

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, November 14, 2018

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

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Principal Planner Hren, Interim Deputy City Attorney Flores, and Recording Secretary Davis

1. APPROVAL OF AGENDA

M/S PADILLA-HARRIS, and carried by unanimous voice vote, to approve the Agenda as submitted.

2. MINUTES

M/S HARRIS-RASHE, and carried by unanimous voice vote, to approve the Minutes of October 3, 2018, as submitted.

3. COMMUNICATIONS

None.

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4. **ITEMS**

- 4.1 Commercial Cannabis Business Permit #18-14R, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for both medicinal and adult use cannabis and cannabis-related products on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th St.

Commissioner MARTINEZ recused himself due to a conflict of interest with Harvest of Merced and left the Chambers at 7:05 p.m.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #18-30. He noted a memo furnishing supplemental information, provided by the applicant for Harvest of Merced, which was not included in the staff report that was presented to the Commission prior to the meeting.

The Commission asked staff for clarification on topics that included why the smaller parcel was considered separate from the larger parcel of the Wolfe Center and why the smaller parcel of the Wolfe Center was not included in the Conditional Use Permit that was applied for in the past.

Public testimony was opened at 7:22 p.m.

Speakers from the Audience in Favor:

DOUGLAS SMURR, Gordon & Rees, LLP, representing the applicant (Harvest of Merced), Sacramento

STEVE GOMES, former Merced County Superintendent of Schools, Merced County Office of Education, Merced

Speakers from the Audience in Opposition:

ZACH DRIVON, representing appellant (Medallion Wellness), Stockton

MIKE WARDA, Turlock

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SUSAN COSTON, Assistant Superintendent, Special Education,
Merced County Office of Education, Merced

HOLLY NEWLON, Director, College & Career, Merced County
Office of Education, Mariposa

Mr. SMURR indicated that the smaller parcel, in question, should not be classified as a school because the Special Education instruction consists of students 18-22 years of age and that the K-12 instruction is intermittent and not full-time instruction.

Mr. GOMES echoed Mr. SMURR's points. He added that the Wolfe Education Center does not have a County/District/School (CDS) code and is not approved through the Board of Trustees; therefore is not a school.

Mr. DRIVON pointed out that the Wolfe Education Center should be considered a school because it currently has full-time 3rd grade instruction in classroom W13 (the smaller parcel) for special education students; it meets the State's definition of a school (a CDS number, State funding, State-wide assessments, etc.); and, the construction of both buildings are based on the California Field Act standards for construction of school buildings.

Mr. DRIVON posited that although the parcels are divided, they have common access points (shared parking lot and walkways); therefore, the parcels should be viewed collectively.

Commissioner HARRIS asked for clarification on the CDS code provided for the Wolfe Center, as there was some conflicting information. It was indicated by Mr. DRIVON, based on the questions presented to MCOE, that the number provided was used by the Wolfe Center to obtain funding from the State for the special education class. Mr. HREN confirmed, with reference to Attachment P of Staff Report #18-30, that the CDS number in question, for the Wolfe Center was utilized for all special education instruction and not just for the classes in W13.

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The Commission asked clarifying questions pertaining to the frequency of the special education instruction at the Wolfe Center's smaller parcel and whether or not State funding was only reserved for schools as opposed to education programs.

Public testimony was completed at 8:32 p.m.

Commissioner CAMPER and Chairperson DYLINEA disclosed to the Commission that they each made separate visits to the Wolfe Center prior to the meeting.

The Commission asked staff and Counsel for clarification on the action they need to take and discussed the evidence brought to them from both sides.

M/S PADILLA-RASHE, and carried by the following vote, to make a finding of fact that, based on the evidence on the record, both in the staff report and from the public testimony on November 14, 2018, the proposed location for Harvest of Merced is within 1,000 feet of a school; and therefore deny Commercial Cannabis Business Permit #18-14R (Resolution #4010):

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

NOES: None

ABSENT: None

ABSTAIN: Commissioner Martinez

4.2 Cancellation of November 21, 2018, and December 19, 2018, Planning Commission Meetings due to the holidays.

M/S PADILLA-CAMPER, and carried by the following vote, to cancel the Planning Commission meetings of November 21 and December 19, 2018:

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

NOES: None

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ABSENT: Commissioner Martinez

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.

6. **ADJOURNMENT**

There being no further business, Chairperson DYLINEA adjourned the meeting at 9:00 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINEA, Chairperson
Merced City Planning Commission

Note: Resolution #4010 has not yet gone into effect. The decision has been remanded, by the City Council, back to the Planning Commission at a later date.

CITY OF MERCED
Planning Commission

Resolution #4010

WHEREAS, the Merced City Planning Commission at a special meeting of November 14, 2018, held a public hearing and re-considered **Commercial Cannabis Business Permit #18-14R**, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for both medicinal and adult use cannabis and cannabis-related products on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th St.; also known as Assessor's Parcel Number (APN) 031-173-012; and,

WHEREAS, the Merced City Planning Commission concurs with the finding of fact for denial in Staff Report #18-30, as follows:

- 1) Based on the evidence on the record, both in the staff report and from the public testimony on November 14, 2018, the Planning Commission finds that 863 W. 15th St. is within 1,000 feet of a school, as defined in MMC 20.44.170(C).47.

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 deny Commercial Cannabis Business Permit #18-14R.

Upon motion by Commissioner PADILLA, seconded by Commissioner RASHE, and carried by the following vote:

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

NOES: None

ABSENT: None

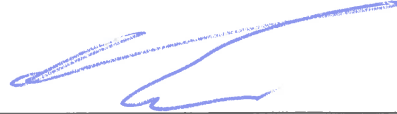
ABSTAIN: Commissioner Martinez

PLANNING COMMISSION RESOLUTION # 4010

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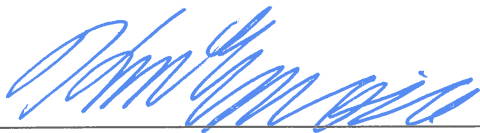
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Adopted this 14th day of November 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary