

Exhibit E



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Jennifer K. Clark, AICP, HDFP
Director

January 9, 2024

Please reply to:

Rob Holt

Robert.Holt@fresno.gov

(559) 621-8056

Jessica Reuven
Yuma Way CA
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(Sent via email only)

SUBJECT: CANNABIS CONDITIONAL USE PERMIT APPLICATION NO. P23-03086 FOR PROPERTY LOCATED AT 4555 EAST KINGS CANYON ROAD (APN: 461-284-30 & -29)

Dear Applicant,

The Planning and Development Department Director, on January 9, 2024, approved Cannabis Conditional Use Permit Application No. P23-03086 for the property noted above. The applicant requests authorization to establish a Commercial Cannabis Business (retail) within an existing 2,130 square foot commercial building.

The subject property is located in the CMX+RS-5/NR (*Corridor/Center Mixed Use + Single-Family Residential, Medium Density/Neighborhood Revitalization Overlay*) zone district. The project is exempt under Section 15301/Class 1 of the California Environmental Quality Act Guidelines prepared by the Planning and Development Department on November 9, 2023. The approval of this project is subject to compliance with the following Conditions of Approval:

CONDITIONS OF APPROVAL

PART A – ITEMS TO BE COMPLETED

The following items are required prior to issuance of building permits and/or the commencement of land use activity:

Planner to check when completed	
<input type="checkbox"/>	a. Development shall take place in accordance with conditionally approved project plans, Exhibits O, A, F, E, N, S, and OMCP dated October 4, 2023, and Exhibit A dated November 29, 2023 (redlined site plan from Traffic Planning) and any further requirements pursuant to the conditions of approval, for the aforementioned exhibits, specified herein. Transfer all comments and conditions on Exhibits to the corrected exhibit(s) and submit to planner at least 15 days prior to issuance of building permits.

<input type="checkbox"/>	b.	Within one month of operations, provide a copy of the approved Commercial Cannabis Business Permit to the Planning and Development Department.
<input type="checkbox"/>	c.	Revise Exhibit F dated October 4, 2023 to depict the northern building entrance to be for employee/emergency exit only.
<input type="checkbox"/>	d.	The drive-thru use for the existing building has extinguished. Revise Exhibit A dated October 4, 2023 to remove the existing drive-thru lane and match the existing landscape area along the property frontage with new landscaping where the existing driveway approach is located, and remove the existing driveway approach and replace with new curb, gutter, and sidewalk consistent with Public Works drawings and specifications.
<input type="checkbox"/>	e.	A landscaping and irrigation plan shall be submitted and the existing on- and off-site landscaping for both the existing commercial building property (APN: 461-284-30) and the parking lot property (APN: 461-284-29) shall be refreshed with minimum new ground cover.
<input type="checkbox"/>	f.	Any proposed removal, replacement, or reface of the existing elevations shall be heard and approved by the Historic Preservation Architectural Review Board and/or Historic Preservation Commission. Please contact Myrna.Rivas@fresno.gov and Janice.Monroe@fresno.gov for scheduling a hearing, if required.

PART B – OTHER AGENCY COMMENTS AND CONDITIONS

To be checked when completed where applicable		
<input type="checkbox"/>	1.	<p><u>Police Department</u></p> <p>Comply with the requirements included within the attached Police Department memorandum dated October 16, 2023.</p> <p><i>Planning Commission</i></p> <p><i>As conditioned by the Planning Commission on March 20, 2024, additional security shall be provided during the Big Fresno Fair and the Hmong New Year celebration. – Rob Holt, Supervising Planner (Planning Commission 03/20/2024)</i></p>
<input type="checkbox"/>	2.	<p><u>Department of Public Works, Land Planning</u></p> <p>Comply with the requirements included within the attached Department of Public Works memorandum dated November 29, 2023 and Exhibit A dated October 4, 2023 (redlined site plan).</p>
<input type="checkbox"/>	3.	<p><u>Department of Public Utilities</u></p> <p>Comply with the requirements included within the attached Department of Public Utilities memorandum dated October 24, 2023. All solid waste bins shall be stored in the existing solid waste enclosure on days the property is not receiving service.</p>

