be less than significant: 3.7-2, 3.7-3, 3.7-5, and 3.7-6.

Hydrology and Water Quality: The following specific impacts were found to be less than significant: 3.8-2, 3.8-4, 3.8-6, and 3.8-7.

Land Use: The following specific impacts were found to be less than significant: 3.9-1, 3.9-2.

Noise: The following specific impacts were found to be less than significant: 3.10-1, 3.10-2, 3.10-3, 3.10-4, and 3.10-5.

Public Services: The following specific impacts were found to be less than significant: 3.11-1, 3.11-2, and 3.11-3.

Transportation and Circulation: The following specific impacts were found to be less than significant: 3.12-1, 3.12-2, 3.12-4, and 3.12-5.

Utilities: The following specific impacts were found to be less than significant: 3.13-1, 3.13-2, 3.13-3, 3.13-4, 3.13-6, and 3.13-7.

The Project was found to have a less than cumulatively considerable contribution to specific impacts within the following categories of environmental effects as set forth in more detail in the Draft EIR.

Aesthetics: The following specific impact was found to be less than cumulatively considerable: 4.1.

Air Quality: The following specific impacts were found to be less than cumulatively considerable: 4.4.

Biological Resources: The following specific impact was found to be less than cumulatively considerable: 4.5.

Cultural Resources: The following specific impact was found to be less than cumulatively considerable: 4.6.

Geology and Soils: The following specific impact was found to be less than cumulatively considerable: 4.7.

Hazards and Hazardous Materials: The following specific impact was found to be less than cumulatively considerable: 4.9.

Hydrology and Water Quality: The following specific impacts were found to be less than cumulatively considerable: 4.10, 4.11, and 4.13.

Land Use: The following specific impact was found to be less than cumulatively considerable: 4.14.

Public Services and Recreation: The following specific impact was found to be less than cumulatively considerable: 4.16.

Utilities and Service Systems: The following specific impacts were found to be less than cumulatively considerable: 4.18 and 4.20.

The above impacts are less than significant or less than cumulatively considerable for one of the following reasons:

- The EIR determined that the impact is less than significant for the Project.
- The EIR determined that the Project would have a less than cumulatively considerable contribution to the cumulative impact.
- The EIR determined that the impact is beneficial (would be reduced) for the Project.

VI. PROJECT ALTERNATIVES

A. IDENTIFICATION OF PROJECT OBJECTIVES

An EIR is required to identify a range of reasonable alternatives to the project. The “range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects.” (CEQA Guidelines Section 15126.6(c).) “Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent).” (CEQA Guidelines Section 15126.6(f)(1).)

The quantifiable objectives and operational characteristics of the proposed Project include the development of travel support facilities on the 13-acre Project site that would include:

- 9 diesel fueling lanes (includes Diesel, Diesel Exhaust Fluid (DEF), and Bio Diesel).
- 10 gas fueling dispensers (8 for passenger vehicles, and 2 for RV lanes)
- 137 truck parking spaces
- 84 passenger vehicle parking spaces
- Project signage, including entry and exit signs, building sign, and one 100 foot tall illuminated sign (for SR 99 advertising)
- One 14,967 square foot building that will include:
 - A driver’s lounge, game room, pay phones, ATM’s, Western Union Check Cashing, and Wi Fi
 - Restroom facilities, that include 9 showers facilities and laundry
 - Two quick service restaurants

Additional objectives of the proposed Project include:

- To create an economically, technologically and environmentally feasible commercial complex that will provide business and job opportunities within the City of Tulare.
- Ensure the provision of services and facilities needed to accommodate planned population densities in the project area and increased traffic along State Highway 99.
- Ensure compatibility with surrounding land uses so that proposed industrial/commercial uses will not result in significant harmful impacts to adjacent land uses.

B. ALTERNATIVES NOT SELECTED FOR FURTHER CONSIDERATION

A Notice of Preparation was circulated to the public to solicit recommendations for a reasonable range of alternatives to the proposed Project. No specific alternatives were recommended by commenting agencies or the general public during the NOP public review process.

The Draft EIR was also circulated for public review and comment. No specific alternatives were recommended by commenting agencies or the general public during the Draft EIR public review process that were not previously considered by the City.

C. ALTERNATIVES ANALYSIS IN EIR

1. NO BUILD ALTERNATIVE:

The **No Build Alternative** is discussed on pages 5.0-2, and 5.0-3 through 5.0-8 of the Draft EIR. This alternative assumes development of the Project site would not occur, and the Project site would remain in its current condition.

Findings: Environmental benefits of this alternative over the proposed project include the reduction of impacts to aesthetics and visual resources, air quality, biological resources, cultural resources, geology and soils, greenhouse gases and climate change, hazards and hazardous materials, hydrology and water quality, noise, public services, transportation and circulation, and utilities.

While the City recognizes the environmental benefits of the No Build Alternative, this alternative would not achieve the project objectives, and would not provide new commercial opportunities, local jobs, or tax revenue generation for the City of Tulare in accordance with the General Plan. For these reasons, this alternative is rejected.

2. REDUCED PROJECT ALTERNATIVE:

The **Reduced Project Alternative** is discussed on pages 5.0-2, and 5.0-8 through 5.0-13 of the Draft EIR. Under this alternative, the proposed Project would be developed with the same components as described in the Project Description for the proposed Project, but the size of the developed area and the Pilot Flying J Travel Center building would be reduced, resulting in an increase of undeveloped land for the proposed Project. The total acreage dedicated to proposed Project would be reduced by approximately one third. Additionally, the number of parking spaces would be reduced by one third, and the building footprint for the Pilot Flying J Travel Center would be reduced by one third, from 14,967 square feet to 9,978 square feet. The number of gasoline and diesel refueling stations would remain the same as in the proposed Project.

Findings: Environmental benefits of this alternative over the proposed project include the reduction of impacts to aesthetics and visual resources, air quality, biological resources, cultural resources, geology and soils, greenhouse gases and climate change, hazards and hazardous materials, hydrology and water quality, noise, public services, transportation and circulation, and utilities. Land Use impacts would be equal in this alternative as compared with the proposed project.

While the City recognizes the environmental benefits of this alternative, this alternative would achieve some, but not all of the project objectives, and would not provide the number of new highway commercial opportunities, local jobs, or tax revenue generation for the City of Tulare (reduced by one-third) in accordance with the General Plan. For these reasons, this alternative is rejected.

3. ALTERNATIVE LOCATION:

The **Alternative Location** is discussed on pages 5.0-2 and 5.0-13 through 5.0.19 of the Draft EIR. Under this alternative, the proposed project would be developed with the same general characteristics as described in the Project Description (Section 2.0) for the proposed project. However, the proposed project would be sited at an alternative location. The alternative location chosen for analysis would be at a vacant lot in the southern portion of the city off of K Street, and Rankin SR 99 off-ramp immediately west of SR 99.

Findings: Environmental benefits of this alternative over the proposed project include the potential reduction of impacts to transportation and circulation. Impacts to all other impacts would be equal or greater than the proposed project with this alternative.

While the City recognizes the potential transportation and circulation benefits of this alternative, this alternative would not be as desirable for a travel plaza because the surrounding uses are not as supportive. For instance, the proposed project is located along a major truck route and adjacent to several truck facilities, and highway commercial uses, which are more conducive to truck travel. For these reasons, this alternative is rejected.

4. ENVIRONMENTALLY SUPERIOR ALTERNATIVE:

CEQA requires that an environmentally superior alternative be identified among the alternatives that are analyzed in the EIR. If the No Project Alternative is the environmentally superior alternative, an EIR must also identify an environmentally superior alternative among the other alternatives (CEQA Guidelines Section 15126.6(e)(2)). The environmentally superior alternative is that alternative with the least adverse environmental impacts when compared to the proposed project.

As discussed in Section 5.0, and shown on Table 5.0-1 of the Draft EIR (Pg. 5.0-20) a comparison of alternatives is presented. As shown in the table, the No Project Alternative is the environmentally superior alternative. However, as required by CEQA, when the No Project Alternative is the environmentally superior alternative, the environmentally superior alternative among the others must be identified. Therefore, the Reduced Project Alternative ranks higher than the proposed project. Comparatively, the Alternative Location would result in impacts slightly greater than those under the proposed Project, with increased impacts to aesthetics and visual resources, air quality, public services and utilities, and slightly less impacts with regard to transportation and circulation. As stated previously, from a Land Use Planning perspective, the Alternative Location is not as desirable for a travel plaza because the surrounding uses not as supportive. While the City recognizes the environmental benefits of the Reduced Project and No Project alternatives, these alternatives would not meet all of the project objectives. For the reasons provided above, these alternatives are rejected.

VII. STATEMENTS OF OVERRIDING CONSIDERATIONS RELATED TO THE TULARE PILOT FLYING J FINDINGS

As described in detail in Section III of these Findings, the following significant and unavoidable impacts could occur with implementation of the project:

- **Impact 3.1-1:** Project implementation may have a substantial adverse effect on a scenic vista
- **Impact 3.1-3:** Project implementation may substantially degrade the existing visual character or quality of the site and its surroundings and result in light and glare impacts
- **Impact 3.2-1:** Project operation has the potential to cause a violation of an air quality standard or contribute substantially to an existing or projected air quality violation
- **Impact 3.2-5:** The proposed Project has the potential for exposure to odors
- **Impact 3.6-1:** Potential to generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment or potential to conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases
- **Impact 3.8.3:** The proposed Project has the potential to substantially deplete groundwater supplies or interfere substantially with groundwater recharge
- **Impact 3.13-5:** The proposed Project would not result in insufficient water supplies available to serve the project from existing entitlements and resources
- **Impact 4.2:** Have a substantial adverse effect on a scenic vista
- **Impact 4.3:** Project implementation may substantially degrade the existing visual character or quality of the site and its surroundings and result in light and glare impacts.
- **Impact 4.8:** Cumulative Impact on Climate Change from Increased project-Related Greenhouse Gas Emissions
- **Impact 4.12:** Cumulative Impacts Related to Degradation of Groundwater Supply or Recharge
- **Impact 4.15:** Cumulative Exposure of Existing and Future Noise- Sensitive Land Uses to Increased Noise Resulting from Cumulative Development
- **Impact 4.17:** Under cumulative conditions, project implementation would exacerbate levels of service at local intersections or exacerbate cumulatively levels of service on SR-99 Highway Facilities
- **Impact 4.19:** Cumulative Impact on Water Utilities
- **Impact 4.21:** Cumulative Impact on Solid Waste Facilities

The adverse effects listed above, and described in detail in Section III, are substantive issues of concern to the City. However, the City of Tulare has a General Plan that provides for an array of

land uses throughout the City that are intended to accommodate the City's needs for growth over the foreseeable future. Additionally, the proposed project would generate jobs and tax revenue for the City. The facility would also provide truck refueling facilities that are in high demand. The job creating uses, provision of high-demand commercial services, and tax benefits discussed above would be expected to increase the quality of life in the City of Tulare.

Based on the entire record and the EIR, the economic and social benefits of the project in Tulare outweigh and override any significant unavoidable environmental effects that would result from future project implementation as more fully described in Section III Findings and Recommendations Regarding Significant and Unavoidable Impacts. The Planning Commission has determined that any environmental detriment caused by the proposed project has been minimized to the extent feasible through the mitigation measures identified herein, and, where mitigation is not feasible, has been outweighed and counterbalanced by the significant social, environmental, and land use benefits to be generated to the region.

VIII. OTHER CEQA CONSIDERATIONS

A. Significant Irreversible Environmental Changes

Section 15126.2(c) of the CEQA Guidelines provide an EIR is required to address any significant irreversible environmental changes that would occur should the proposed project be implemented. The types and level of development associated with the project would consume limited, slowly renewable, and non-renewable resources. This consumption would occur during construction of the project and would continue throughout its operational lifetime. The development of the project would require a commitment of resources that would include (1) building materials, (2) fuel and operational materials/resources, and (3) the transportation of goods and people to and from the project site.

Implementation of the proposed Project would result in the conversion of approximately 12 acres of land currently used for agricultural activities for the development of SR-99 commercial travel serving uses and facilities. Development of the proposed Project would constitute a long-term commitment to these uses. It is unlikely that circumstances would arise that would justify the return of the land to its original condition as vacant/unimproved agricultural land. A variety of resources, including land, energy, water, construction materials, and human resources would be irretrievably committed for the initial construction, infrastructure installation and connection to existing utilities, and its continued maintenance. Construction would require the commitment of a variety of other non-renewable or slowly renewable natural resources such as lumber and other forest products, sand and gravel, asphalt, petrochemicals, and metals.

Additionally, a variety of resources would be committed to the ongoing operation and life of the facility. The introduction of travel serving uses will result in an increase in area traffic over existing conditions, the use of fossil fuels and the increased consumption of available supplies, including gasoline and diesel, and electricity. These energy resource demands relate to initial project construction, project operation and site maintenance and the transport of people and goods to and from the Project site.

CEQA FINDINGS

B. CEQA Considerations

1. The City of Tulare is the “Lead Agency” for the project, evaluated the EIR. The City finds that the EIR was prepared in compliance with CEQA and the CEQA Guidelines. The City finds that it has independently reviewed and analyzed the EIR for the Project, that the Draft EIR which was circulated for public review reflected its independent judgment and that the Final EIR reflects the independent judgment of the City.
2. The EIR evaluated the following potential project and cumulative environmental impacts: Aesthetics and Visual Resources; Air Quality; Biological Resources; Cultural Resources; Geology and Soils; Greenhouse Gases and Climate Change; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use; Noise; Public Services; Transportation and Circulation; and Utilities. Additionally, the EIR considered Growth Inducing Impacts and Significant Irreversible Environmental Changes. The significant environmental impacts of the project and the alternatives were identified in the EIR.
3. The City finds that the EIR provides objective information to assist the decision- makers and the public at large in their consideration of the environmental consequences of the Project. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the Draft EIR. The Final EIR was prepared after the review period and responds to comments made during the public review period.
4. Textual refinements and errata were compiled and presented to the decision- makers for review and consideration. The City staff has made every effort to notify the decision-makers and the interested public/agencies of each textual change in the various documents associated with project review. These textual refinements arose for a variety of reasons. First, it is inevitable that draft documents would contain errors and would require clarifications and corrections. Second, textual clarifications were necessitated in order to describe refinements suggested as part of the public participation process.
5. The City evaluated comments on environmental issues received from persons who reviewed the Draft EIR. In accordance with CEQA, the City prepared written responses describing the disposition of significant environmental issues raised. The Final EIR provides adequate, good faith and reasoned response to the comments. The City reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts to the Draft EIR. The Lead Agency has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these findings, concerning the environmental impacts identified and analyzed in the EIR.
6. The Final EIR documents changes to the Draft EIR. The Final EIR provides additional information that was not included in the Draft EIR. Having reviewed the information contained in the Draft EIR and the Final EIR and in the administrative record, as well as the requirements of CEQA and the CEQA Guidelines regarding recirculation of Draft EIRs, the City finds that there are no new

significant impacts, substantial increase in the severity of a previously disclosed impact, significant information in the record of proceedings or other criteria under CEQA that would require recirculation of the Draft EIR, or preparation of a supplemental or subsequent EIR.

Specifically, the City finds that:

a. The Responses To Comments contained in the Final EIR fully considered and responded to comments claiming that the project would have significant impacts or more severe impacts not disclosed in the Draft EIR and include substantial evidence that none of these comments provided substantial evidence that the project would result in changed circumstances, significant new information, considerably different mitigation measures, or new or more severe significant impacts than were discussed in the Draft EIR.

b. The City has thoroughly reviewed the public comments received regarding the Project and the Final EIR as it relates to the Project to determine whether under the requirements of CEQA, any of the public comments provide substantial evidence that would require recirculation of the EIR prior to its adoption and has determined that recirculation of the EIR is not required.

c. None of the information submitted after publication of the Final EIR, including testimony at and documents submitted for the public hearings on the Project, constitutes significant new information or otherwise requires preparation of a supplemental or subsequent EIR. The City does not find this information and testimony to be credible evidence of a significant impact, a substantial increase in the severity of an impact disclosed in the Final EIR, or a feasible mitigation measure or alternative not included in the Final EIR.

7. The mitigation measures identified for the project were included in the Draft and Final EIRs. As revised, the final mitigation measures for the project are described in the Mitigation Monitoring and Reporting Program (MMRP). Each of the mitigation measures identified in the MMRP is incorporated into the project. The City finds that the impacts of the project have been mitigated to the extent feasible by the mitigation measures identified in the MMRP.

8. CEQA requires the Lead Agency approving a project to adopt a MMRP or the changes to the project which it has adopted or made a condition of project approval in order to ensure compliance with the mitigation measures during project implementation. The mitigation measures included in the EIR as certified and adopted by the City serves that function. The MMRP includes all of the mitigation measures and project design features adopted by the City in connection with the approval of the project and has been designed to ensure compliance with such measures during implementation of the project. In accordance with CEQA, the MMRP provides the means to ensure that the mitigation measures are fully enforceable. In accordance with the requirements of Public Resources Code Section 21081.6, the City hereby adopts the MMRP.

CEQA FINDINGS

9. In accordance with the requirements of Public Resources Section 21081.6, the City hereby adopts each of the mitigation measures expressly set forth herein as conditions of approval for the project.
10. The custodian of the documents or other material which constitute the record of proceedings upon which the City's decision is based is the City Clerk.
11. The City finds and declares that substantial evidence for each and every finding made herein is contained in the EIR, which is incorporated herein by this reference, or is in the record of proceedings in the matter.
12. The City is certifying an EIR for, and is approving and adopting findings for, the entirety of the actions described in these Findings and in the EIR as comprising the project.
13. The EIR is a Project EIR for purposes of environmental analysis of the project. A Project EIR examines the environmental effects of a specific project. The EIR serves as the primary environmental compliance document for entitlement decisions regarding the Project by the City and other regulatory jurisdictions.
14. The City finds that none of the public comments to the Draft EIR or subsequent public comments or other evidence in the record, constitute substantial evidence that would require recirculation of the Final EIR prior to its certification and that there is no substantial evidence elsewhere in the record of proceedings that would require substantial revision of the Final EIR prior to its certification, and that the Final EIR need not be recirculated prior to its certification.

RESOLUTION NO. 5301

**A RESOLUTION OF THE CITY OF TULARE PLANNING COMMISSION
APPROVING CONDITIONAL USE PERMIT NO. 2016-04**

WHEREAS, the City of Tulare Planning Commission at a regular meeting held October 22, 2018 considered a request by Pilot Travel Centers to construct a Pilot Flying J truck stop/travel center on 13.63 acres located on the southwest corner of Blackstone Street and Paige Avenue (191-050-075) and zoned M-1 (Light Industrial), including a request to sell vehicle fuel and sell beer and wine for off-site consumption; and,

WHEREAS, the City of Tulare Planning Commission after duly published notice, did hold a public hearing before said Commission to receive public testimony on October 22, 2018; and,

WHEREAS, the City of Tulare Planning Commission determined that Conditional Use Permit No. 2016-04 is consistent with the goals and objectives of the Zoning Title and the purposes of the District in which the site is located; and,

WHEREAS, the City of Tulare Planning Commission determined that the proposed conditional use is consistent with the Tulare General Plan; and,

WHEREAS, the City of Tulare Planning Commission determined that the proposed request will not be detrimental to the public health, safety, and welfare or be materially injurious to properties or improvements in the vicinity; and,

WHEREAS, an Environmental Impact Report was prepared for the Project pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines; and,

WHEREAS, the Final Environmental Impact Report responds to all comments received during the public review period in accordance with CEQA Guidelines Section 15088; and,

WHEREAS, the City of Tulare Planning Commission has determined that the responses to comments in the Final Environmental Impact Report do not involve any new significant impacts or significant new information that would require recirculation of the Draft Environmental Impact Report pursuant to CEQA Guidelines Section 15088.5; and,

WHEREAS, mitigation measures are included in the Project's Mitigation Monitoring and Reporting Program to mitigate the potential impacts of the Project on the environment to the extent feasible, and are included as conditions of approval for the Environmental Impact Report and the Project; and,

WHEREAS, even after the implementation of mitigation measures, significant and unavoidable impacts would remain to aesthetics, air quality, greenhouse gases/climate change, hydrology, transportation/circulation, and utilities as a result of the Project; and,

WHEREAS, the Final Environmental Impact Report was presented to the City of Tulare Planning Commission, the decision-making body of the lead agency, which reviewed and considered the information in the Final Environmental Impact Report; and,

WHEREAS, the City of Tulare Planning Commission has determined that based on the entire record and the Environmental Impact Report, the economic and social benefits of the project in Tulare, consistent with Goals and Policies in the City's General Plan, outweigh and override any significant unavoidable environmental impacts that would result from future project implementation; and,

WHEREAS, the City of Tulare Planning Commission determined that the Environmental Impact Report, Findings pursuant to CEQA Section 15091, and Statement of Overriding Considerations pursuant to Section 15093, reflect the independent judgment of the City of Tulare, as lead agency under CEQA:

NOW, THEREFORE, BE IT RESOLVED that the Environmental Impact Report, Mitigation Monitoring and Reporting Program, CEQA Findings and Statement of Overriding Considerations prepared for Conditional Use Permit Application No. 2016-04 are hereby certified and adopted by the City of Tulare Planning Commission.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City of Tulare Planning Commission makes the following specific findings with regard to Conditional Use Permit No. 2016-04, based on the evidence presented:

1. That the proposed location of the project is in accordance with the objectives of the Zoning Title and the purposes of the District in which the site is located.
2. That the proposed location of the use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
3. That the proposed conditional use will comply with each of the provisions of the Zoning Title.
4. That the proposed conditional use is consistent with the Tulare General Plan, and that existing deficient levels of service at the Blackstone & Paige and SR 99 & Blackstone On/Off Ramps intersections will be mitigated to the acceptable General Plan standard as part of opening day improvements for the Project.

5. That the request will not have a significant effect on surrounding properties and improvements in the vicinity of the project site.
6. That public convenience and necessity would be served by allowing the applicant to sell vehicle fuel in accordance with the provisions of Chapter 10.116 – Conditional Use Permits (Chapter 10.64.030)
7. That public convenience and necessity would be served by the issuance of a permit to “sell beer and wine for off-site consumption” Type 20 license.

BE IT FURTHER RESOLVED that the City of Tulare Planning Commission hereby approves Conditional Use Permit 2016-04, subject to the following conditions of approval:

1. Adopt and Certify an Environmental Impact Report, including Mitigation Monitoring and Reporting Program and adoption of CEQA Findings and Statement of Overriding Considerations.
2. All requirements of Title 10 shall be met.
3. The conceptual site plan and elevations for the proposed building are approved as shown in the attachments hereto.
4. In accordance with Zoning Ordinance Section 10.116.080, this Conditional Use Permit approval shall lapse and become void (3) years from the effective date of approval, unless a building permit is issued by the City and construction is being diligently pursued.
5. All roof mounted equipment shall be screened from public view by materials similar to those used in overall structure and approved by the Community Development Director at time of Building Permit review.
6. Landscape and irrigation plans shall be prepared by a licensed Landscape Architect, certified irrigation designer, licensed landscape contractor, or any other person authorized to design an irrigation system and approved prior to building permits being issued.
7. Applicant shall comply with the San Joaquin Valley Air Pollution Control District (SJVAPCD) regarding dust control during construction as required by SJVAPCD.
8. Applicant shall comply with Engineering and Fire Department comments/conditions as listed at the end of these conditions.
9. Parking provided shall comply with City of Tulare Parking Standards.
10. Approval does not authorize any deviation from Fire and Building Codes.

11. Any significant changes to the floor plan layout shall be subject to review and approval by the Planning Commission.
12. This permit is limited to the sale of beer and wine for off-site consumption.
13. Any upgrading of the alcoholic beverage license issued by Alcoholic Beverage Control will be subject to approval by the Planning Commission.
14. Applicant to maintain all licenses and/or permits required by the State.
15. All Mitigation Measures in the Mitigation Monitoring and Reporting Program (MMRP) are hereby incorporated as Conditions of Approval.
16. All Site Plan Review Comments shall be addressed and incorporated into the Project, in a manner meeting the approval of the Community Development Director, or Designee.
17. Full compliance with all conditions of approval stated in this document shall be achieved prior to the issuance of any Certificates of Occupancy or as modified by the Community & Economic Development Director. Any minor modifications shall be submitted to the Director to review and determine compliance with the original Conditions of Approval.

Engineering:

1. All required engineering plans and calculations shall be prepared by a registered civil engineer. Any elevations shown on plans required for the subject development shall be based on the official City of Tulare datum. The Engineer shall provide three (3) copies of each improvement plan set submitted to the City of Tulare for checking. All public improvements shall be on 24" x 36" sheets, in a plan/profile format at a scale of 1"=50' or larger. Private on-site improvements may be plan-view only format, and may be on sheet sizes consistent with the rest of the on-site construction plans. Following approval of the improvement plans, the Engineer shall provide the City of Tulare with two reproducible plan sets. This shall be done prior to scheduling any pre-construction conferences or commencing any improvements.
2. Any work to be done within City street rights-of-way requires an encroachment permit issued by the Engineering Department, and shall be done under the inspection of the City Public Works Inspector. All contractors working within City street rights-of-way shall possess a valid City of Tulare business license. Separate encroachment permits are also required from the following agencies for work within their rights-of-way or on their facilities: ■ State: State Highway 99, ■ Tulare Irrigation District.
3. All design and construction of public improvements shall be in accordance with applicable City Standards, Specifications, Ordinances, and Standard Operating Procedures, unless specifically modified elsewhere in these conditions. These engineering conditions are intended to deal with major issues apparent to the Engineering Department while reviewing this development proposal. Nothing in these conditions precludes the City Engineer from

applying other conditions/modifications necessary for good design, operation, and maintenance of existing and future City facilities, as might become apparent during design review and/or construction.

4. Easements will be required for all public utilities to be located outside of dedicated rights-of-way. Six-foot public utility easements are required along all street frontages, unless otherwise waived by the City Engineer. Additional easements may be required for ingress/egress, drainage, or shared trash enclosures.
5. Existing curb and gutter, driveway approaches, sidewalk and ramped curb returns shall be subject to inspection by the City Public Works Inspector. As a condition of project approval, Owner/Developer shall be required to replace any existing improvements that are determined to be non-compliant with regard to current City standards, or to be otherwise defective. Examples of deficiencies include, but are not limited to, slopes that exceed accessibility standards, cracked or raised concrete, and lack of truncated dome panels.
6. New City standard curb and gutter shall be installed along the following street frontage(s): Paige Avenue.
7. New City standard sidewalk shall be constructed as indicated below. For adjacent sidewalk pattern, sidewalk shall transition behind driveway approaches and maintain a minimum width of 4 feet while doing so. The maximum slope adjacent to the back of any public sidewalk shall not exceed 5:1 for the first 5 feet. For areas located within a Landscape and Lighting District, the maximum slope between the back of the sidewalk and the wall or fence shall not exceed 10:1.

<u>Street Frontage</u>	<u>Configuration</u>	<u>Sidewalk Width (ft)</u>
Paige Avenue	in a full-width pattern	10-ft
Blackstone Street	adjacent to curb	6-ft

8. New City standard ramped curb returns and/or pedestrian ramps shall be installed at: SW cor Paige Avenue and Blackstone Street.
9. New City standard driveway approach(es) shall be constructed at: Paige Avenue and Blackstone Street project entrances. Any drive approach(es) greater than 36 feet in width requires a variance approved by the City Engineer.
10. The following minimum street improvements are required:
 - a. Full paveout from lip of gutter to the existing edge of pavement along the project's frontages of: Paige Avenue.

