

**CITY OF TULARE PLANNING COMMISSION  
STAFF REPORT**

Agenda Item No.

February 25, 2019

**MITIGATED NEGATIVE DECLARATION FOR THE  
CITY OF TULARE 1,2,3 – TCP MITIGATION PROJECT**

**PROJECT PLANNER:** Mario Anaya, Principal Planner

**APPLICANT:** City of Tulare

**LOCATION:** Various Water Wells throughout the City (Wells 11, 17, 34, 35, 37, 38, 43, and 44)

**APN:** 176-234-009, 181-100-023, 170-131-006, 184-150-045, 172-240-041, 171-270-031, 184-080-006, 184-080-005

**ZONING CLASSIFICATION:** Various (RM2, M-1, PL, R-1-6)

**GENERAL PLAN DESIGNATION:** Various (Medium Density Residential, Light Industrial, Public/Quasi-Public, Low Density Residential, County)

**SURROUNDING LAND USES AND ZONING:** Various

**RELATED PREVIOUS PROJECTS:**

None

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission adopt the Mitigated Negative Declaration for the 1,2,3 – TCP Mitigation Project, subject to the findings and conditions in Resolution No. 5311. 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 the City of Tulare Public Works Department to install water treatment vessels, water backwash tanks, and associated pipelines to treat elevated levels of 1,2,3, - Trichloropropane (1,2,3, - TCP) in the City's water supply.

## **DETAILS OF THE PROPOSAL:**

The purpose of this project is to remove harmful levels of TCP from the City's water supply and ultimately eliminate public exposure to TCP in drinking water. The City has proposed to construct 1,2,3, - TCP treatment systems using Granular Activated Carbon (GAC) treatment at six existing wells: Well 11, Well 17, Well 34, Well 35, Well 37, and Well 38. Specifically, the locations of the eight wells are as follows: *Well 11*: Corner of East Sonora Avenue and South Blackstone Avenue; *Well 17*: East Continental Avenue, 0.4 miles west of South Blackstone Avenue; *Well 34*: Corner of East Cross Avenue and North Delwood Street; *Well 35*: East Bardsley Avenue, east of South Mooney Boulevard; *Well 37*: Intersection of Ship Rock Avenue at South Mooney Boulevard; *Well 38*: Intersection of the Tulare Santa Fe Trail and North Laspina Street; *Well 43*: 0.32 miles southwest of the intersection of Road 132 and East Bardsley Avenue; and *Well 44*: South shoulder of East Bardsley Avenue about 0.36 miles east of Road 124.

The Project will require that additional property be obtained to accommodate backwash tanks at three of the well sites. Well 34 will require 0.20 acres of land from an adjacent school district, Well 35 will require 0.06 acres of land from an adjacent church, and Well 38 will require 0.06 acres of land from a city park. In addition, a seventh well, Well 44, could require GAC treatment in the future, and existing electrical equipment currently staged at Well 43 could be migrated to Well 44 to facilitate future GAC treatment. Finally, a 50,000-gallon GAC backwash tank will be installed at Well 34 to facilitate GAC treatment. Construction is anticipated to start in early 2019 and is anticipated to last approximately six months. Existing water service will not be impacted during construction.

## **ENVIRONMENTAL FINDINGS:**

An initial study (IS) and proposed mitigated negative declaration (MND) has been prepared for this project, in accordance with the California Environmental Quality Act (CEQA). The City of Tulare published a Notice of Intention to Adopt a MND/Notice of Availability (NOI-NOA) for the proposed project on January 16, 2019, inviting comment from the general public, agencies, organizations, and other interested parties. The NOI-NOA was filed with the State Clearinghouse (SCH #2019011031), 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 January 16, 2019 through February 15, 2019 (30 days).

The City of Tulare received three comment letters on the IS-MND during the public review period. The comment letters were received from the State Water Resources Board,

the Regional Water Quality Control Board, and the California Department of Fish & Wildlife. The comments requested additional information & clarification, which has been included in the Project Description, Utilities, Hydrology & Water Quality sections. In addition, the CDFW suggested revisions to the text of existing mitigation measures and additional supplemental mitigation measures in the Biological Resources section of the document. Appendix C includes copies of the letters received, along with responses provided to the comments.

The IS-MND includes mitigation measures for biological and cultural resources. These mitigation measures would reduce the potential environmental impacts resulting from the project to less than significant levels, and are included as conditions of approval for the project and mitigated negative declaration.