<input type="checkbox"/>	4.	<p><u>Building and Safety Services Division</u></p> <p>Comply with the requirements included within the attached Building and Safety Services Division memorandum dated October 19, 2023.</p>
<input type="checkbox"/>	5.	<p><u>Historic Preservation</u></p> <p>Comply with the requirements included within the attached Historic Preservation memorandum dated November 1, 2023.</p>
<input type="checkbox"/>	6.	<p><u>Fresno County Environmental Health</u></p> <p>Comply with the requirements included within the attached Fresno County Environmental Health memorandum dated October 5, 2023.</p>
<input type="checkbox"/>	7.	<p><u>Fresno Metropolitan Flood Control District (FMFCD)</u></p> <p>Comply with the requirements included within the attached FMFCD memorandum dated October 27, 2023.</p>
<input type="checkbox"/>	8.	<p><u>Fresno Unified School District (FUSD)</u></p> <p>Comply with the requirements included within the attached FUSD memorandum dated October 4, 2023.</p>
<input type="checkbox"/>	9.	<p><u>Pacific, Gas & Electric (PG&E)</u></p> <p>Comply with the requirements included within the attached PG&E memorandum dated October 23, 2023.</p>

PART C – OTHER REQUIREMENTS

Regulatory Ordinance

1) Operation Requirements for all Commercial Cannabis Activity pursuant to Chapter 9, Article 33 of the Fresno Municipal Code.

The operator shall comply with the following requirements and as amended from time-to-time (as applicable):

- a) Cannabis shall not be consumed by any person on the premises of the cannabis retail business.
- b) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis retail business.
- c) No person shall cause or permit the sale of tobacco products on or about the premises of the cannabis retail business.
- d) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the cannabis retail business. No outdoor storage of cannabis or cannabis products is permitted at any time. **Include a note and depict on the floor plan/site plan, compliance with this section. This may be achieved by installing**

dark tint (provide percentage of visibility) on the windows, etc., so as to not allow passersby to see into the retail area.

- e) All cannabis and cannabis products sold, distributed, or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with state and local laws.
- f) The following applies to Minors:
 - 1) Except as provided below, persons under the age of twenty-one (21) years shall not be allowed on the premises of the cannabis retail business and shall not be allowed to serve as a driver for a delivery service. It shall be unlawful and a violation of Chapter 9, Article 33 of the Fresno Municipal Code (FMC) for any person to employ any person who is not at least twenty-one (21) years of age.
 - 2) The entrance to a commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
 - 3) Persons at least eighteen (18) years old shall be allowed on the premises of a medicinal cannabis retail business to purchase medicinal cannabis or medicinal cannabis products. The entrance to a medicinal cannabis retail business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) is permitted to enter upon the premises of the medicinal cannabis retail business.
 - 4) It shall be a violation of Chapter 9, Article 33 of the FMC to sell medicinal cannabis or medicinal cannabis products to any person under the age of eighteen (18) or to sell cannabis or cannabis products to any person under the age of twenty-one (21).
- g) Best available odor control technology and devices shall be incorporated in the cannabis retail business to ensure that odors from cannabis are not detectable off-site. A sufficient odor absorbing ventilation and exhaust system shall be provided so that odor generated inside the premises that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis retail business. The following equipment, or any other equipment which the Planning and Development Director or his/her designee(s) determine is a more effective method of technology, must be installed and maintained:
 - 1) An exhaust air filtration system with odor control that prevents internal odors and pollen from being emitted externally;
 - 2) An air system that creates negative air pressure between the premises' interior and exterior, so that the odors generated inside the premises are not detectable outside the premises.
- h) The original copy of the commercial cannabis business permit issued by the City pursuant to Chapter 9, Article 33 of the FMC and the City issued business license shall be posted inside the cannabis retail business in a location readily visible to the public.

- i) The owner and/or operator of the cannabis retail business shall prohibit loitering by persons outside of the facility both on the premises and within fifty (50) feet of the premises.
 - j) The following applies to Community Relations:
 - 1) The cannabis retail business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the business can be provided. The cannabis retail business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the cannabis retail business.
 - 2) During the first year of operation pursuant to Chapter 9, Article 33 of the FMC, the owner, manager, and community relations representative from the cannabis retail business shall attend meetings with the City Manager or his/her designee(s), and other interested parties as deemed appropriate by the City Manager or his/her designee(s), to discuss costs, benefits, and other community issues arising as a result of implementation of Chapter 9, Article 33 of the FMC. After the first year of operation, the owner, manager, and community relations representative from the cannabis retail business shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).
 - 3) The cannabis retail business shall develop a City-approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth use of cannabis, and that identifies resources available to youth related to drugs and drug addiction.
 - k) The cannabis retail business shall continually maintain the premises and its infrastructure so that it is visually attractive and not dangerous to the health, safety and general welfare of employees, patrons, surrounding properties, and the general public. The premises shall not be maintained in a manner that causes a public or private nuisance. Litter must be removed daily from the premises, including adjacent public sidewalks and all parking lots under the control of the cannabis retail business; these areas must be swept or cleaned, either mechanically or manually, on a weekly basis to control debris; upkeep and operating characteristics must be compatible with abutting properties and the surrounding neighborhood.
- 2) Operating Requirements for a Cannabis Retail Business pursuant to Chapter 9, Article 33 of the Fresno Municipal Code.