Roadway structural section design shall be based upon the results of "R" Value tests at locations approved by the City Engineer, and the design criteria provided below:

Roadway

Classification, Design T.I.

11. On-site A.C. pavement design shall be based upon the results of "R" Value tests at locations approved by the City Engineer, and the following traffic index requirements: 4.0 for parking areas, 4.5 for travel lanes, and 6.5 for truck routes (including solid waste collection vehicles).
12. Street Lights (Standard Concrete Marbelite Pole) shall be installed at locations designated by the City Engineer, and shall comply with the following general requirements:
 - LED, SCE Owned/Maintained on a metered service. Design of the LED street lighting system shall be approved by City Engineer. The following street light design criteria shall be used:
 - Minimum 9,500 Lumen with cut-off luminaires with 29' pole height and 8' mast arm to be installed in accordance with City standards on: Blackstone Street.
 - Minimum 16,000 Lumen with cut-off luminaires with 29' pole height and 8' mast arm to be installed in accordance with City standards on: Paige Avenue.
13. Street name signs, traffic control signs, pavement delineation and/or pavement markings shall be installed as required by the City Engineer. Parking shall be restricted along project frontages with appropriate signing and curb markings.
14. The following right-of-way dedications are required for street/alley purposes:
 - a. Chamfer property corner: 20' at SW corner of Paige Avenue and Blackstone Street to accommodate 35' radius curb return.
 - b. Street: Right-of-way dedication of 42' along project's Blackstone Street frontage. Right-of-way dedication varying from 46' to 52' along project's Paige Avenue frontage to accommodate standard widening and eastbound right-turn lane at Blackstone Street. Required length of right-turn lane to be determined during design of public improvements.
15. Project trip generation data is required. A Transportation Impact Study identifying the project impacts and proposed mitigation measures is required as a condition of project approval, and shall be subject to the approval of the City Engineer and Caltrans. Traffic impact studies shall conform to current CEQA "state of the practice" standards, the Caltrans "Guide For The Preparation of Traffic Impact Studies", and City of Tulare General Plan requirements. Traffic impact studies shall address provisions for pedestrian, bicycle and transit access to the project. In evaluating project impacts to existing roadway facilities, traffic impact studies shall utilize the current transportation modeling forecasts provided by the Tulare County Association of Governments (TCAG), and shall specifically address the project impacts and any appropriate mitigations to facilities, including opening day improvements, identified by the City Engineer.
16. All costs associated with the removal, relocation and undergrounding of utilities as necessary to accommodate installation of the required public improvements shall be the responsibility of the project. All utility lines, including but not limited to electric,

communications, street lighting and cable television, shall be required to be placed underground in accordance with Section 8.24.160 (B) 3 of the City of Tulare Municipal Code. The cost of such relocations and undergrounding shall be included in the bonding provided for the project.

17. The proposed development shall be responsible for the following water main extensions and connections: 12" from existing end east of "K" Street to stub at Blackstone Street.
18. Fire hydrants and fire suppression systems shall be provided as required by the City of Tulare Fire Marshall. The proposed development shall demonstrate that sufficient flows are available to support the required improvements. All points of connection to the City water system are subject to the approval of the City Engineer.
19. The proposed development shall install water services with back flow devices, as approved by Planning and Building. Water sizing calculations shall be provided at time of building permit application. Domestic and landscaping services shall be metered services using the make and model of meter specified by the City of Tulare Public Works Department. No substitutions are allowed.
20. Water sampling stations shall be installed as follows: Paige Avenue.
21. Existing water wells shall be abandoned, filled and sealed in accordance with applicable City, County of Tulare, and State of California standards.
22. The proposed development shall connect to City sewer. If service from an existing lateral is proposed, said lateral shall be exposed for inspection by the Public Works Inspector and upgraded to current City standards if found to be broken or substandard.
23. Sewer monitoring stations, oil/water separators and/or grease interceptors shall be installed as required by the City wastewater manager.
24. Existing septic tanks shall be abandoned, filled and sealed in accordance with applicable City, County of Tulare, and State of California standards.
25. A grading/drainage plan prepared by a Registered Civil Engineer or Licensed Architect and subject to approval by the City Engineer shall be submitted. The plan shall include existing and proposed contours, and detail the means of collection and disposal of storm water runoff from the site and adjacent road frontages in such a manner that runoff is not diverted to adjacent property. On-site retention of storm water runoff is required not required.
A letter verifying that lot grading was completed according to the approved grading / drainage plan shall be prepared by a Registered Civil Engineer or Licensed Architect and submitted to the City Engineer prior to the issuance of any final occupancy permits or notice of completion for public improvements. The Engineer or Architect shall affix their stamp and seal to the letter.
26. All unused culverts and irrigation lines shall be abandoned and plugged in a manner acceptable to the City Engineer.

27. A trash enclosure is required and shall be shown on the improvement drawings. The type, location and orientation of the enclosure shall be subject to the approval of the Solid Waste Division Manager. For doublewide enclosures, separate bins are required for solid and recyclable waste, and identification signing shall be posted adjacent to all points of direct access. The wording of the signing shall be clear and concise, and shall identify all materials accepted in the recycling bin.
28. A Public Works Inspection Fee is required prior to the construction of improvements.
29. A landscaping plan subject to the review and approval of the Director of Parks and Community Services shall be provided. Approval of the landscaping plan is required prior to approval of engineering improvement plans by the City Engineer. All existing trees that conflict with proposed improvements shall be removed to a depth of two (2) feet below proposed finish grade.
30. If applicable, existing irrigation ditches and/or canals shall be piped, developed into a trail, or relocated outside the project boundaries per the direction of the City Engineer and affected irrigation district. Related irrigation facilities that remain in use shall be subject to the same requirements for piping or relocation.
31. In conformance with the City of Tulare's adopted air pollution control measures, a sign instructing delivery vehicle drivers to turn off their vehicle's engine while making deliveries shall be prominently posted at the location where deliveries are received.
32. Fugitive dust shall be controlled in accordance with the applicable rules of the San Joaquin Valley Air Pollution Control District's Regulation VIII. Copies of any required permits will be provided to the City.
33. If the project requires discretionary approval from the City, it may be subject to the San Joaquin Valley Air Pollution Control District's Rule 9510 Indirect Source Review per the rule's applicability criteria. A copy of the approved AIA application shall be provided to the City.
34. If the project meets the one acre of disturbance criteria of the States Storm Water Program, then coverage under General Permit Order 2009-0009-DWQ is required and a Storm Water Pollution Prevention Plan (SWPPP) is required. A copy of the approved permit and the SWPPP shall be provided to the City.
35. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(a), these conditions constitute a written notice of the amount of such fees, and a description of the dedications, reservations, and other exactions. The Owner/Developer is hereby notified that the 90-day protest period, commencing from the date of approval of the project, begins as of the date of Planning Commission's conditional approval of the project. If the Owner/Developer fails to file a protest regarding any of the fees, dedication requirements, reservation requirements, or other exactions contained in this notice, complying with all the requirements of Government Code Section 66020, the Owner/Developer will be legally barred from later challenging such exactions.

36. All applicable City fees shall apply unless specifically waived or modified elsewhere in these conditions. All fees shall be based on the current fee schedule in effect at the time of recordation of the final map. These fees include, but are not limited to:

Sewer front foot charges of \$ TBD per front foot for frontages on Blackstone Street.

Sewer lift station fee of \$ _____ per acre.

Water front foot charges of \$ 17.50 per front foot for frontages on Paige Avenue and Blackstone Street.

Street front foot charges of \$ _____ per front foot for frontages on _____.

Benefit district creation fee (if applicable): \$ 1,008.19 per district.

Traffic signal in-lieu fee of \$ _____.

TID ditch piping In-lieu fee of \$ _____.

Sewer main construction in-lieu fee of \$ _____.

Water main construction in-lieu fee of \$ _____.

Street construction in-lieu fee of \$ TBD per findings of Traffic Impact Study.

Engineering inspection fee based on a percentage of the estimated cost of construction.

Development impact fees to be paid with building permit. Fees are estimated at approximately \$183,063 based upon available information.

Engineering plan check fee to be paid at time of plan submittal.

Final map plan check fee to be paid at time of map submittal.

Other: _____

Fire:

1. The project must comply with latest applicable codes.
2. Based on the occupancy classification/square footage of building a fire alarm and/or an automatic sprinkler system may be required.
3. When a sprinkler system is required all valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers is more than 20.
4. For automatic sprinkler systems, underground plans must be submitted with above ground plans. A hydrant will be required within *50 feet* of the Fire Department connection. Project must meet minimum fire flow requirements per the table in Appendix B & C of the California Fire Code.