#### **FINDINGS:**

Staff recommends that the Planning Commission make the following findings with regard to the proposed project's IS-MND:

- 1) That the proposed locations of the Project 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.
- 2) That the proposed project will comply with each of the provisions of the Zoning Title.
- 3) That the proposed project is consistent with the Tulare General Plan.
- 4) That the request will not have a significant effect on surrounding properties and improvements in the vicinity of the project site.

#### **Environmental:**

- 1) That an initial study and proposed mitigated negative declaration (IS-MND) was prepared pursuant to the California Environmental Quality Act of 1970 and State CEQA Guidelines.
- 2) That mitigation measures are included as conditions of approval for the MND, 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 MND and Resolution No. 5311, included as Attachment III to this Staff Report.
- 3) That the clarifying text and revised mitigation measures are at least as effective as the original ones mitigating significant environmental impacts and do not themselves cause any potentially significant effects.

- 4) That the IS-MND was presented to the Planning Commission, the decision-making body of the lead agency, which reviewed and considered the information in the IS-MND prior to approving the Project and Adopting the MND.
- 5) The Planning Commission finds that the MND reflects the independent judgment and analysis of the City of Tulare.

**CONDITIONS:**

Based on the approved findings, staff recommends that the proposed project be approved subject to the following conditions:

- 1) Adopt a Mitigated Negative Declaration (MND) for the City of Tulare 1,2,3, - TCP Mitigation Project.
- 2) All requirements of Title 10 shall be met.
- 3) The project contractor shall comply with San Joaquin Valley Air Pollution Control District regarding dust control during construction as required by SJVAPCD.
- 4) All Mitigation Measures in the IS-MND are hereby incorporated as Conditions of Approval.
- 5) Full compliance with all conditions of approval stated in this document shall be achieved prior to the issuance of a Building Permit 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. Initial Study/Mitigated Negative Declaration (IS-MND) for the City of Tulare 1,2,3, - TCP Mitigation Project
- III. Resolution



**Legend**

 Well Site



ARIZONA STATE UNIVERSITY LIBRARY

**RESOLUTION NO. 5311**

**A RESOLUTION OF THE CITY OF TULARE PLANNING COMMISSION  
ADOPTING A MITIGATED NEGATIVE DECLARATION FOR THE  
CITY OF TULARE 1,2,3, - TCP MITIGATION PROJECT**

**WHEREAS**, the City of Tulare Planning Commission at a regular meeting held February 25, 2019 considered a request by the City of Tulare Public Works Department to install water treatment vessels, water backwash tanks, and associated pipelines to treat elevated levels of 1,2,3, - Trichloropropane (1,2,3, - TCP); 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 February 25, 2019; and,

**WHEREAS**, the City of Tulare Planning Commission determined that the proposed project is consistent with the goals and objectives of the Zoning Title; and,

**WHEREAS**, the City of Tulare Planning Commission determined that the proposed project 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 initial study and mitigated negative declaration (IS-MND) were prepared for the Project pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines; and,

**WHEREAS**, mitigation measures are included in the Project's IS-MND to mitigate the potential impacts of the Project on the environment to the extent feasible, and are included as conditions of approval for the MND and the Project; and,

**WHEREAS**, the IS-MND 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 IS-MND; and,

**WHEREAS**, the City of Tulare Planning Commission determined that the MND reflects the independent judgment of the City of Tulare, as lead agency under CEQA:

**NOW, THEREFORE, BE IT RESOLVED** that the Mitigated Negative Declaration prepared for the City of Tulare 1,2,3, - TCP Mitigation Project is hereby 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 the City of Tulare 1,2,3, - TCP Mitigation Project, based on the evidence presented:

1. That the proposed locations of the Project 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.
2. That the proposed conditional use will comply with each of the provisions of the Zoning Title.
3. That the proposed project is consistent with the Tulare General Plan.
4. That the request will not have a significant effect on surrounding properties and improvements in the vicinity of the project site.

**BE IT FURTHER RESOLVED** that the City of Tulare Planning Commission hereby adopts the Project's Mitigated Negative Declaration (MND), subject to the following conditions of approval:

1. Adopt a Mitigated Negative Declaration (MND) for the City of Tulare 1, 2, 3, - TCP Mitigation Project.
2. All requirements of Title 10 shall be met.
3. Applicant shall comply with the San Joaquin Valley Air Pollution Control District (SJVAPCD) regarding dust control during construction as required by SJVAPCD.
4. All Mitigation Measures in the IS-MND, and listed below constitute the Project's Mitigation Monitoring and Reporting Plan (MMRP), are hereby incorporated as Conditions of Approval.
5. Full compliance with all conditions of approval stated in this document shall be achieved prior to the issuance of a Building Permit 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.