The operator shall comply with the following requirements and as amended from time-to-time (as applicable):

- a) The cannabis retail business, including delivery of cannabis, shall operate no earlier than 6:00 a.m. and no later than 10:00 p.m. Other non-sales related activities germane to the business may take place on the premises after hours.
- b) There shall not be a physician located on the premises at any time for the purpose of evaluating patients for the issuance of a cannabis recommendation or card where applicable.
- c) Prior to dispensing cannabis or cannabis products to any person, the cannabis retail business shall verify the age of each customer.

- d) Entrances shall be located at all times with entry strictly controlled. A “buzz-in” electronic/mechanical entry system shall be utilized to limit access to and entry to the retailer to separate it from the reception/lobby area. Individuals must show their identification in order to gain access into the retailer.
- e) The cannabis retail business may have only that quantity of cannabis and cannabis products readily available to meet the daily demand for sale on-site in the retail sales area of the premises.
- f) **All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. As such, submit building plans to the Building Division showing construction details of the vault or vault equivalent, i.e. vault door, reinforced walls, etc.**
- g) All restroom facilities shall remain locked and under the control of management.
- h) Delivery vehicles shall be unmarked vehicles with no indication that the vehicles are transporting cannabis or cannabis products.
- i) The premises shall contain a secured lobby/trap room, where a customer first enters and awaits verification by the cannabis retail business that the customer is a qualified to purchase cannabis. **Depict the secured lobby/trap room on the floor plan.**
- j) The premises shall contain only one entrance which members of the public enter and exit. **Depict the entry/exit on the floor plan and site plan.**

Cannabis Environmental Impact Report (EIR)

- 1) Operation Requirements for all Commercial Cannabis Activity, pursuant to the Environmental Impact Report prepared for Commercial Cannabis Uses in the City of Fresno. The applicant shall comply with the following Mitigation Measures (MM) of the EIR:
 - a) MM 4.3-1: Prior to issuance of a grading or building permit or conditional use permit, individual project applicants shall submit written documentation of project compliance with applicable State and federal air pollution control laws and regulations. The project applicant shall also comply with applicable rules and regulations of the San Joaquin Valley Air Pollution Control District during construction and during operations of cannabis facilities. Any cannabis project under the jurisdiction of the City’s program that has impacts to air quality that are determined to be significant and unavoidable will either mitigate such emissions to less than significant or enter into a VERA with the San Joaquin Valley APCD to mitigate such project to a level that is determined to be less than significant.
 - b) MM 4.3-3: The project applicant of any conditional use permit, for a cannabis related business (retail only), shall submit written documentation stating that all mobile deliveries will be provided via hybrid or electric vehicles.
 - c) MM: 4.3-4: The project applicant of any conditional use permit, for a cannabis related business, shall include a site plan indicating the number of electric vehicles charging stations included in the parking area. The number of electric vehicle parking stations shall be at a ratio of no less than 1 charging station per 20 required parking spaces.

d) MM 4.3-5: As part of the Conditional Use Permit Application, all commercial cannabis related businesses shall submit an Odor Management and Control Plan (OMCP), to be approved by the Fresno Planning and Development Department. The OMCP shall demonstrate compliance with the Article 33 of Chapter 9 of the Fresno Municipal Code (Section 9-3309 j) by providing details related to the type and use of best available odor control technology and devices. The OMCP shall also include exhaust air filtration systems with odor control that prevents internal odors and pollen from being emitted externally, and an air system that creates negative air pressure between the premises' interior and exterior.

e) MM 4.8-1: The Project applicant shall be required to comply with all applicable State and San Joaquin Valley Air Pollution Control District (SJVAPCD) Rules and Regulations related to greenhouse gas emissions.

f) MM 4.8-2: Prior to the approval of a site plan, issuance of a grading or building permit, or as on site plans for applications for a conditional use permit, the Project applicant shall provide details to the Fresno City Planning and Development Department that the following menu of greenhouse gas emissions reduction measures are being implemented in conformance with the Commercial Cannabis Ordinance. Building design standards shall be made conditions of approval of any commercial/industrial site plan.

