

CITY OF MERCED
Site Plan Review Committee

MINUTES

Planning Conference Room
2nd Floor Civic Center
Thursday, May 16, 2019

Chairperson McBRIDE called the meeting to order at 1:35 p.m.

1. **ROLL CALL**

Committee Members Present: Chief Building Official Frazier, Acting City Engineer Beltran, and Director of Development Services McBride

Committee Members Absent: None

Staff Present: Land Surveyor Cardoso, Planning Manager Espinosa, and Associate Planner/Recording Secretary Mendoza-Gonzalez

2. **MINUTES**

M/S FRAIZER - BELTRAN, and carried by unanimous voice vote, to approve the Minutes of April 19, 2019, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Site Plan Application #437, submitted by Thai Cuisine II, applicant for Promenade Center Limited Partnership, property owner, to allow the installation of a fenced outdoor patio with alcohol service for a restaurant located at 779 East Yosemite Avenue (Suites G and F), within Planned Development (P-D) #48, with a General Plan designation of Neighborhood Commercial (CN).

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Associate Planner MENDOZA-GONZALEZ reviewed the application. Refer to Draft Site Plan Resolution #437 for further information.

Chief Building Official FRAIZER recommended modifying Condition #10 requiring the patio gate to remain unlocked when the building is occupied. In addition, said gate should be the same width as Exit Door #1 shown on the floor plan at Exhibit B.

City Engineer Beltran recommended adding Condition #27 requiring that the applicant comply with all relevant Covenants, Conditions, and Restrictions for this site.

M/S FRAIZER - BELTRAN, and carried by the following vote to adopt a Categorical Exemption regarding Environmental Review #19-11, and approve Site Plan Application #437, subject to the Findings and twenty-six (26) conditions set forth in Draft Resolution #437 with the modification of Condition #10 and the addition of Condition #27 as follows:

(Note: ~~Strikethrough~~ deleted language, underline added language.)

“10. The exit gate shall not be locked ~~during business hours~~ when the building is occupied. Entrance into the outdoor patio shall be kept open at all times during hours of operation. ~~During the building permit stage, the applicant shall work with the Building and Fire Departments to determine if panic hardware will be required based on occupant load.~~ The applicant shall install panic hardware on the exit gate. The width of the exit gate shall be the same size as Exit 1 shown at Exhibit B.

“27. The developer/applicant shall construct and operate the project in strict compliance with approved Covenants, Conditions, and Restrictions.”

AYES: Committee Members Beltran, Fraizer, and Chairperson McBride

NOES: None

ABSENT: None

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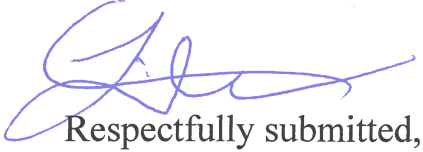
5. **INFORMATION ITEMS**

5.1 **Calendar of Meetings/Events**

There was no discussion regarding the calendar of meetings/events.

6. **ADJOURNMENT**

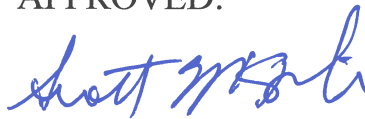
There being no further business, Chairperson McBride adjourned the meeting at 2:05 p.m.



Respectfully submitted,

Francisco Mendoza-Gonzalez, Secretary
Merced City Site Plan Review Committee

APPROVED:



Scott McBride, Chairperson/
Director of Development Services
Merced City Site Plan Review Committee

CITY OF MERCED
SITE PLAN REVIEW APPLICATION
RESOLUTION #437

Thai Cuisine II	Fenced outdoor patio with alcohol service for a restaurant (Thai Cuisine II).
APPLICANT	PROJECT
779 E. Yosemite Avenue, Suites G and F	779 E. Yosemite Avenue, Suites G and F
ADDRESS	PROJECT SITE
Merced, CA 95348	231-180-005
CITY/STATE/ZIP	APN
(209) 631-2555	Planned Development (P-D) #48
PHONE	ZONING

In accordance with Chapter 20.68 of the Merced City Zoning Ordinance, the Merced City Site Plan Review Committee considered and approved Site Plan Review Application #437 on May 16, 2019, submitted by Thai Cuisine II, applicant for Promenade Center Limited Partnership, property owner, to allow the installation of a fenced outdoor patio with alcohol service for a restaurant located at 779 East Yosemite Avenue (Suites G and F), within Planned Development (P-D) #48, with a General Plan designation of Neighborhood Commercial (CN). Said property being more particularly described as Parcel E, as shown on that certain map entitled "Parcel Map for Pearson Scott, LLC," recorded August 29, 2005, in Volume 100, Page 24 of Parcel Maps, Merced County Records; also known as Assessor's Parcel Number (APN) 231-180-005.

WHEREAS, the proposal is exempt from the California Environmental Quality Act (CEQA), and is in accordance with Section 15301 (a) (Exhibit F); and,

WHEREAS, the Merced City Site Plan Review Committee makes the following Findings:

- A) The proposal complies with the General Plan designation of Neighborhood Commercial (CN) and the Zoning classification of Planned Development (P-D) #48.
- B) The subject site has a conditional use permit to serve beer, wine, and distilled spirits with food (Type 47 Alcoholic Beverage Control License), per the conditions shown at Exhibit E.
- C) The applicant is requesting approval to install a fenced outdoor patio that would be 17 feet long by 16 feet wide. The metal fence would be 3-feet-tall and include an access gate that aligns directly with the building access door to Suite F (Exhibits B, C, and D).