**CEQA MITIGATION MEASURES FOR PROJECT:**

1. ***Mitigation Measure BIO-1 (Swainson's Hawk).***
  1. If work will occur during the Swainson's hawk nesting season (1 February – 15 September), a qualified biologist shall conduct a survey for active Swainson's hawk nests within 0.25 miles of the Project site no more than 10 days prior to the start of construction (in accordance with CA Fish & Wildlife *Swainson's Hawk Technical*

*Advisory Committee* methodologies). If an active nest is found within 0.25 miles and the activity would disrupt nesting, a buffer or limited operating period should be implemented in consultation with the CDFW.

2. If an active Swainson's hawk nest is found, a minimum 0.5 mile no-disturbance buffer shall be implemented until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.
3. If take of the species cannot be avoided, acquisition of an Incidental Take Permit pursuant to Fish & Game Code Section 2081 (b) prior to ground-disturbing activities may be necessary to comply with CESA.

2. ***Mitigation Measure BIO-2 (Tri-colored black bird).***

1. If work will occur during normal bird breeding season (February 1 through September 15), a qualified biologist shall conduct a survey for tri-colored blackbirds within 0.25 miles of the Project site no more than 10 days prior to the start of construction. If an active nesting colony is found within 0.25 miles and the activity would disrupt nesting, a minimum 300-foot no-disturbance buffer in accordance with CDFW's *Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015* shall be established and remain in place until the breeding season has ended or until a qualified biologist has determined that the nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival.
2. If take of the species cannot be avoided, acquisition of an Incidental Take Permit pursuant to Fish & Game Code Section 2081 (b) prior to ground-disturbing activities may be necessary to comply with CESA.

3. ***Mitigation Measure BIO-3 (Other Nesting Birds).***

1. To the extent practicable, construction shall be scheduled to avoid the nesting season, which extends from February through mid-September.
2. If it is not possible to schedule construction between mid-September and February, preconstruction surveys for nesting birds shall be conducted by a qualified biologist to ensure that no active nests will be disturbed during Project implementation. A preconstruction survey shall be conducted no more than 10 days prior to the initiation of construction activities. During this survey, the qualified biologist shall inspect all potential nest substrates in and immediately adjacent to the impact areas for nests. If an active nest is found close enough to the construction area to be disturbed by these activities, the qualified biologist shall determine the extent of a construction-free buffer (minimum 250 feet for birds and 500 feet for raptors) to be established around the nest. If work cannot



proceed without disturbing the nesting birds, work may need to be halted or redirected to other areas until nesting and fledging are completed or the nest has otherwise failed for non-construction related reasons.

4. ***Mitigation Measure BIO-4 (San Joaquin kit fox).***

1. Preconstruction surveys shall be conducted for San Joaquin kit fox following US Fish & Wildlife's Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance. Surveys should be conducted no less than 14 days and no more than 30 days prior to beginning of ground disturbing activities.

2. If take of the species cannot be avoided, further consultation with CDFW would be required, and if take is unavoidable, acquisition of an Incidental Take Permit pursuant to Fish & Game Code Section 2081 (b) prior to ground-disturbing activities may be necessary to comply with CESA.

5. **Mitigation Measure CUL-1:** Pursuant to CEQA Guidelines 15064.5 (f), provisions for historical or unique archaeological resources accidentally discovered during construction should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and a qualified archaeologist or paleontologist shall be contacted to assess the significance of the find. If any find is determined to be significant, project proponents and the qualified archaeologist and/or paleontologist would meet to determine the appropriate avoidance measures or other appropriate mitigation. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards. If the discovery includes human remains, CEQA Guidelines 15064.5 (e)(1) shall be followed.

**PASSED, APPROVED AND ADOPTED** this twenty-fifth day of December, 2019 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.

February 25, 2019

**CONDITIONAL USE PERMIT NO. 2019-03**

<b>PRESENTED TO:</b>	Planning Commission
<b>PROJECT PLANNER:</b>	Steven Sopp, Associate Planner
<b>APPLICANT:</b>	Ana Salcedo
<b>LOCATION:</b>	1745 Peterson Street
<b>APN:</b>	166-200-014
<b>ZONING CLASSIFICATION:</b>	R-1-6 (Single Family Residential)
<b>GENERAL PLAN DESIGNATION:</b>	Low Density Residential
<b>SURROUNDING LAND USES AND ZONING:</b>	North: Single-Family Residential R-1-6 South: Single Family Residential R-1-6 East: Single Family Residential R-1-6 West: Single Family Residential R-1-6

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission approve Conditional Use Permit No. 2019-03 subject to the findings and conditions in Resolution No. 5310. 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 Ana Salcedo to establish a licensed large family day care home (nine or more children, not to exceed fourteen children). The day care will be established within an existing single-family residence.