1. Designate at least two locations with adequate pedestrian, bicycle, and parking facilities for off-site transit connection service.

2. Prohibit use of chlorofluorocarbon refrigerants in commercial buildings.

3. Ensure recycling of construction debris and waste through administration by an on-site recycling/separation areas.

4. Implement a water wise program that includes all feasible measures to reduce indoor water use and associated energy use (e.g., for interior fixtures, require tankless water heaters and low-flow plumbing and fixtures).

g) MM 4.9-1: As part of the Conditional Use Permit Application, all commercial cannabis related businesses which may utilize hazardous materials, shall include a Hazardous Materials Business Plan (HMBP) and a Waste Management Plan (WMP), approved by the Fresno County Environmental Health Department. The HMBP shall include, at a minimum, floor plans of the facility and business conducted at the site; an inventory of hazardous materials that are handled or stored onsite; and an Emergency Response and Training Plan. The WMP shall include a list of all byproducts associated with cannabis manufacturing, and a plan for proper disposal, at an approved facility.

h) MM 4.9-4: In the event of planned renovation or demolition of any structures on the proposed site, prior to the issuance of demolition permits, asbestos and lead based paint (LBP) surveys shall be conducted in order to determine the presence or absence of asbestos-containing materials (ACM) and/or LBP. Removal of friable ACM, and non-friable ACMs that have the potential to become friable, during demolition and/or renovation shall conform to the standards set forth by the National Emissions Standards for Hazardous Air Pollutants (NESHAPs). The San Joaquin Valley Air Pollution Control District (SJVAPCD) is the responsible agency on the local level to enforce the National Emission Standards for Hazardous Air Pollutants (NESHAPs) and shall be notified by the property owners and/or developers of

properties (or their designee(s)) prior to any demolition and/or renovation activities. If asbestos-containing materials are left in place, an Operations and Maintenance Program (O&M Program) shall be developed for the management of asbestos containing materials.

i) MM 4.9-5: All cannabis license applications which may utilize hazardous materials, shall include a Fire Hazard Plan (FHP), approved by the Fresno Fire Department. The FHP shall include, at a minimum, floor plans of the facility and business conducted at the site; an inventory of hazardous materials that are handled or stored onsite; and an Emergency Response and Training Plan.

j) MM 4.13-1: The following mitigation measures shall be implemented during construction of Cannabis related facilities:

1. Per the City of Fresno Municipal Code, construction activities should not occur outside the hours of 7:00 a.m. to 10:00 p.m., Monday through Saturday. Construction activities should not occur during any hours on Sunday. If construction is permitted outside of these hours, all sensitive receptors within 1,000 feet from any property boundary containing a residence, school, daycare or youth center shall be notified at least one week prior;

2. All construction equipment shall be properly maintained and muffled to minimize noise generation at the source;

3. Noise-producing equipment shall not be operating, running, or idling while not in immediate use by a construction contractor;

4. All noise-producing construction equipment shall be located and operated, to the extent possible, at the greatest possible distance from any noise-sensitive land uses; and;

5. Signs shall be posted at the construction site displaying hours of construction activities and a contact phone number.

k) MM 4.19-3: In order to reduce the amount of waste generated from cannabis-related operations being taken to the landfill, the following shall be incorporated into the CUP conditions of approval for each Project: Businesses generating four cubic yards or more of commercial solid waste per week are required to recycle and take one, or any combination, of the following actions:

1. Subscribe to source separated recycling service with a regional franchise hauler authorized to provide service for the area in which the business is located;

2. Subscribe to a mixed solid waste recycling service with a regional franchise hauler authorized to provide service for the areas in which the business is located;

3. Self-recycle and certify compliance with Ordinance No. 2003-100;

4. Undertake a combination of such measures, or such alternate measures as may be approved by the City to reduce the amount of waste from the commercial sector being taken to a landfill.

l) MM 4.19-4: Prior to issuance of grading or building permits, the Project applicant shall construct adequate, segregated, onsite screened storage for collection of commercial solid

waste and source separated recyclable materials if constructing new facilities or if existing facilities do not provide such areas. The area shall be designed to be architecturally compatible with the development and shall not prevent security of the recyclables. Driveways and/or travel aisles shall provide, at a minimum, unobstructed access for collection vehicles and personnel. A sign clearly identifying all recycling/solid waste collection and loading areas and the materials accepted shall be posted adjacent to all points of direct access to the area.

Development Code

1) Operation Requirements for Adult Use and Cannabis Retail Business and Commercial Cannabis Businesses pursuant to Section 15-2739 of the Fresno Municipal Code.

- a) Each applicant shall provide a neighborhood responsibility plan so the review authority may find that the proposed use and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.
- b) Comply with the requirements within Section 9-3309 of the Fresno Municipal Code, as may be amended, relating to operating requirements for all commercial cannabis activity, as applicable.
- c) Comply with the requirements within Section 9-3310 of the Fresno Municipal Code, as may be amended, relating to operating requirements for a cannabis retail business, as applicable.

2) Signage

- a) Signage shall conform to the requirements of Chapter 15, Article 26 of the FMC, Section 9-3309(h) of the FMC, and Section 15-2739(J) of the FMC. Where conflict may occur, the more restrictive provisions shall govern. **All existing unapproved signage shall be removed.**
- b) No signs placed on the premises of the cannabis retail business shall obstruct any entrance or exit to the building.
- c) No signs of the cannabis retail business shall be placed on any window.
- d) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No cannabis retail business may advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises or elsewhere including, but not limited to, the public right-of-way.
- e) Signage shall not be directly illuminated, internally or externally. No banners, flags, and/or billboards may be used at any time.
- f) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a Cannabis Conditional Use Permit, or on any of the vehicles owned or used as part of the cannabis retail business.
- g) Signs are not approved for installation as part of this special permit. Should signs be proposed, the applicant must submit for a Sign Review Permit (include this note on the site plan).

3) Landscaping

- a) For new buildings, landscaping shall be provided per the underlying District.
- b) For existing buildings, perimeter landscaping and parking lot shading shall be provided pursuant to FMC Section 15-2421. Exceptions to the prescribed standards may be made, however in no case shall the reduction result in a net reduction of 35 percent or greater in the amount of landscaping provided. Landscaping may also be aggregated to minimize the impact on existing parking areas. **Provide landscape and irrigation plans meeting these requirements, as stated below:**

A. **Heat Island Reduction.** A heat island is the increase in ambient temperature that occurs over large paved areas compared to natural landscape. In order to reduce ambient surface temperatures in parking areas, 50 percent of areas not landscaped shall be shaded, of light colored materials with a Solar Reflectance Index (SRI) of at least 29, or a combination of shading and light colored materials as follows:

- 1. Permitted Types of Shading. Shade may be provided by solar shade structures, trees, or other equivalent mechanism.
- 2. Shading Tree Standards. Trees provided to satisfy the requirements of this section shall meet the following standards:
 - a. Shading Tree Distribution. Trees provided to satisfy the requirements of this section shall be distributed relatively evenly throughout the parking area.
 - b. Species. Trees provided to satisfy the requirements of this section shall be selected from a list maintained by the City and shall be of a species which can reasonably be expected to provide the required amount of shading within 15 years.
 - c. Size. Trees provided to satisfy the requirements of this section shall trees shall be a minimum 15-gallon size with a one-inch diameter as measured 48 inches above natural grade.
- 3. Exception: This requirement shall not apply to RS Districts and truck loading and truck parking areas within Employment Districts.

B. **Landscaping.** Landscaping of parking areas shall be provided and maintained according to the general standards of Article 23, Landscape, as well as the standards of this subsection.

- 1. Clearance from Vehicles. All required landscaped areas shall be designed so that plant materials, at maturity, are protected from vehicle damage by providing a minimum two-foot clearance of low-growing plants where a vehicle overhang is permitted, or by wheel stops set a minimum of two feet from the back of the curb.
- 2. Planters. All required parking lot landscaping shall be within planters bounded by a concrete curb at least six inches wide and six inches high. Curbs separating

landscaped areas from parking areas shall be designed to allow storm-water runoff to pass through.

C. Perimeter Parking Lot Landscaping. The following shall apply to Multi-Family, Mixed-Use, Office, Business Park, Regional Business Park, and Commercial developments.

1. Layout. Landscaped areas shall be well-distributed throughout the parking lot area. A minimum of 10 percent of any parking lot area shall be landscaped. For the purpose of calculating required parking lot landscaping, parking lot areas are deemed to include parking and loading spaces as well as aisles, vehicle entry and exit areas, and any adjacent paved areas. Parking lot area does not include enclosed vehicle storage areas. Parking lot landscaping may be provided in any combination of:
 - a. Landscaped planting strips between parking areas and adjacent buildings or internal pedestrian walkways;
 - b. On-site landscaping at the parking lot perimeter.
2. Adjacent to Streets. Parking areas adjoining a public street shall be designed to provide a landscaped planting strip equivalent to the required setback for the subject zoning district.
 - a. Landscaping shall be designed and maintained to screen cars from view from the street to a height of between 24 and 36 inches.
 - b. Screening materials may include a combination of plant materials, earth berms, solid masonry walls, raised planters, or other screening devices that meet the intent of this requirement.
 - c. Trees shall be provided at a rate of at least one for every 20 lineal feet of landscaped area. A lower ratio of tree planting may be approved by the Director when larger species of trees are used.
 - d. Plant materials, signs, or structures within a traffic safety sight area of a driveway shall not exceed 36 inches in height.
3. Adjacent to Other Uses. Refer to the underlying Zone District and Section 15-2305-C, Lot Perimeters, landscape buffer requirements.
4. End of Row Islands. A landscaped island at least six feet in all interior dimensions and containing at least one 15-gallon-size tree shall be provided at each end of each interior row of parking stalls and dispersed throughout the parking lot.
5. Planters Required. Trees shall be in planters located throughout the parking area. Planters shall have a minimum interior dimension of five feet and be of sufficient size to accommodate tree growth.
6. Landscaped Buffer. When four or more parking spaces are provided, a landscaped area at least five feet wide shall be provided between any surface

parking area and any property line for the length of the parking area, unless a different dimension is specified in the base district standards applicable to a site or in Section 15-2305-C, Lot Perimeters, landscape buffer requirements.

4) Lighting

- a) The exterior of the premise, including adjacent public sidewalks and all parking lots under the control of the establishment, shall be illuminated during all hours of darkness in a manner so that persons standing in those areas at night are identifiable by law enforcement personnel. However, required illumination shall be placed and/or shielded in a way that minimizes interference with the neighboring residences. Provide the hours of operation of the lighting within the required neighborhood responsibility plan.

5) Litter and Graffiti

- a) Litter must be removed daily from the premises, including adjacent public sidewalks and all parking lots under the control of the cannabis retail business; these areas must be swept or cleaned, either mechanically or manually, on a weekly basis to control debris.
- b) The owner or operator shall remove graffiti within 48 hours.

6) Indemnification

- a) All applicants for a Cannabis Conditional Use Permit and related environmental approval pursuant to the California Environmental Quality Act (CEQA) shall be responsible to fully indemnify, defend, and hold harmless the City, its officers, employees, agents, and volunteers, for any and all claims and legal challenges related to the City's actions in approving their applications. Applicant's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the sole negligence or willful misconduct of City or any of its officers, officials, employees, agents or volunteers. Indemnification and defense shall be considered a condition of approval for all Cannabis Conditional Use Permit approvals.

7) Miscellaneous Requirements

- a) Development shall continue to take place in accordance with all conditions imposed on previous entitlement applications for the subject site.
- b) Development shall take place in accordance with the policies of the Fresno General Plan, Downtown Neighborhoods Community Plan, CMX (Corridor/Center Mixed Use) zone district (for existing commercial building property), RS-5/NR (*Single-Family Residential, Medium Density/Neighborhood Revitalization Overlay*) zone district (for permitted parking lot property) and all other applicable sections of the Citywide Development Code, Chapter 15 of the Fresno Municipal Code (FMC).
- c) Noise decibel levels shall be monitored by the establishment to ensure compliance with all applicable Noise Standards.