5. Commercial cooking equipment that produce grease laden vapors shall be provided with a Type I Hood, in accordance with the California Mechanical Code, and an automatic fire extinguishing system that is listed and labeled for its intended use.
6. When any portion of the facility or building to be protected is more than 400 feet from a hydrant on a fire apparatus access road as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.
7. An approved water supply for fire protection shall be made available as soon as combustible material arrives on the site. CFC 3312.1
8. Depending on the location of the existing fire hydrant(s), additional fire hydrants may be required. On site hydrants are required.
9. Fire hydrant spacing shall be as follows:
 - In **Residential development**, one hydrant shall be installed at **500-foot** intervals.
 - In **Commercial development**, one hydrant shall be installed at **300-foot** intervals.Or as required by Appendix C California Fire Code.
10. All fire suppression systems shall be approved by the City of Tulare Fire Prevention Bureau. Such Systems shall be reviewed for access, redundancy, reliability and quality.
11. Approved fire apparatus access roads shall (min 20' width/ height 13'6") be provided for every facility, building or portion of a building constructed or moved onto or within the City of Tulare. It shall extend to within 150 feet of all portions of the facility and all portions on the exterior walls of the first story of the buildings as measured by an approved route around the exterior of the building or facility.
12. All roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities and comply with CFC 2013 Section D102.1
13. Additional access may be required per CFC 2013 Section 503.1.2. The Fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access. Areas identified as "Fire Lanes" must be identified as such per requirements set forth in the California Vehicle Code Section 22500.1.
14. All dead-end access roads in excess of 150 feet must be provided with an approved turn-around complying with City Standards.

15. When access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the Fire Code Official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the Fire Code Official. An application is available at www.knoxbox.com using department search, *Tulare Cit.*

Parks:

The main objectives of the City of Tulare's Landscaping Ordinance include conserving water through the selection of plants consistent with Tulare's Mediterranean climate; design of water efficient landscapes; and to enhance the aesthetic appearance of the city by promoting development that is well landscaped, properly irrigated and effectively maintained.

All projects that require a landscaping and irrigation plan pursuant to this chapter shall comply with the following development standards.

(A) General standards.

1. All landscape development over 500 square feet (new) or 2,500 square feet (rehabilitated) that requires a permit, plan check or design review shall meet the water efficiency and site design requirements detailed in other sections of this chapter. The project applicant, and owner (if different) shall sign the Landscape Documentation Package as required in § 10.196.060(B)(1)(i).
2. All exterior areas not devoted to parking, storage, driveways, walkways, or loading areas shall be landscaped. A minimum of 5% of the gross lot area shall be landscaped, unless the district in which the project is located does not require yard areas in which case only street trees are required.
3. Landscaping shall be used to screen storage areas, trash enclosures, parking, public utilities and other similar elements. The landscaping shall screen these elements within three years of installation.
4. Planting and irrigation shall conform to the water use efficiency sections of this code in such a manner that the site-wide estimated total water use (ETWU) will be less than the maximum applied water allowance (MAWA). Landscape plans shall document compliance with the ordinance by submitting a Landscape Documentation Package and providing supporting documentation as required in the ordinance.
5. All landscaping on city-owned property shall conform to city landscaping and irrigation standards including the City of Tulare Recreation, Parks and Library Department Improvements Standards; City of Tulare Parking Lot Tree Shading Design and Maintenance Guidelines; area specific plans and other applicable documents, as may be updated from time to time.

6. Certain landscapes (see § 10.196.040) are exempt from the water efficiency documentation requirements of this section. These landscapes must still comply with the development standards in § 10.196.070 as much as is practical.

(B) Trees.

1. Fifteen-gallon street trees shall be planted in the right-of-way along all public streets. The number of street trees required shall be determined by dividing the total street frontage measured at the property line by 30. Round up to whole trees. Actual spacing of trees can vary to accommodate driveways, buried and overhead utilities and other obstructions. Trees shall be spaced at reasonable mature canopy width.
2. Street tree location can be in the landscape parkway between the curb and sidewalk, in tree wells if approved in the site plan, or on the property-side of the sidewalk as appropriate for the particular situation. The species selection shall respect the available root area in the planting zone.
3. The front, rear, and side setbacks facing public streets shall be planted with trees and shrubs to provide an attractive buffer between the building and/or parking and the adjacent roadways and shade for walks and parking lots.
4. Trees in the setback area, yards, and around the parking lot shall be 15 gallon or larger.
5. Trees planted near sidewalks, curbs, or other hardscape shall be appropriately sized for the root area of the trees and shall be irrigated on a dedicated irrigation valve. If the center of the trunk of the tree is within eight feet of a curb, sidewalk, building, trash enclosure or other hardscape improvement the tree shall be installed with an 18-inch by 10-foot root barrier installed in a linear fashion adjacent to the concrete improvement.
6. Trees shall be planted in locations where they do not interfere with service lines, basic property rights of adjacent owners, or the right of solar access.

(C) Shrubs.

1. Shrubs and living ground covers shall be used in the city right-of-way in lieu of turf. Spacing of shrubs shall not exceed 120% of the mature size stated for the shrubs in the current edition of the Sunset Western Garden Book.
2. Front, side, and rear setback areas that abut public streets shall be planted with a combination of shrubs, groundcovers, and mulches in such a manner that the landscape meets the water efficiency requirements elsewhere in this section.

3. Shrubs and ground covers in setbacks shall be spaced at no more than 120% of the mature size stated in the current edition of the Sunset Western Garden Book.
4. Unplanted mulch areas may comprise no more than 30% of the planter area. Tree canopy over planted mulch areas is encouraged.
5. Fifty of the shrubs and ground covers shall be from five-gallon containers or larger, the remainder shall be from one-gallon containers.
6. Vines that self-cling shall be planted on all frontage masonry walls for graffiti control.

(D) Turf.

1. Turf (as defined in § 10.196.030) is only allowable in cases where the water budget will demonstrate that adequate irrigation water is available.
2. Concrete mow strips shall separate all turf areas from planter beds on city-owned property.
3. Turf beds shall be a minimum of ten feet in width unless irrigated with subsurface irrigation; turf may not be used in storm drainage ponds with slopes steeper than 1:6 or on mounds or berms with slopes steeper than 1:8, except as provided by the Recreation and Parks Department.
4. Use of artificial turf on city-owned property may be used subject to approval by the Recreation and Parks Director.

(E) Irrigation.

1. All components of the irrigation system and the irrigation design must meet the water efficiency requirements elsewhere in this section, including:
 - (a) Low-volume systems (drip, low volume sprays, or individual bubblers) shall be used whenever feasible. In city-owned shrub areas low-volume irrigation shall be installed using hard pipe underground with low volume sprays or bubblers above grade.
 - (b) Irrigation for sports turf and recreational turf may use overhead irrigation subject to the restrictions elsewhere in this chapter.
 - (c) All irrigation systems shall be equipped with an automatic Smart-controller with ET sensing, weather-sensing and with multiple cycle capabilities and a flexible

calendar program.

- (d) Plants shall be grouped into hydro zones of like water requirements.
- (e) Sprinkler heads must have matched application rates within each control valve.
- (f) Sprinkler head spacing shall be designed for head-to-head coverage and placed at a maximum of 50% of the diameter of throw for square spacing and 60% for triangular spacing.
- (g) Overhead sprays shall not throw water onto hardscape, bare ground areas, or other non-planted areas, including sidewalks between landscaped areas. Irrigation water must stay in landscape areas and not drain off to storm drains or gutters.
- (h) Pop-up sprinklers must have a six-inch pop-up height and must clear all plant material and obstacles in their throw zone.
- (i) Automatic rain shut-off devices shall be required on all irrigation systems.
- (j) One valve shall be dedicated to tree irrigation and shall be able to run independently of any other irrigation valve.

(F) Mulch.

1. As required elsewhere in this chapter, a minimum of three inches of mulch is required in all non-turf planters.
2. Mulch may be organic (such as bark, compost, or straw) or mineral (such as cobble or decomposed granite).
3. Mulch on city-owned property must be course ground cedar or redwood bark product. Dyed products are prohibited.
4. Plastic or other non-porous sheeting is prohibited in city-owned and landscape and lighting District planters and discouraged elsewhere.

(G) Mounding.

1. Mounds that contain turf or groundcover shall be no steeper than 1:8 and 1:5 respectively. Slopes steeper than 1:8 may contain shrubs if this material is irrigated with a drip or other low-volume system.
2. Incorporate compost into the mounds prior to compaction per § 10.196.063(A)(3). Mounds shall be compacted prior to planting.

(H) *Corner lots.* Landscape and irrigation plans for any development involving corner lots at project entries shall include additional special design requirements, including but not limited to the following:

1. Incorporate significant landscape or hardscape feature, including specimen trees; wall breaks, angled walls or walls with different material treatment; special signing or lighting or statue.
2. Specimen trees.
3. Corner landscape and irrigation plans shall be designed so that proper sight lines across the corner are maintained consistent with the Traffic Safety Sight Area as defined in § 10.212.030 (Definitions).

(I) *Walls.* Plans for development project walls facing public streets should include the following special design requirements, including but not limited to the following:

1. Wall material should vary. Caps, pilasters or corner segments of the wall should vary in appearance from the primary portion of the wall
2. Masonry walls shall be planted with vines in order to soften the appearance of the wall and discourage graffiti.
3. Non-masonry fences facing public streets or property shall be set back from the back of walk a minimum of three feet and planted with shrubs or other plant materials.