**STAFF COMMENTS:**

The property is located on the northeast corner of the west side of Peterson Street between Gail and Russel Avenues (1745 Peterson Street) and is currently zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot area). The property is developed as a single-family residence and there is no proposed change in building layout. The day care hours of operation will be Monday through Saturday 4:30 a.m. to 8:00 p.m. One employee in addition to the

business/property owner will be required. Rooms not used as part of the day care business will be closed and marked "Off Limits."

All daycare facilities are subject to the State of California licensing, inspection and monitoring. The City's role is limited to land use appropriateness, while operational matters are handled by the State. If the project is approved by the Planning Commission, the applicant will be required to contact the State for inspection and approval of the day-care facility.

Operation of large day-care facilities require approval of a Conditional Use Permit in the Single-Family Residential Zoning District (*Chapter 10.116 – Conditional Use Permits*).

No comments have been received by staff regarding this project in response to the public notice mailed out in accordance with state law.

### **ENVIRONMENTAL FINDINGS:**

This project is exempt pursuant to Section 15274 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. 2019-03:

- 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 15274 of the California Environmental Quality Act of 1970, as amended.

### **CONDITIONS:**

Based on the approved findings, staff recommends that Conditional Use Permit No.2019-03, be approved subject to the following conditions:

- 1) All requirements of Title 10 shall be met.

- 2) The applicant shall apply for and maintain an active business license with the City at all times of operation.
- 3) The applicant shall maintain a state daycare license at all times of operation.
- 4) The permit shall be for the benefit of the applicant in whose name the permit was issued, for the specific approved location. The permit shall not be transferrable to another location.
- 5) The scale of the operation shall be limited to a maximum of 14 children.
- 6) If the use ceases to operate for a continuous period of one year, said conditional use permit shall lapse and become void.
- 7) If any conditions of approval are violated, this conditional use permit may be revoked as prescribed in the Municipal Code.

**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 Location Map
- II. Floor Plan
- III. Interior Photos
- IV. Resolution