- d) Approval of this special permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:
 - i. All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property.
 - ii. All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,
 - iii. Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.
- e) Approval of this special permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications. The Planning and Development Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.
- f) The Planning and Development Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.
- g) Prior to commencing operations, the cannabis retail business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes, but is not limited to, obtaining any required building permit(s), the Fire Department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

APPEALS

A notice indicating the Planning and Development Department Director's intended approval of this project was mailed to nearby property owners on November 18, 2023, commencing a 10-day comment period. The Director approved the project on January 9, 2023. This commences a 15-day appeal period for those, including members of the public, that may wish to appeal the project.

Please be advised that this project may be subject to a variety of discretionary conditions of approval. These conditions based on adopted City plans, ordinances and policies; those determined to be required through the interdepartmental/interagency review process; and those determined through the environmental assessment process as necessary to mitigate adverse effects on the health, safety and welfare of the community. The conditions of approval may also include requirements for development and use that would, on the whole, enhance the project and its relationship to the neighborhood and environment.

All conditions of approval based on adopted plans, codes, and regulations are mandatory. Conditions based on the FMC may only be modified by variance, provided the findings required by the FMC Section 15-5506 can be made. Discretionary conditions of approval may be appealed but will ultimately be deemed mandatory unless appealed in writing to the Director within 15 days. In the event you wish to appeal the Director's decision, you may do so by filing a written appeal with the Director. The appeal shall include the appellant's interest in or relationship to the subject property, the decision or action appealed and specific reasons why the applicant believes the decision or action appealed should not be upheld.

If you wish to appeal the decision, a written request must be received at the Planning and Development Department by **January 24, 2024**. The written request should be addressed to the project planner identified below and include the application number referenced above. An \$963.77 fee applies to an appeal by an applicant (no fee applies if member of the public). **The fee is required prior to accepting the appeal, as required by Section 15-5017-A.1 of the FMC and established by the Master Fee Schedule.**

COMPLIANCE REVIEW PROCESS

Please Note: To complete the compliance review process for building permits relative to planning and zoning issues, please upload electronic PDF copies of the corrected, final site plan, elevations, landscape, and irrigation plans, operational statement, any fees and title reports required for covenants, and any required studies or analyses into the compliance record for final review and approval into the compliance record at least 15 days before applying for building permits.

The compliance record number for this application is **P24-00109**. These documents can be uploaded electronically to the citizen access portal at imsaca.fresno.gov/CitizenAccess. Contact the Planner once any corrected exhibits are uploaded.

It may be necessary to resubmit these "corrected exhibits" a second time if not all the conditions have been complied with or are not shown on the exhibits. Once the "corrected exhibits" are approved by the Development Services Division, please place these exhibits in the plan check set and contact Rob Holt at Robert.Holt@fresno.gov to schedule an appointment to stamp and signoff these exhibits.

Copies of the final approved site plan, elevations, landscaping, and irrigation plans stamped by the Development Services Division must be submitted for unstamped copies of the same in each of the sets of construction plans submitted for plan check prior to the issuance of building permits.

EXPIRATION DATES

The exercise of rights granted by this special permit must be commenced by **January 9, 2027** (three years from the date of approval), pursuant to FMC Sections 15-5013-A, C, D and E. An extension of up to one additional year may be granted, provided that the findings required under FMC Section 15-5013-A.1 are made by the Director. All required improvements must be installed prior to the operation of the proposed use.

Pursuant to Section 15-2739-U of the FMC, an automatic expiration date of five years from the date of approval has been established for Cannabis Conditional Use Permits. Therefore, the approval for Cannabis Conditional Use Permit Application No. P23-03086 shall expire on **January 9, 2029**. A new Cannabis Conditional Use Permit will be required after the aforementioned expiration date. It is

recommended you contact the Planning and Development relative to submitting a new Conditional Use Permit application prior to the expiration date.

Should the operator discontinue operations at the existing Retail Cannabis Business, a new operator may take over the existing Cannabis Conditional Use Permit for the unexpired time period. Prior to commencing operations, the new operator must obtain a commercial cannabis business permit, submit an approved operational statement, and submit an approved neighborhood responsibility plan.

If you have any questions regarding this matter, feel free to contact Rob at Robert.Holt@fresno.gov.

Sincerely,

A handwritten signature in blue ink that reads "Robert Holt". The signature is written in a cursive style with a long horizontal stroke extending from the end.

Rob Holt, Supervising Planner
Development Services Division

Enclosures: Exhibits O, A, F, E, N, S, and OMCP dated October 4, 2023
Exhibit A dated October 4, 2023 (redlined site plan from Traffic Planning)
Department and Other Agency Comments