

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, February 7, 2018

Chairperson Dylina called the meeting to order at 7:01 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Sonia Alshami, Mary Camper, Travis Colby, Robert Dylina, and Peter Padilla

Commissioners Absent: Jeremy Martinez, (one vacancy)

Staff Present: Planning Manager Espinosa, Chief Deputy City Attorney Fincher, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

M/S CAMPER-ALSHAMI, and carried by unanimous voice vote (one absent, one vacancy), to approve the Agenda as submitted.

2. **MINUTES**

M/S CAMPER-COLBY, and carried by unanimous voice vote (one absent, one vacancy), to approve the Minutes of January 17, 2018, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Conditional Use Permit #1222, initiated by Healthy House on behalf of Shepherd of the Valley Evangelical Lutheran, property owner. This application involves a request to allow an outdoor community garden (approximately 1,700 square feet) on the grounds of the Shepherd of the Valley Lutheran Church, generally located on the northeast corner of Yosemite Avenue and White Dove Avenue (1455 E. Yosemite Avenue), within a Low-Density Residential (R-1-6) Zone. *PUBLIC HEARING*

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #18-02.

Public Testimony was opened at 7:11 p.m.

Speakers from the Audience in Favor:

CANDICE ADAM MEDEFIND, Applicant, Merced

CHAI MOUA, Healthy House/Hmong Elders, Merced

No one spoke in opposition to the Project.

Public Testimony was completed at 7:15 p.m.

Commissioner COLBY was concerned that because a conditional use permit runs with the land, the neighbors in the surrounding area of the proposed garden will not have any other opportunities for comment in the event that the landowner, or whoever runs the garden should change.

Commissioner COLBY suggested adding Condition 26, “that community garden activity shall not be used in connection with a substance abuse rehabilitation program without further approval of the Planning Commission.”

Planning Manager ESPINOSA suggested rewording Condition 26 to state that in the event the ownership or the individuals heading the program changes, it would be subject to further review.

Chairperson DYLINEA re-opened the public hearing to ask the applicant if she has any objections to the additional condition.

Public testimony was re-opened at 7:25 p.m.

CANDICE ADAM MEDEFIND, Healthy House, Merced, explained to the Commission that there would be multiple organizations affiliated with the community garden; all of whom have been listed for and approved by the Church in a Memorandum of Understanding. She told the Commission that she does not anticipate those organizations to change, but she does not object to the additional condition.

Public testimony was completed at 7:27 p.m.

M/S CAMPER-ALSHAMI, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #17-21, and approve Conditional Use Permit #1222, subject to the Findings and twenty five (25) Conditions set forth in Staff Report 18-02, with the addition of Condition #26 as follows (RESOLUTION #3088):

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

“26. If the community garden management or activities change, those changes shall be approved by the Director of Development Services with referral to the Planning Commission if necessary.”

AYES: Commissioners Alshami, Camper, Colby, Padilla, and Chairperson Dylina

NOES: None

ABSENT: Commissioner Martinez, (one vacancy)

ABSTAIN: None

- 4.2 Zoning Ordinance Amendment #18-01, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would modify the Commercial Shopping Center (C-SC) Zone to allow the following uses with a Site Plan Review Permit: Community Gardens, Colleges & Trade Schools, Commercial Recreation Indoor, Commercial Recreation Outdoor, and Drive-Through/Drive-Up Sales. In addition, the following uses would change from requiring a Conditional Use Permit to requiring a Site Plan Review Permit: Gas and Service Stations/Car Washes, Offices/Professional Uses, and Restaurants. All of these uses, except for a Community Garden, would be allowed only as part of a development that requires a grocery store of over 20,000 square feet as the main anchor to a shopping center. A Community Garden would be allowed as a temporary use until a shopping center is developed. *PUBLIC HEARING*

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #18-03.