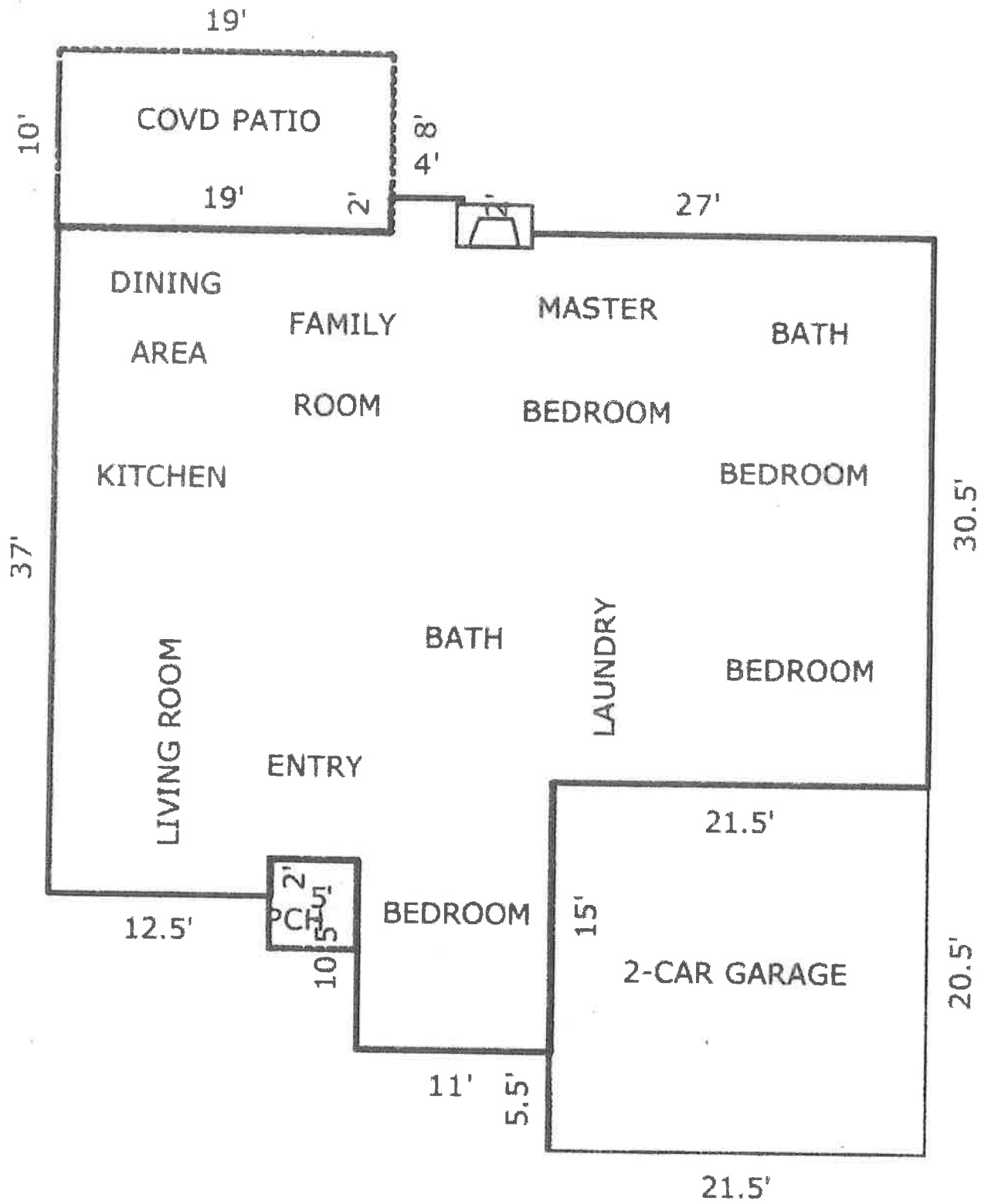
**Conditional Use Permit No. 2019-03**

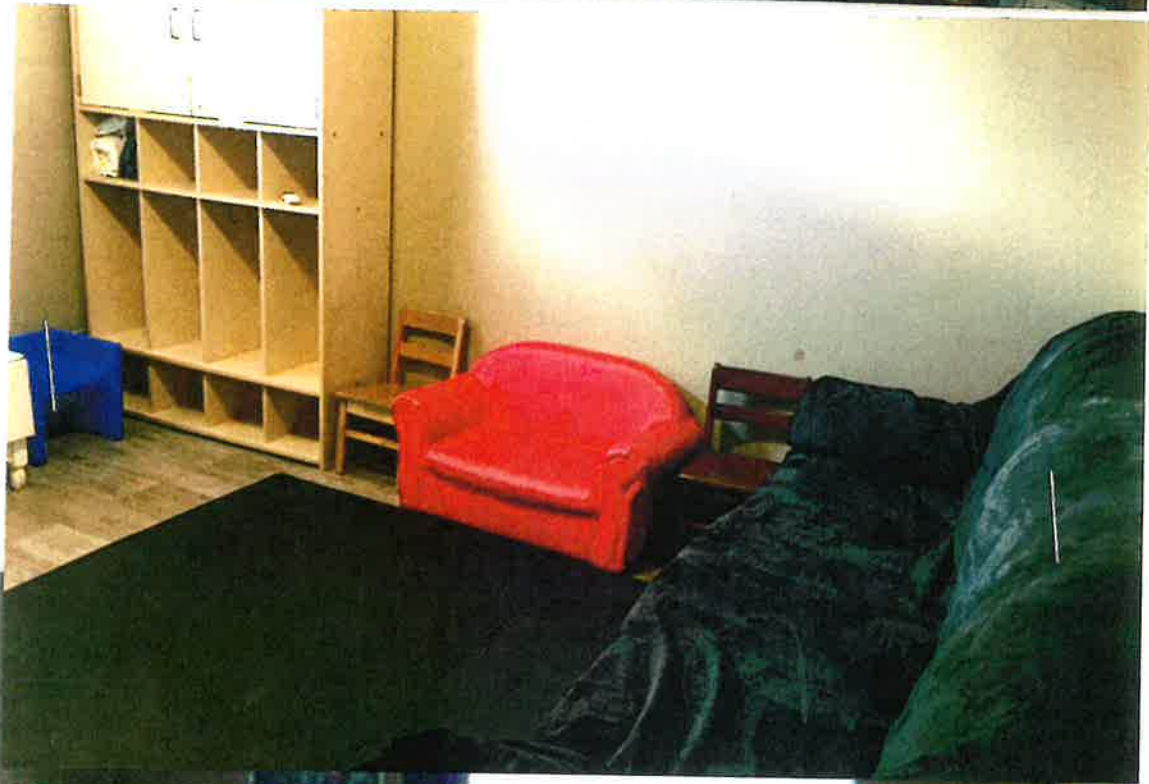
Salcedo - Large Family Daycare

**Legend**

- 1745 Peterson St
- Large Family Daycare







Play Room



**RESOLUTION NO. 5310**

**A RESOLUTION OF THE CITY OF TULARE PLANNING  
COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 2019-03**

**WHEREAS**, Conditional Use Permit 2019-03 is a request by Ana Salcedo to establish a licensed large family day care (nine or more children, not to exceed fourteen children) within an existing single-family residence located at 1745 Peterson Street; and,

