

RESOLUTION NO. 2015-_____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MERCED, CALIFORNIA,
APPROVING A NEGATIVE DECLARATION
FOR GENERAL PLAN AMENDMENT #15-02
AND SITE UTILIZATION PLAN REVISION
#18 TO PLANNED DEVELOPMENT (P-D) #4
AND APPROVING GENERAL PLAN
AMENDMENT #15-02 CHANGING THE
LAND USE DESIGNATION FROM
COMMERCIAL OFFICE (CO) TO
NEIGHBORHOOD COMMERCIAL (CN) FOR
A 0.92 ACRE PARCEL LOCATED AT THE
SOUTHEAST CORNER OF OLIVE AVENUE
AND M STREET**

WHEREAS, the City is processing an application for a General Plan Amendment and Site Utilization Plan Revision for a 0.92 acre parcel located at the southeast corner of Olive Avenue and M Street, and more fully described in the legal description attached as Exhibit "A" and the map attached as Exhibit "B," both of which are incorporated herein by this reference; and

WHEREAS, environmental review was required for this project; and

WHEREAS, the Planning Commission of the City of Merced held a noticed public hearing on June 17, 2015, at which time all those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding the application; and

WHEREAS, after hearing all of the evidence and testimony and after exercising its independent judgment and review, the Planning Commission adopted Resolution #3052, attached hereto as Exhibit "C," and incorporated herein by reference, recommending that the City Council approve General Plan Amendment #15-02 (Mitigated Negative Declaration); and

WHEREAS, the City Council held a noticed public hearing on August 3, 2015, at which time all those interested in the matter were provided the opportunity to speak or to provide written or oral testimony regarding the application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MERCED AS FOLLOWS:

SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT. Based upon the evidence and testimony in the record at the City Council public hearing, the City Council exercising its independent judgment and review, hereby adopts and approves the Negative Declaration following Environmental Review #15-09 pursuant to the provisions of the California Environmental Quality Act.

SECTION 2. GENERAL PLAN AMENDMENT ADOPTION. The General Plan of the City of Merced is hereby amended by approving General Plan Amendment #15-02, which changes the General Plan designation of a 0.92 acre parcel located at the southeast corner of Olive Avenue and M Street from Commercial Office (CO) to Neighborhood Commercial (CN).

SECTION 3. APPROVAL OF DEVELOPER AGREEMENT. The Developer Agreement between the City of Merced and Shemoil Moradzadeh, pertaining to the approvals granted herein and the development of the property subject to these approvals is hereby approved. The approvals granted herein are contingent upon the property owner executing and returning the Developer Agreement and the documents being recorded. The City Manager is hereby authorized to execute the Developer Agreement on behalf of the City of Merced.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2015, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
JOHN M. BRAMBLE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Ken Ayala 7/14/15
City Attorney Date

Exhibit A
Legal Description

Parcel 1 as shown on the Parcel Map entitled "Parcel Map for Gibraltar Savings and Loan Assoc.," recorded in Book 19 at Page 40 of Merced County Records; also known as Assessor's Parcel Number (APN): 007-250-020.

GPA #15-02/SUP Rev. #18 to P-D #4
3080 M St.
Change from CO to CN

OLIVE

M

Change General Plan
Designation from
Commercial Office (CO) to
Neighborhood Commercial (CN)

OLIVEWOOD

EXHIBIT B

N



CITY OF MERCED
Planning Commission

Resolution #3052

WHEREAS, the Merced City Planning Commission at its regular meeting of June 17, 2015, held a public hearing and considered **General Plan Amendment #15-02 and Site Utilization Plan Revision #18 to Planned Development (P-D) #4**, initiated by Shemoil Moradzadeh, property owner. This application is a request to change the General Plan designation from Commercial Office (CO) to Neighborhood Commercial (CN) and to change the Site Utilization Plan designation from “Financial Institution” to “Retail” for an approximately 0.92 acre parcel located at the southeast corner of M Street and Olive Avenue; also known as Assessor’s Parcel No. 007-250-020; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #15-13; and,

NOW THEREFORE, after reviewing the City’s Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Negative Declaration regarding Environmental Review #15-09, and approval of General Plan Amendment #15-02 and Site Utilization Plan Revision #18 to Planned Development (P-D) #4, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Padilla, seconded by Commissioner Smith, and carried by the following vote:

AYES: Commissioners McCoy, Padilla, Smoot, Smith, Colby, and
Chairperson Williams
NOES: None
ABSENT: None (one vacancy)
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3052

Page 2

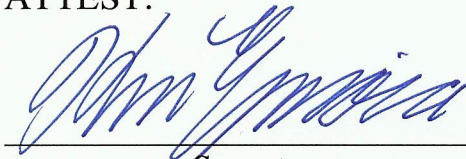
June 17, 2015

Adopted this 17th day of June 2015



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #3052
General Plan Amendment #15-02
Site Utilization Plan Revision #18 to P-D #4

1. The General Plan Land Use Map and the Site Utilization Plan Map for Planned Development (P-D) #4 shall be changed as shown on Exhibit 1 (map of changes) -- Attachment B of Staff Report #15-13.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
4. Approval of the General Plan Amendment and Site Utilization Plan Revision is subject to the applicants entering into a written (developer) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.
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 approval of the General Plan Amendment and Site Utilization Plan Revision allows all principally permitted and accessory uses within a Neighborhood Commercial (C-N) zone [Merced Municipal Code (MMC) Chapter 20.22] subject to all rules and regulations of the Planned Development. Conditional Uses listed in MMC Section 20.22.050 would be allowed subject to Conditional Use Permit review and approval.
8. All signing shall comply with the North Merced Sign Ordinance. A temporary banner permit shall be obtained prior to any tenant installing a temporary banner or sign. Free-standing temporary signs (i.e., sandwich boards, A-frame, feather-type, and moveable/dancing signs) are prohibited.
9. Sufficient parking shall be provided for all tenants of the building. If sufficient parking cannot be provided on-site or within 400 feet of the site as allowed by Merced Municipal Code Section 20.58.370, such use would be unable to locate within this building.
10. Any future modifications to the site or building may require the issuance of a building permit. The owner shall obtain all necessary permits for any improvements to the building or the site.