Chairperson DYLINE asked for clarification as to why so many uses were being added. Mr. MENDOZA-GONZALEZ, stated that the members of the neighborhood were supportive of the addition of these uses, such as Commercial Recreation (Outdoor/Indoor), for the purpose of providing the youth of the neighborhood with more healthy activities/opportunities.

Public testimony was opened at 7:43 p.m.

Speaker from the Audience in Favor:

JOSE REYES, Citizens for the Betterment of South Merced, Merced

No one spoke in opposition to the Project.

Public testimony was completed at 7:46 p.m.

Commissioner PADILLA objected to the 10-day notification window for Site Plan Reviews; he added that it did not provide members of the public with sufficient time to comment. He also objected to the fact that approval of the Planning Commission would no longer be required for the uses previously listed under the C-SC Zone for Site Plan Reviews.

Planning Manager ESPINOSA clarified to the Commission that the notification window is established by CEQA, and is dependent on the type of Environmental Review that is required for the project; therefore, the length of time required could be more than 10 days.

Commissioner ALSHAMI made a motion to recommend to the City Council adoption of a Categorical Exemption regarding Environmental Review #18-01, and approval of Zoning Ordinance Amendment #18-01, as shown in Attachment B, with the exclusion of gas stations as a permitted use under the C-SC Zone.

The motion failed due to lack of a second to her motion.

Commissioner PADILLA made a motion to recommend to the City Council denial of a Categorical Exemption regarding Environmental Review #18-01, and disapproval of Zoning Ordinance Amendment #18-01, as shown in Attachment B.

The motion failed due to lack of a second to his motion.

M/S CAMPER-COLBY, and carried by the following vote, to recommend to the City Council adoption of a Categorical Exemption regarding Environmental Review #18-01, and approval of Zoning Ordinance Amendment #18-01, as shown in Attachment B, subject to the Findings set forth in Staff Report #18-03 (RESOLUTION #3089):

AYES: Commissioners Alshami, Camper, Colby, and
Chairperson Dylina

NOES: Commissioner Padilla

ABSENT: Commissioner Martinez, (one vacancy)

ABSTAIN: None

February 7, 2018

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

6. **ADJOURNMENT**

There being no further business, Chairperson DYLINEA adjourned the meeting at 8:12 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINEA, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3088

WHEREAS, the Merced City Planning Commission at its regular meeting of February 7, 2018, held a public hearing and considered **Conditional Use Permit #1222**, initiated by Healthy House on behalf of Shepherd of the Valley Evangelical Lutheran, property owner. This application involves a request to allow an outdoor community garden (approximately 1,700 square feet) on the grounds of the Shepherd of the Valley Lutheran Church, generally located on the northeast corner of Yosemite Avenue and White Dove Avenue (1455 E. Yosemite Avenue), within a Low-Density Residential (R-1-6) Zone; also known as Assessor's Parcel Number 231-162-008; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through H of Staff Report #18-02; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #17-21, and approve Conditional Use Permit #1222, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Camper, seconded by Commissioner Alshami, and carried by the following vote:

AYES: Commissioners Alshami, Camper, Colby, Padilla, and Chairperson Dylina

NOES: None

ABSENT: Commissioner Martinez

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3088

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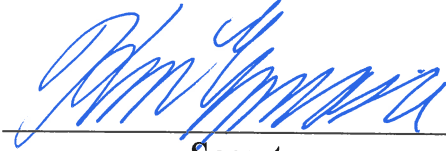
February 7, 2018

Adopted this 7th day of February 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 3088
Conditional Use Permit #1222

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) - Attachment B-2 of Staff Report #18-02, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. The applicant shall comply with all relevant Conditions of Approval from Resolution #2254 for Conditional Use Permit #847.
6. 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.