(J) *Parking lots.* Parking lot plans for nonresidential developments serving 20 parking stalls or greater should include the following design requirements. These requirements will promote an attractive visual environment, promote a transition between land uses, reduce energy consumption in buildings adjacent to parking lots, and decrease glare and high summer temperatures community-wide by reducing the amount of exposed pavement.

1. A combination of landscaping and/or low walls and/or mounding shall be installed between the parking lot and the street to screen the parking lot from view from the public right-of-way.
2. All parking lots with a capacity of 20 cars or more shall contain shade trees, which within ten years from installation, shall shade 50% of the parking lot. All surfacing on which a vehicle can drive is subject to shade calculation, including parking stalls, drive aisles, and all maneuvering areas. Guidelines for shade calculations and a list of approved parking lot trees are contained in the Parking Lot Tree Shading Design Manual.

3. For each ten parking spaces, a minimum of one 15-gallon or larger shade tree shall be installed, but more may be required to meet the 50% shading requirement. Trees shall be contained in tree wells or planters with an outside measurement of not less than five feet by five feet that are enclosed with a concrete curb not less than six inches high. Continuous planting islands between rows of cars are encouraged to allow for multiple tree plantings and increased soil volume for tree roots.
4. Shade trees planted within a parking lot should be evenly distributed throughout the lot.
5. Shrubs and trees shall be planted in locations that do not conflict with the front of cars that extend into a planter area. If within eight feet of the curb, trees shall be located aligned with parking lot stripes and shall be provided with root barriers as in division (B)(5) above.

A complete copy of the City's landscape standards may be viewed on-line at www.tulare.ca.gov. If there are questions regarding the above requirements or how they impact the specific project, please contact the City of Tulare, Recreation and Parks Department at 559-684-4310.

PASSED, APPROVED AND ADOPTED this twenty-second day of October, 2018 by the following recorded vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

CHUCK MIGUEL, CHAIRMAN
City of Tulare Planning Commission

ATTEST:

JOSH MCDONNELL, SECRETARY
City of Tulare Planning Commission

**CITY OF TULARE PLANNING COMMISSION
STAFF REPORT**

Agenda Item No.

October 22, 2018

CONDITIONAL USE PERMIT NO. 2018-24

PROJECT PLANNER:	Steven Sopp, Associate Planner
APPLICANT:	Juan Carlos (Jaliscos Tacos)
LOCATION:	1510 North 'J' Street
APN:	164-082-028
ZONING CLASSIFICATION:	C-4 (Service Commercial)
GENERAL PLAN DESIGNATION:	General Commercial
SURROUNDING LAND USES AND ZONING:	North: Service Commercial C-4 South: Retail Commercial C-4 East: Single family Res. R-1-8 West: J Street M-2

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission approve Conditional Use Permit No. 2018-24 subject to the findings and conditions in Resolution No. 5299. Staff's recommendation is based on the findings and the projects consistency with the policies and intent of the City's General Plan and Municipal Code.

REQUEST:

Request by Juan Carlos of Jaliscos Tacos for a Conditional Use Permit (CUP) in order to continue operation of a stationary mobile vending vehicle located at 1510 North 'J' Street and currently zoned Service Commercial (C-4).

RELATED PROJECTS:

Conditional Use Permit 2014-05 – Request to operate a stationary mobile vending vehicle on the property located at 1510 North 'J' Street. Planning Commission approval April 28, 2014.

Conditional Use Permit 2015-11 – Request to operate a stationary mobile vending vehicle on the property located at 1510 North ‘J’ Street. Planning Commission approval September 14, 2015.

Conditional Use Permit 2016-20 – Request to operate a stationary mobile vending vehicle on the property located at 1510 North ‘J’ Street. Planning Commission approved October 10, 2016.

DETAILS OF THE PROPOSAL:

The applicant has been operating a stationary mobile vending unit (Jaliscos Tacos) in the parking lot of the existing ‘J’ Street Mini-Market. The vehicle is parked in the northwest portion of the parking lot and utilizes 2 existing parking stalls and has a sit down area with tables. The mobile vending unit is open from 8:00 a.m. to 11:00 p.m. seven days per week. The unit will have a total of 6 employees, 2 shifts of 3 employees.

The vehicle is operated and stored at this location and is a walk up service only. Restrooms are located in the existing retail structure and the applicant has received a letter from the owner to allow continued use of the restrooms throughout the business hours.

STAFF COMMENTS:

The existing mini-market building is 2,644 sq. ft. and requires 11 parking spaces per the Zoning Ordinance (ratio is 1 space/250 sq. ft.). The business will maintain 14 parking stalls after the loss of 2 stalls utilized by the mobile vending unit.

Operation of stationary mobile vending units require approval of a Conditional Use Permit (*Chapter 10.180 – Vending Stands on private property*).

No comments have been received by staff regarding this project during the public comment period.

ENVIRONMENTAL FINDINGS:

This project is exempt pursuant to Section 15304 (e) of the California Environmental Quality Act of 1970, as amended.

FINDINGS:

Staff recommends that the Planning Commission make the following findings with regards to Conditional Use Permit No. 2018-24.

- 1) That the proposed location of the conditional use is in accordance with the objectives of the Zoning Title and the purposes of the District in which the site is located.

- 2) That the proposed location of the conditional use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
- 3) That the request is in conformance with the goals and objectives of the Zoning Ordinance and General Plan.
- 4) That the request will not have a significant effect on surrounding properties and improvements in the vicinity of the project site.
- 5) That this project is exempt pursuant to Section 15304(e) of the California Environmental Quality Act of 1970, as amended.

CONDITIONS:

Based on the approved findings, staff recommends that Conditional Use Permit No. 2018-24, be approved subject to the following conditions:

- 1) All requirements of Title 10 shall be met.
- 2) Valid permits are required by the Tulare County Health Department and shall be prominently displayed at the mobile vending unit stand.
- 3) The vending stand permit issued by the City of Tulare shall be prominently affixed to the side of the stand.
- 4) No trash or empty boxes shall be piled up outside of the mobile vending unit at any time.
- 5) Restrooms shall be readily available and which are connected to the City's wastewater system.
- 6) Applicant shall obtain City of Tulare business license.
- 7) This permit shall remain valid for one year from approval or October 22, 2019; at which time Applicant may apply for a new Conditional Use Permit.
- 8) Hours of operation shall be 8 a.m. to 11 p.m. seven days per week.
- 9) Applicant may set up a tables with chairs for outdoor dining. Tables and chairs are to be located outside of any parking or driving areas.

APPEAL INFORMATION:

According to the City of Tulare Zoning Ordinance Section 10.20.020, decisions of the Planning Commission may be appealed by filing a letter with the City Clerk, located at

411 East Kern Avenue, Tulare, CA 93274, no later than ten (10) days after the day on which the decision was made. The appeal shall state the name of the person making the appeal, the decision that is being appealed, and the reasons for the appeal, including an error, abuse of discretion or a decision that is not supported by the evidence in the record.

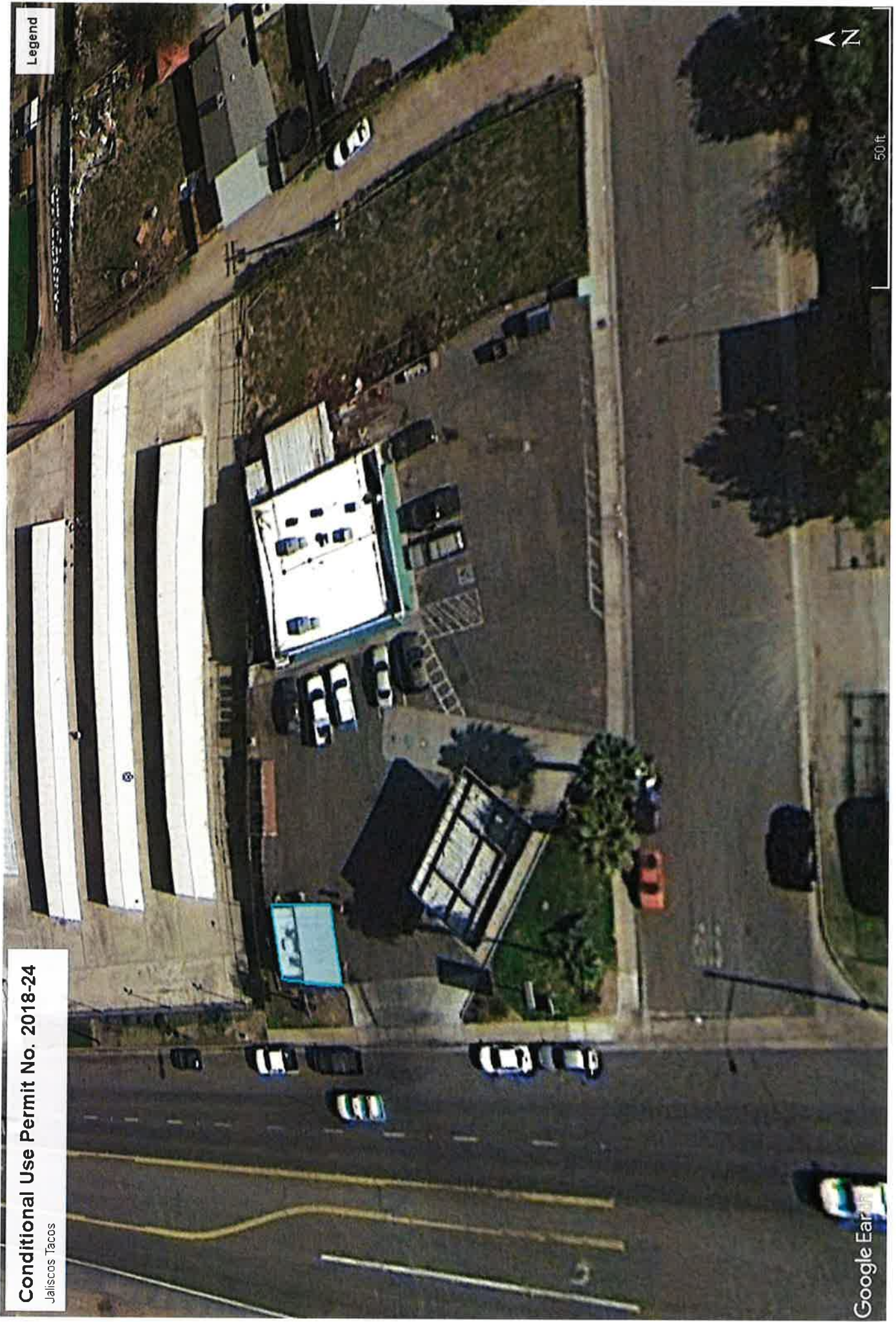
Attachments:

