

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, February 6, 2019

Chairperson DYLINA called the meeting to order at 7:00 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Mary Camper, Scott G. Drexel, Michael Harris, *Jeremy Martinez, Peter Padilla, Sam Rashe, and Chairperson Robert Dylina

*Commissioner Martinez arrived at 7:11 p.m.

Commissioners Absent: None

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

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S PADILLA-HARRIS, and carried by unanimous voice vote (one absent), to approve the Minutes of January 23, 2019, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Conditional Use Permit #1228, initiated by Mark Patterson, on behalf of Gateway Park Development Partners, LLC, property owner. This application involves a request to allow the sale of beer and wine for off-site consumption within an ARCO convenience market generally located at the southeast corner of Campus Parkway and Coffee Street (810 S. Coffee Street). The subject site has a General Plan designation of Regional Commercial (RC) and is zoned Planned Development (P-D) #74.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #19-06.

Public testimony was opened at 7:10 p.m.

Speaker from the Audience in Favor:

MARK PATTERSON, California Gold Development Corp., Applicant, Sonora, CA

No one spoke in opposition to the project.

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

M/S CAMPER-HARRIS, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-68, and approve Conditional Use Permit #1228, subject to the Findings and twenty-two (22) Conditions set forth in Staff Report #19-06 (RESOLUTION #4016):

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

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.

Planning Manager ESPINOSA extended the invitation to the upcoming League of California Cities Planning Commissioners Academy in Long Beach to the Planning Commission due to one of the previous four Commissioners not being able to attend. No other Commissioners were able to attend.

6. **ADJOURNMENT**

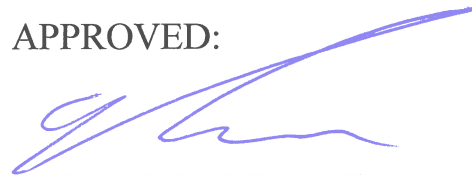
There being no further business, Chairperson DYLINA adjourned the meeting at 7: 19 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINA, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #4016

WHEREAS, the Merced City Planning Commission at its regular meeting of February 6, 2019, held a public hearing and considered **Conditional Use Permit #1228**, initiated by Mark Patterson, on behalf of Gateway Park Development Partners, LLC, property owner. This application involves a request to allow the sale of beer and wine for off-site consumption within an ARCO convenience market, generally located at the southeast corner of Campus Parkway and Coffee Street (810 S. Coffee Street). The subject site has a General Plan designation of Regional Commercial (RC) and is zoned Planned Development (P-D) #74; also known as Assessor's Parcel Number 061-250-092; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through E of Staff Report #19-06; 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 #18-68, and approve Conditional Use Permit #1228, 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 HARRIS, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4016

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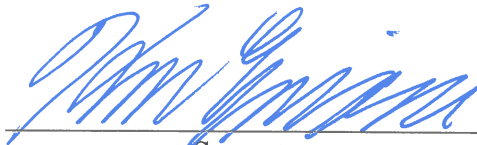
February 6, 2019

Adopted this 6th day of February 2019



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions: CUP#1228 (Alc sales for off-site consumption at new gas station)

Conditions of Approval
Planning Commission Resolution # 4016
Conditional Use Permit #1228

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan), Attachment C of Planning Commission Staff Report #19-06, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions” 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. The Project shall comply with the conditions set forth in Planning Commission Resolution #3084 for the Merced Gateway Project [General Plan Amendment #15-03, Zone Change #422, and Establishment of Planned Development (P-D) #74] and Site Plan Review Resolution #426 previously approved for this project.
5. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
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 (with counsel selected by the City), 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 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 sales of alcoholic beverages shall be allowed between the hours of 2:00 a.m. and 6:00 a.m.
9. No beer or wine shall be displayed within five (5) feet of the cash register or the front door.
10. No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
11. No sale of alcoholic beverages shall be made from a drive-through window.
12. No display or sale of beer or wine shall be made from an ice tub.
13. No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.
14. Employees shall be at least twenty-one (21) years of age to sell alcohol.
15. No single-serving containers smaller than 20 ounces shall be sold individually, unless otherwise approved by the Police Chief or designee. Any containers smaller than 20 ounces shall be sold as part of a larger pack (i.e., 6-pack or 12-pack).
16. "No Loitering" signs shall be placed on the building along the alley and the front of the store.
17. The proprietor and/or successors in interest and management shall be prohibited from externally advertising or promoting beer & wine and/or distilled spirits including, but not limited to, window and wall signage.
18. This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.

19. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
20. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.
21. Sufficient lighting shall be provided throughout the site to provide a safe environment for patrons of the market. Details to be worked out with staff.
22. The premises shall remain clean and free of debris at all times.

n:shared:planning:PC Resolutions: CUP #1228 Exhibit A