7. 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.
8. No separate signage shall be allowed for the garden, except for temporary signs as approved by the Planning Division. All signing shall comply with the City's Sign Ordinance. Building permits shall be obtained prior to installing any permanent signing. A Temporary Sign Permit shall be obtained prior to installing any temporary signs or banners. Temporary freestanding or A-frame signs are not allowed.
9. All gardening activities shall be conducted within the private property of the church.
10. All lighting on site shall be shielded or oriented in a way that does not allow "spillover" onto adjacent lots in compliance with the California Energy Code requirements. Any lighting on the building, parking lot lighting, or signage shall be oriented to shine downward and not spillover onto adjacent parcels.
11. The applicant shall obtain building permits before constructing any structures, as required by the Building Department.
12. Land use approval for accessory structures may be considered by the Director of Development Services or, if deemed necessary, by Site Plan Review Committee.
13. The disking of soil is prohibited, unless conducted in a manner approved by the San Joaquin Valley Air Pollution Control District.
14. Aerial spraying of pesticides or herbicides is prohibited.
15. The community garden shall only operate between 8:00 a.m. and 8:00 p.m. daily.
16. The community garden shall maintain a minimum setback distance of 30 feet from all property lines.

17. Only non-odorous fertilizers shall be utilized on the property.
18. Odorous crops or plants shall be prohibited or mitigated as determined by the Director of Development Services.
19. If the garden is open after sunset, the applicant shall submit a Lighting Plan for Planning staff review and approval. Lighting shall illuminate the garden and at least a 20-foot radius around the garden. On-site lighting shall ensure safety and security of the property, including access areas. If lights are not provided, the garden shall close at sundown.
20. On-site sale of community garden products shall be prohibited.
21. Community garden activities shall in no way interfere with the operation of the existing church on the lot, including noise, litter, and loitering.
22. The applicant shall comply with all City of Merced business licensing requirements and all requirements of the Merced County Health Department.
23. No animals, including bees and fish, shall be allowed to be housed in the community garden. Only produce, plants, or flowers shall be allowed to grow in the community garden. Cannabis/Marijuana plants are prohibited.
24. The applicant shall comply with all regulations found in Merced Municipal Code Section 20.44.050 – Community Gardens.
25. Future expansion of the community garden may be approved by the Director of Development Services if the expansion does not exceed 33% of the area originally approved with this permit and if the garden maintains a minimum 30-foot setback from all property lines.
26. If the community garden management or activities change, those changes shall be approved by the Director of Development Services with referral to the Planning Commission if necessary.

n:\shared\planning\PC Resolutions: CUP #1222 Exhibit A

CITY OF MERCED
Planning Commission

Resolution #3089

WHEREAS, the Merced City Planning Commission at its regular meeting of February 7, 2018, held a public hearing and considered **Zoning Ordinance Amendment #18-01**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would modify the Commercial Shopping Center (C-SC) Zone to allow the following uses with a Site Plan Review Permit: Community Gardens, Colleges & Trade Schools, Commercial Recreation Indoor, Commercial Recreation Outdoor, and Drive-Through/Drive-Up Sales. In addition, the following uses would be changed from requiring a Conditional Use Permit to requiring a Site Plan Review Permit: Gas and Service Stations/Car Washes, Offices/Professional Uses, and Restaurants. All of these uses, except for a Community Garden, would be allowed only as a part of a development that requires a grocery store of over 20,000 square feet as the main anchor to a shopping center. A Community Garden would be allowed as a temporary use until a shopping center is developed; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through G of Staff Report #18-03; and,

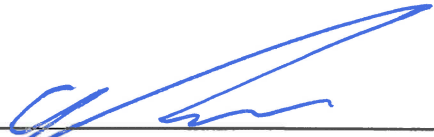
NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #18-01, and approval of Zoning Ordinance Amendment #18-01, as set forth in Attachment B of Staff Report #18-03:

Upon motion by Commissioner Camper, seconded by Commissioner Colby, and carried by the following vote:

AYES:	Commissioners Alshami, Camper, Colby, and Chairperson Dylina
NOES:	Commissioner Padilla
ABSENT:	Commissioner Martinez
ABSTAIN:	None

February 7, 2018

Adopted this 7th day of February 2018



Chairperson, Planning Commission
of the City of Merced, California

ATTEST:



Secretary