- I. Location Map
- II. Street View
- III. Resolution

Conditional Use Permit No. 2018-24

Jalisco's Tacos

Legend



50 ft

Google Earth

Conditional Use Permit No. 2018-24

Jalisco's Tacos

Legend



RESOLUTION NO. 5299

**A RESOLUTION OF THE CITY OF TULARE PLANNING
COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 2018-24**

WHEREAS, Conditional Use Permit 2018-24 is a request by Armando Montes to operate a stationary mobile vending vehicle on the property located at 1510 North 'J' Street; and,

WHEREAS, the Planning Commission of the City of Tulare after duly published notice, did hold a public hearing before said Commission on October 22, 2018; and,

WHEREAS, the Planning Commission of the City of Tulare determined that Conditional Use Permit No. 2018-24 is consistent with the goals and objectives of the Zoning Title and the purposes of the District in which the site is located; and,

WHEREAS, the Planning Commission of the City of Tulare finds the project to be Categorically Exempt consistent with the California Environmental Quality Act (CEQA); and,

NOW, THEREFORE, BE IT RESOLVED that the project is exempt from further environmental review pursuant to CEQA Section 15304(e); and,

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Tulare makes the following specific findings based on the evidence presented:

- 1) That the proposed location of the conditional use is in accordance with the objectives of the Zoning Title and the purposes of the District in which the site is located.
- 2) That the proposed location of the conditional use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
- 3) That the request is in conformance with the goals and objectives of the Zoning Ordinance and General Plan.
- 4) That the request will not have a significant effect on surrounding properties and improvements in the vicinity of the project site.
- 5) That this project is exempt pursuant to Section 15304 (e) of the California Environmental Quality Act of 1970, as amended.

BE IT FURTHER RESOLVED, by the Planning Commission of the City of Tulare that Conditional Use Permit Application No. 2018-24 is hereby approved subject to the following conditions:

Conditions:

- 1) All requirements of Title 10 shall be met.
- 2) Valid permits are required by the Tulare County Health Department and shall be prominently displayed at the mobile vending unit stand.
- 3) The vending stand permit issued by the City of Tulare shall be prominently affixed to the side of the stand.
- 4) No trash or empty boxes shall be piled up outside of the mobile vending unit at any time.
- 5) Restrooms shall be readily available and which are connected to the City's wastewater system.
- 6) Applicant shall obtain City of Tulare business license.
- 7) This permit shall remain valid for one year from approval or October 22, 2019; at which time Applicant may apply for a new Conditional Use Permit.
- 8) Hours of operation shall be 8:00 a.m.-11 p.m. seven days per week.
- 9) Applicant may set up a tables with chairs for outdoor dining. Tables and chairs are to be located outside of any parking or driving areas.

PASSED, APPROVED AND ADOPTED this **twenty-second** day of **October, 2018** by the following recorded vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

CHUCK MIGUEL, CHAIRMAN
City of Tulare Planning Commission

ATTEST:

JOSH McDONNELL, SECRETARY
City of Tulare Planning Commission

**CITY OF TULARE PLANNING COMMISSION
STAFF REPORT**

Agenda Item No.

October 22, 2018

CONDITIONAL USE PERMIT No. 2018-25

PROJECT PLANNER:	Steven Sopp, Associate Planner
APPLICANT:	AYC Construction
LOCATION:	North of Bardsley Avenue and east of Blackstone Street
APN:	177-050-035
ZONING CLASSIFICATION:	C -4 (Service Commercial)
GENERAL PLAN DESIGNATION:	Service Commercial
SURROUNDING LAND USES AND ZONING:	North: Multi-Family Residential C-4 South: Family Dollar/Comm. Bldg. C-4 West: Service Station/Residential C-3/RM2 East: Hwy 99

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission approve Conditional Use Permit No. 2018-25 subject to the findings and conditions in Resolution No. 5300. Staff's recommendation is based on the findings and the project's consistency with the policies and intent of the City's General Plan and Municipal Code.

REQUEST:

This is a request by AYC Construction to allow the height of a proposed 19,591 sq. ft. commercial building to be 36 ft. rather than the 30 ft. allowed by the C-4 zone district. The project is proposed to be located north of Bardsley Avenue and east of Blackstone Avenue (APN 177-050-035).

DETAILS OF THE PROPOSAL:

The project will consist of the construction of a 19,591 sq. ft. commercial building to be utilized as a fitness center with associated parking, landscaping and related improvements. Access to the site will be provided by existing drive approaches off of Bardsley Avenue and Blackstone Street. The applicant will be required to extend curb,

gutter and sidewalk along the parcels Blackstone Street frontage. Storm drainage for the site will be directed to an existing drainage facility located adjacent to the project site to the north along Highway 99. Proposed landscape areas will meet the 5% minimum of the developed gross lot area as required by the Landscape Ordinance.

The site plan depicts a total of 104 parking spaces which meets the required minimum number of spaces for the proposed use. The required parking is as follows:

Health Clubs	1 per 200 sq. ft. – 19,591 sq. ft. / 200 = 98 spaces required
	104 spaces provided

STAFF COMMENTS:

The General Plan designation for the site is Service Commercial within the City of Tulare adopted 2035 General Plan. The existing zoning is C-4 (Service Commercial) and is consistent with the existing General Plan designation. Health/athletic clubs are a permitted use within the C-4 zone. The applicant proposes to construct the building at a height of 36 ft., which exceeds the maximum height allowed within the C-4 zone. The City of Tulare Municipal Code states that the maximum building height within the C-4 zone is “30 feet, maximum. A maximum height of 60 feet may be permitted by conditional use permit, per Chapter 10.116, Conditional Use Permits.” (Chapter 10.56.040(H)).

The use is proposed to be established on a vacant parcel located north of Bardsley Avenue and east of Blackstone Street. The parcels to the north consist of existing multi-family uses. A seven foot tall block wall will be required along the northern property line in order to provide a buffer between the existing residential use and the proposed commercial use. The other surrounding parcels are zoned C-4 and consist of commercial uses. The proposed use and site can operate in a compatible manner with the surrounding uses.

The Site Plan Review Committee reviewed the project with the applicant on June 13, 2018 and prepared comments and conditions. The site plan and floor plan were reviewed by the Committee for compliance with the City’s adopted Zoning Ordinance and Municipal Code.

No comments have been received by staff during the public comment period.

ENVIRONMENTAL FINDINGS:

This project is exempt pursuant to Section 15332 (*In-Fill Development Projects*) of the California Environmental Quality Act of 1970, as amended.

FINDINGS:

Staff recommends that the Planning Commission make the following findings with regards to Conditional Use Permit No. 2018-25:

- 1) That the proposed location of the project is in accordance with the objectives of the Zoning Title and the purposes of the District in which the site is located.
- 2) That the proposed location of the use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
- 3) That the proposed conditional use will comply with each of the provisions of the Zoning Title.
- 4) That the proposed use is consistent with the Tulare General Plan.
- 5) That the request will not have a significant effect on surrounding properties and improvements in the vicinity of the project site.
- 6) This project is categorically exempt pursuant to (Section 15332 “In-Fill Development Projects”) of the California Environmental Quality Act of 1970, as amended.

CONDITIONS:

Based on the approved findings, staff recommends that Conditional Use Permit No. 2018-25 be approved subject to the following conditions:

- 1) All requirements of Title 10 shall be met.
- 2) In accordance with Zoning Ordinance Section 10.116.080, this Conditional Use Permit approval shall lapse and become void (3) years from the effective date of approval, unless a building permit is issued by the City and establishment of the use is being diligently pursued.
- 3) All roof mounted equipment shall be screened from public view by materials similar to those used in overall structure and approved by the City Planner at time of Building Permit review.
- 4) Applicant shall comply with Engineering, Fire Department, Solid Waste Division, Parks Department and Caltrans comments/conditions (Attachments IV, V, VI, VII and VIII).
- 5) Approval does not authorize any deviation from Fire and Building Codes.
- 6) A seven-foot tall block wall shall be required along the northern property line to separate the commercial development from the adjoining residential use.
- 7) Landscaping shall be required in accordance with the requirements combined in Chapter 10.196, Landscaping.