**WHEREAS**, the Planning Commission of the City of Tulare after duly published notice, did hold a public hearing before said Commission on February 25, 2019; and,

**WHEREAS**, the Planning Commission of the City of Tulare determined that Conditional Use Permit No. 2019-03 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):

**NOW, THEREFORE, BE IT RESOLVED** that the project is exempt from further environmental review pursuant to CEQA Section 15274; 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.
- 1) This project is exempt pursuant to Section 15274 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. 2019-03 is hereby approved subject to the following conditions:

**Conditions:**

- 1) All requirements of Title 10 shall be met.
- 2) The applicant shall apply for and maintain an active business license with the City at all times of operation.
- 3) The applicant shall maintain a state daycare license at all times of operation.
- 4) The permit shall be for the benefit of the applicant in whose name the permit was issued, for the specific approved location. The permit shall not be transferrable to another location.
- 5) The scale of the operation shall be limited to a maximum of 14 children.
- 6) If the use ceases to operate for a continuous period of one year, said conditional use permit shall lapse and become void.
- 7) If any conditions of approval are violated, this conditional use permit may be revoked as prescribed in the Municipal Code.

**PASSED, APPROVED AND ADOPTED** this twenty-fifth day of February, 2019 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.

February 25, 2019

**CONDITIONAL USE PERMIT No. 2019-04**

<b>PROJECT PLANNER:</b>	Steven Sopp, Associate Planner	
<b>APPLICANT:</b>	Mumtaz Sadruddin	
<b>LOCATION:</b>	1095 E. Tulare Avenue	
<b>APN:</b>	176-173-028	
<b>ZONING CLASSIFICATION:</b>	C-3 (Retail Commercial)	
<b>GENERAL PLAN DESIGNATION:</b>	Community Commercial	
<b>SURROUNDING LAND USES AND ZONING:</b>	North: Single Family Residential	RM-2
	South: Single Family Residential	R-1-6
	West: Single Family Residential	R-1-6
	East: Western Dental	C-3

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission approve Conditional Use Permit No. 2019-04 subject to the findings and conditions in Resolution No. 5312. 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:**

Conditional Use Permit No. 2019-04 is a request by Mumtaz Sadruddin to obtain an ABC License (Type 21: Off Sale General) to sell beer, wine and distilled spirits for consumption off the premises where sold, in association with an existing service station and convenience store located on the southwest corner of Tulare Avenue and Blackstone Street (1095 E. Tulare Avenue).

**DETAILS OF THE PROPOSAL:**

The applicant currently operates a service station located on the southwest corner of Tulare Avenue and Blackstone Street (1095 E. Tulare Avenue). The service station's hours of operation are Sunday through Thursday from 5:00 a.m. to 12:00 a.m. and Friday and Saturday from 6:00 a.m. to 1:00 a.m. The service station employs 5 employees split between 3 shifts.

## **STAFF COMMENTS:**

The zoning ordinance requires that businesses engaged in on-sale alcoholic beverages are subject to a conditional use permit (Zoning Ordinance Section 10.168.04). This application is for an ABC Type 21 to sell beer, wine and distilled spirits for off-site consumption in conjunction with an existing service station/convenience store.

This service station/convenience store was previously approved for a Type 21 ABC license. The current business owner was issued a Type 21 ABC license on February 7, 2011. On December 1, 2017, the California Department of Alcoholic Beverage Control revoked the applicant's ABC license. The applicant has provided an operational statement providing information regarding the circumstance of the revocation of the license and corrective measures taken to assure future compliance with state law (attached). The applicant is now eligible to re-apply for a Type 21 ABC license as over a year has passed since the previous license was revoked. If the Planning Commission approves Conditional Use Permit No. 2019-04, the applicant would be able to re-apply with the California Department of Alcoholic Beverage Control to re-instate a Type 21 license and would be subject to ABC's review for current and future conformance with state law.

No comments have been received by staff in response to the public notice that was published and mailed to surrounding property owners.

## **ENVIRONMENTAL FINDINGS:**

This project is exempt pursuant to Section 15301 (existing facilities) 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. 2019-04:

- 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 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) The project is exempt pursuant to Section 15301 (existing facilities) of the California Environmental Quality Act of 1970, as amended.
- 7) That public convenience and necessity would be served by the issuance of a permit to “sell beer, wine and distilled spirits for off-site consumption” Type 21 license.