- D) The applicant is requesting approval to allow alcohol consumption outdoors within the fenced patio area.
- E) This request does not allow the restaurant to operate as a bar or nightclub. These uses would require conditional use permit approval from the Planning Commission.
- F) The patio will be used for standing room only. Additional parking will not be required because the applicant is not proposing to provide seats within the patio area or add seats inside the restaurant (see Condition #25).
- G) There are currently several restaurants within the Promenade Shopping Center that have City approval to serve alcohol, including Agaves Mexican Grill, Turmeric Cuisine, Strings, and Wingstop. Most of these restaurants have approval to serve alcohol within their respective outdoor patios.

NOW, THEREFORE, BE IT RESOLVED that the Merced City Site Plan Review Committee does approve Site Plan Review Application #437, subject to the following conditions:

- 1) All conditions contained in Site Plan Approval Resolution #79-1 ("Standard Conditions of Site Plan Approval") shall apply.
- 2) The proposed project shall be constructed/designed as shown on Exhibit B (site plan), Exhibit C (patio area), and Exhibit D (fence materials).
- 3) The applicant shall comply with the conditions set forth in Planning Commission Resolution #2864 for Conditional Use Permit #1086 previously approved for this business.
- 4) All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
- 5) The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of

the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

- 6) The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
- 7) The outdoor patio shall be enclosed by a minimum 3-foot-tall fence. The fence shall delineate the patio from the remainder of the shopping center. No alcoholic drinks shall be allowed outside the fenced area.
- 8) Signs shall be posted on the fence stating "No Alcohol Allowed Outside This Area." The signs shall be a maximum of 1-square-foot and shall be posted on each side of the outdoor patio area in an area visible to customers.
- 9) The metal fence shall be painted a color that matches or compliments the existing building. Fencing color samples shall be submitted to the Planning Department for approval prior to installation.
- 10) The exit gate shall not be locked when the building is occupied. Entrance into the outdoor patio shall be kept open at all times during hours of operation. The applicant shall install panic hardware on the exit gate. The width of the exit gate shall be the same size as Exit 1 shown at Exhibit B.
- 11) No temporary signs shall be attached to the metal fence. All temporary signs shall be approved and a "Temporary Sign Permit" shall be obtained prior to installation.
- 12) An employee shall monitor the outdoor patio area at all times when alcohol is being served.
- 13) The business shall comply with all applicable rules of the California Department of Alcohol Beverage Control (ABC).
- 14) The business shall comply with all applicable requirements from the Merced County Health Department.
- 15) The City reserves the right to periodically review the area for potential problems. Should excessive calls for service or violation of these conditions of approval occur, the City may consider revocation of the Site Plan Review following the procedures spelled out in the Merced Municipal Code.
- 16) If new signage is installed, it shall comply with the North Merced Sign Ordinance and the Master Sign Program for the Promenade Shopping Center.
- 17) All existing landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately.

- 18) The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
- 19) Alcohol sales in the outdoor patio shall end by 10:00 p.m. or earlier.
- 20) Exterior doors shall not be propped open during business operations. If sufficient complaints are received regarding noise from music or other activities, the restaurant shall provide a means for suppressing the noise coming from the building. The means and method used to suppress noise shall be approved by the Building Department prior to installation.
- 21) Any music played over outdoor speakers in the patio area shall be kept to a minimum so as not to travel outside the immediate area around the restaurant.
- 22) Sufficient lighting shall be provided throughout the outdoor patio area. A lighting plan shall be included with the building permit application for the patio.
- 23) Receptacles for the disposal of smoldering remnants and discarded debris associated with smoking tobacco products (such as ashes and cigarette butts) shall be made available in the patio. The receptacles shall be included in the plans for the patio.
- 24) Any outdoor heating units shall need to be listed and approved by the Fire Department.
- 25) This request does not include approval for outdoor seating. Outdoor seating could subsequently be approved by the Director of Development Services. Additional parking may be required if there is a net gain of seats for the restaurant.
- 26) The existing knox box shall be relocated outside the fenced patio area so that it is accessible to emergency responders. The new location of the knox box shall be reviewed and approved by the Fire Department during the building permit stage.
- 27) The developer/applicant shall construct and operate the project in strict compliance with approved Covenants, Conditions, and Restrictions.

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If there are any questions concerning these conditions and recommendations, please contact Francisco Mendoza-Gonzalez at (209) 385-6858.

May 16, 2019

DATE



SIGNATURE

Associate Planner

TITLE

Exhibits:

- A) Location Map
- B) Site Plan
- C) Patio Area
- D) Material Example
- E) Resolution #2864 and Minutes for CUP #1086
- F) Notice of Categorical Exemption

Low Density Residential

PAULSON

SPARROW

CARDINAL

St. Patrick's Church

Subject Site
(Thai Cuisine II)

Low Density Residential

Restaurants

ORIOLE

Starbucks

YOSEMITE

Commercial Offices

DOE

Low Density Residential

CENTURY

EXHIBIT A