- 8) Applicant to meet parking lot tree shading guidelines.
- 9) Landscaping must be protected from vehicle encroachment by means of raised planting areas, walls and curbs.
- 10) Parking lot to comply with City of Tulare Parking Standards.
- 11) Full compliance with all conditions of approval stated in this document shall be achieved prior to the issuance of any Certificates of Occupancy or as modified by the Community & Economic Development Director. Any minor modifications shall be submitted to the Director to review and determine compliance with the original Conditions of Approval.

APPEAL INFORMATION:

According to the City of Tulare Zoning Ordinance Section 10.20.020, decisions of the Planning Commission may be appealed by filing a letter with the City Clerk, located at 411 East Kern Avenue, Tulare, CA 93274, no later than ten (10) days after the day on which the decision was made. The appeal shall state the name of the person making the appeal, the decision that is being appealed, and the reasons for the appeal, including an error, abuse of discretion or a decision that is not supported by the evidence in the record.

Attachments:

- I. Project Vicinity Map
- II. Site Plan
- III. Elevation
- IV. Engineering Comments
- V. Fire Department Comments
- VI. Solid Waste Comments
- VII. Parks Department Comments
- VIII. Caltrans Comments
- IX. Resolution

Conditional Use Permit No. 2018-25

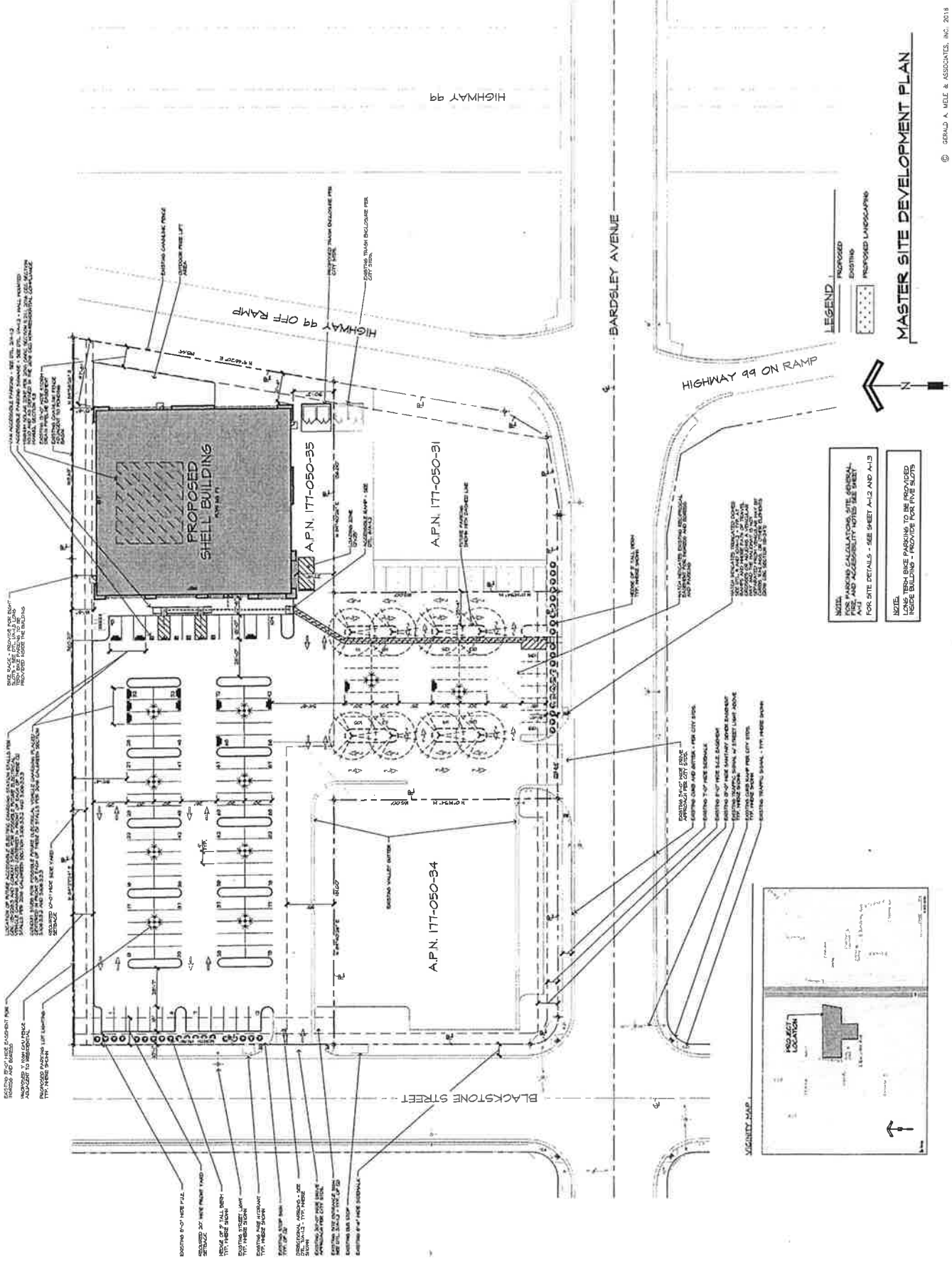
Planet Fitness

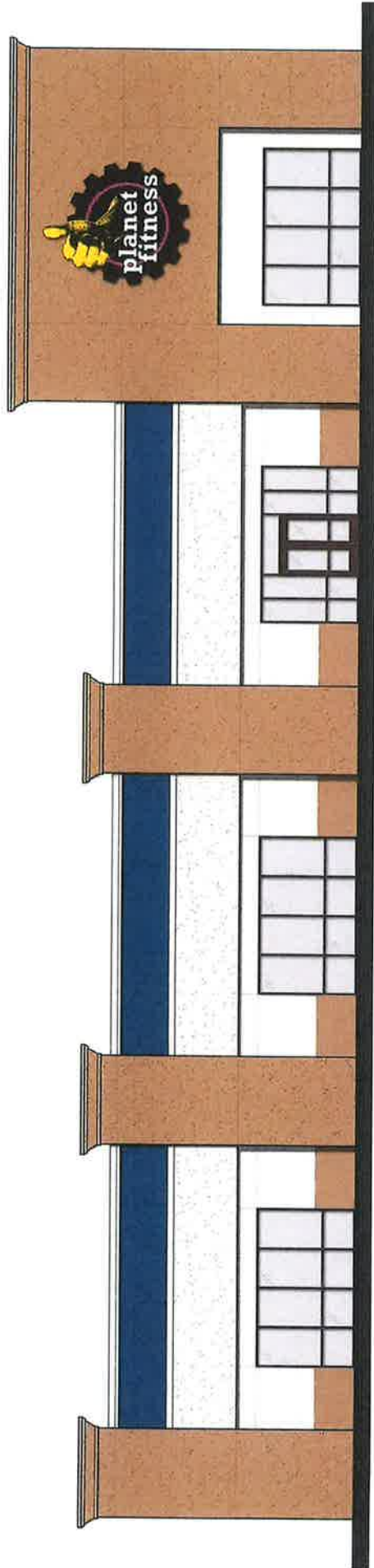
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Planet Fitness



No.	Rev./Revision	Date





WEST ELEVATION



SITE PLAN REVIEW COMMENTS

Engineering Department

TO: Planning Division

FROM: Engineering Division

MEETING DATE: 6/13/18

PROJECT: Site Plan Review Application No. : SP1836 Planet Fitness

PROJECT LOCATION: NE Corner of Bardsley Avenue and Blackstone Street

OWNER/DEVELOPER: Trampas Tenbrock

The Engineering Division recommends the following Site Plan Review Status for the subject project:

- Resubmit: Additional Information Required, Redesign Required
 Revise and Proceed, comply with comments checked below

Engineering Comments:

1. All required engineering plans and calculations shall be prepared by a registered civil engineer. Any elevations shown on plans required for the subject development shall be based on the official City of Tulare datum. The Engineer shall provide three (3) copies of each improvement plan set submitted to the City of Tulare for checking. All public improvements shall be on 24" x 36" sheets, in a plan/profile format at a scale of 1"=50' or larger. Private on-site improvements may be plan-view only format, and may be on sheet sizes consistent with the rest of the on-site construction plans. Following approval of the improvement plans, the Engineer shall provide the City of Tulare with two reproducible plan sets. This shall be done prior to scheduling any pre-construction conferences or commencing any improvements.
2. Any work to be done within the City street rights-of-way requires an encroachment permit issued by the Engineering Department, and shall be done under the inspection of the City Public Works Inspector. All contractors working within City street rights-of-way shall possess a valid City of Tulare business license.
3. All design and construction of public improvements shall be in accordance with applicable City Standards, Specifications, Ordinances, and Standard Operating Procedures, unless specifically modified elsewhere in these conditions. These engineering conditions are intended to deal with major issues apparent to the Engineering Department while reviewing this development proposal. Nothing in these conditions precludes the City Engineer from applying other conditions/modifications necessary for good design, operation, and maintenance of existing and future City facilities, as might become apparent during design review and/or construction.