**CONDITIONS:**

Based on the approved findings, staff recommends that Conditional Use Permit No. 2019-04, be approved subject to the following conditions:

- 1) All requirements of Title 10 shall be met.
- 2) This permit is limited to the sale of beer, wine and distilled spirits for off-site consumption.
- 3) Any upgrading of the alcoholic beverage license issued by Alcoholic Beverage Control will be subject to approval by the Planning Commission.
- 4) Any significant changes to the floor plan layout shall be subject to review and approval by the Planning Commission.
- 5) Applicant to maintain all licenses and/or permits required by the State.

**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:**

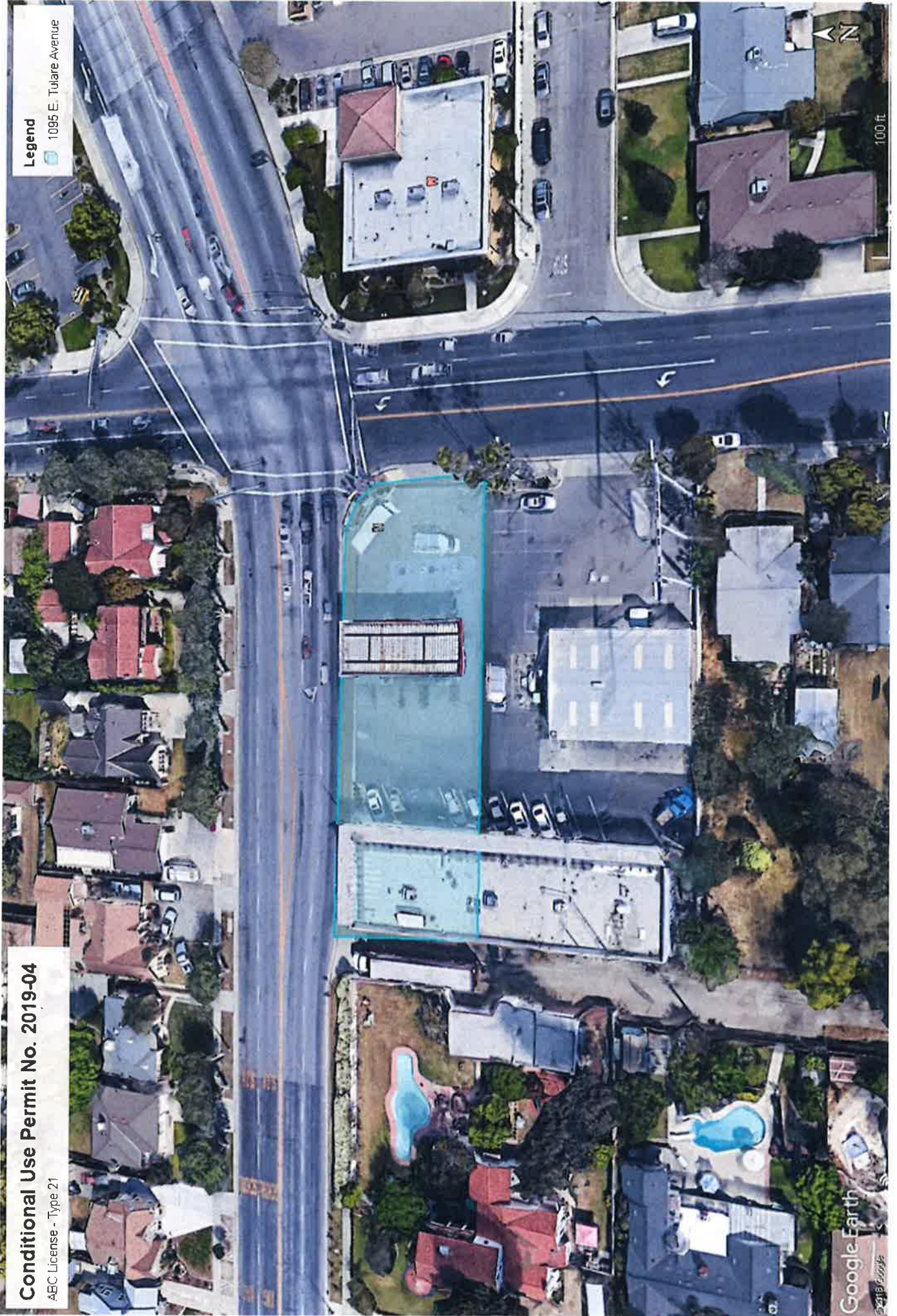
- I. Location Map
- II. Operational Statement
- III. Resolution

**Conditional Use Permit No. 2019-04**

ABC License - Type 21

**Legend**

1095 E. Tulare Avenue



## Steven Sopp

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**From:** Mumtaz Sadruddin [REDACTED]  
**Sent:** Monday, February 11, 2019 9:24 AM  
**To:** Steven Sopp  
**Subject:** STATEMENT OF OPERATION

Dear City of Tulare,

I am the owner of Tulare Food Mart located on the corner of Tulare and Blackstone. As a business, we are committed to ensuring that we provide the best possible service to our community and as residents of Tulare we want to ensure that the city remains an excellent and safe place to live.

To this end, we have worked diligently to train all our employees to check identification of any person buying tobacco and, previously, alcohol, who appears below the age of 35. We have received many letters of commendation from the city for not selling to minors and received compliments from the city police in our efforts to prevent the sale of tobacco and alcohol products to minors.

Nonetheless, we are not perfect. We make mistakes. In the year 2014, we had an employee who sold to a minor. We took corrective action and fired the employee. For a one year period, we had no other infractions. A year later, the employee's mother reached out to me. The former employee had fallen on some hard times. We were concerned about the well-being of the employee and, after some consideration, we decided to rehire the employee in the position of a stock boy. For a while things were well, but one day another employee, a cashier, decided to use the restroom, leaving the stock boy in-charge, taking care to inform him to check identification when selling alcohol and tobacco products, but this employee, again, neglected their duties and sold to a minor. We promptly fired the employee. Of course, the damage was done. In the fifteen month period between the incident and the suspension of our licence, we had no other infractions. We also took steps to prevent any opportunity for sales to minors, by installing a identification checking machine.

We believe that alcohol, when used with moderation, by adults is an enjoyable activity, but we also believe that the use of alcohol by minors is dangerous and destructive. We are preparing to retrain employees to check identification more carefully, ensuring that our new hires are committed to our mission of zero sales to minors, and also committing to prevent irresponsible alcohol use by people of age.

We sincerely hope that you will allow us to the sale of alcohol at our location .

Thank you,

Mumtaz Sadruddin  
Tulare Food Mart ----  
Sent from [Outlook](#)

RESOLUTION NO. 5312

A RESOLUTION OF THE CITY OF TULARE PLANNING  
COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 2019-04

**WHEREAS**, Conditional Use Permit No. 2019-04 is a request by Mumtaz Sadruddin to obtain an ABC License (Type 21: Off Sale General) to sell beer, wine and distilled spirits for consumption off the premises where sold, in association with an existing service station and convenience store located on the southwest corner of Tulare Avenue and Blackstone Street (1095 E. Tulare Avenue); and,

**WHEREAS**, the Planning Commission of the City of Tulare after duly published notice, did hold a public hearing before said Commission on February 25, 2019; and,

**WHEREAS**, the Planning Commission of the City of Tulare determined that Conditional Use Permit No. 2019-04 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 Planning Commission of the City of Tulare finds the project to be Categorically Exempt consistent with the California Environmental Quality Act (CEQA):

**NOW, THEREFORE, BE IT RESOLVED** that the project is exempt from further environmental review pursuant to CEQA Section 15301(*existing facilities*); 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) The proposed request will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity; and,
- 2) The request will comply with each of the provisions of the Zoning Title; and,
- 3) The request is consistent with the Tulare General Plan; and,
- 4) The request will not have a significant effect on surrounding properties and improvements in the vicinity of the project site; and.
- 5) This project is exempt pursuant to Section 15301 (*existing facilities*) of the California Environmental Quality Act of 1970, as amended.
- 6) The public convenience and necessity would be served by the issuance of an ‘on-sale’ beer and wine—eating place” (Type 21); and



**BE IT FURTHER RESOLVED**, by the Planning Commission of the City of Tulare that Conditional Use Permit Application No. 2019-04 is hereby approved subject to the following conditions:

**Conditions:**

- 1) All requirements of Title 10 shall be met.
- 2) This permit is limited to on-sale beer and wine in conjunction with a restaurant.
- 3) Any upgrading of the alcoholic beverage license issued by Alcoholic Beverage Control will be subject to approval by the Planning Commission.
- 4) Any significant changes to the floor plan layout shall be subject to review and approval by the Planning Commission.
- 5) Applicant to maintain all licenses and/or permits required by the State.

**PASSED, APPROVED AND ADOPTED** this twenty-fifth day of February, 2019 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