

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, May 4, 2016

Chairperson COLBY 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: Kurt Smoot, Kevin Smith, Bill Baker, Jill McLeod, Robert Dylina, Peter Padilla, and Chairperson Travis Colby

Commissioners Absent: None

Staff Present: Director of Development Services/Chief Building Official Gonzalves, Planning Manager Espinosa, Principal Planner King, Associate Planner Nelson, Planner Mendoza-Gonzalez, Chief Deputy City Attorney Fincher, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S SMITH-BAKER, and carried by unanimous voice vote, to approve the Minutes of April 6, 2016, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Modification to Conditional Use Permit #1103, initiated by Sarvit Singh, applicant for SPA Petroleum, Incorporated, property owners. This application involves a request to modify an existing Conditional Use Permit to extend alcohol sale hours (for off-site consumption only) from 12:00 a.m. to 2:00 a.m. for the AM/PM mini-market and gas station at the northeast corner of G Street and Olive Avenue, located at 3100 G Street, within a Neighborhood Commercial (C-N) zone.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #16-09.

There was no one present wishing to speak regarding this item; therefore, public testimony was opened and closed at 7:10 p.m.

M/S COLBY-BAKER, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-07, and approve a Modification of Conditional Use Permit #1103, subject to the Findings set forth in Staff Report #16-09, the twenty-two (22) Conditions set forth in Staff Report # 06-67, with the modification of Condition #19, and the addition of Condition #23 set forth in Staff Report #16-09 (RESOLUTION #2908):

(Note: New language underlined, deleted language ~~strikethrough~~)

AYES: Commissioners Baker, Dylina, McLeod, Padilla, Smith, Smoot, and Chairperson Colby

NOES: None

ABSENT: None

ABSTAIN: None

- 4.2 General Plan Amendment #16-01 and Zone Change #423, initiated by Eddie Laplante and Daniel Kazakos, on behalf of Landmark Hill Investments, LLC, property owner. This application is a request to change the General Plan and Zoning designations for an approximately 1.1 acre parcel, located on the north side of East 16th

Street, approximately 245 feet east of G Street. The requested change is to amend the General Plan designation from Thoroughfare Commercial (CT) to High Density Residential (HD) and to change the Zoning designation from Thoroughfare Commercial (C-T) to High Density Residential (R-4) to allow the conversion of an existing 37-unit motel to a 41-unit supportive housing complex with an on-site manager's residence.

Commissioner PADILLA recused himself due to the fact that he had previously done business with one of the parties involved with the project and left the dais.

Associate Planner NELSON reviewed the report. For further information, refer to Staff Report #16-10.

Public testimony was opened at 7:31p.m.

Speakers from the Audience in Favor:

DANIEL KAZAKOS, Merced, the applicant, who provided the Commission with a packet regarding the 2015 HOPE Medical Respite Care Report.

GLORIA M. SANDOVAL, Merced

BRYAN BLEW

Neutral Speaker from the Audience:

TIM LAND, Merced

Speaker from the Audience in Opposition:

CINDY MORSE, Merced

DANIEL KAZAKOS, Merced, the applicant, spoke in rebuttal to comments made during the public testimony.

The Commission questioned the applicant regarding several concerns that included: background checks, the tenant to on-site clinic personnel

ratio, disciplinary procedures, instituting a Sober-Living Agreement for the tenants, the proximity of the site to a future project, the feasibility of so few cars being allowed on-site and how they would affect the tenants' mobility, inclusion of an incentive program to support tenant progression so this doesn't become permanent housing for an individual, whether this was for local residents or for those outside the County, and whether this project complied with the City's fire safety codes.

Director of Development Services/Chief Building Official GONZALVES confirmed that the project complied with necessary building and fire codes.

Mr. KAZAKOS responded to the Commission's questions. He explained that he did not intimately know the process regarding background checks, but added that the CoC (Continuum of Care) used a questionnaire that facilitates their process and allows for a variety of checks. With regard to discipline, Mr. KAZAKOS advised that if a tenant violated any conditions of the Housing Agreement, they would be removed from the program. He stated that the Sober-Living Agreement was not a pertinent measure of the Housing First model. In closing, Mr. KAZAKOS clarified that per federal guidelines, the program cannot exclude anyone from outside the county; however, there is a preference for Merced County residents.

Mr. BLEW gave a brief synopsis of his history and experience with Horizons Unlimited and the Housing First program and an overview of the structure of the program and its success in other counties.

Public testimony was completed at 8:54 p.m.

The majority of the Commissioners commended the applicant for his attempt to improve the homeless situation; however, they voiced concerns of the proximity of the project to the downtown area, the lack of a Sober-Living Agreement, and lack of incentives to move on to other housing options, and suggested the applicant find a more suitable location.

Commissioner BAKER suggested that the proposed improvements to the project site will add an aesthetic appeal to the area for those coming off the freeway. He added that the proposed project is a good start in the improvement of the homelessness situation.

M/S COLBY-SMOOT, and carried by the following vote, to recommend to the City Council denial of a Negative Declaration regarding Environmental Review #16-09, and denial of General Plan Amendment #16-01 and Zone Change #423 (RESOLUTION # 3066):

AYES: Commissioners Dylina, McLeod, Smith, Smoot, and Chairperson Colby

NOES: Commissioner Baker

ABSENT: None

ABSTAIN: Commissioner Padilla

Commissioner PADILLA returned to the dais.

4.3 General Plan Amendment #16-02, initiated by the City of Merced, to amend the Safety and Conservation Elements of the Merced Vision 2030 General Plan to include information, maps, and policies consistent with state mandates related to protection of property and loss of life from future local flood events.

Principal Planner KING reviewed the report on this item. For further information, refer to Staff Report #16-08.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened and closed at 9:21 p.m.

M/S PADILLA-COLBY, and carried by the following vote, to recommend to the City Council adoption of a Categorical Exemption regarding Environmental Review #16-10, and approval of General Plan Amendment #16-02 (RESOLUTION #3067):

AYES: Commissioners Baker, Dylina, McLeod, Padilla, Smith, Smoot, and Chairperson Colby

NOES: None

May 4, 2016

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.

6. **ADJOURNMENT**

There being no further business, Chairperson COLBY adjourned the meeting at 9:25 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



TRAVIS COLBY, Chairperson
Merced City Planning Commission

**CITY OF MERCED
Planning Commission**

Amended by PC on 5/4/2016. See pg. 5

Resolution #2908

WHEREAS, the Merced City Planning Commission at its regular meeting of November 8, 2006, held a public hearing and considered **Conditional Use Permit #1103**, initiated by Cadiz-Cadiz Architects, applicant for North Cal Service Station, LP-Merced, property owners. This application involves a request to allow the demolition of the existing gas station and mini-market and the construction of a new AM/PM mini-market (including beer and wine sales) and gas station at the northeast corner of G Street and Olive Avenue (3100 G Street), within a Neighborhood Commercial (C-N) zone; also known as Assessor's Parcel No. 006-121-003; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #06-67; and,

WHEREAS, after reviewing the City's Initial Study and Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #06-71, and approves Conditional Use Permit #1103, subject to the following conditions:

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) -- Attachments B and C of Staff Report #06-67, except as modified by the conditions.
2. All conditions contained in *Resolution #1249 ("Standard Conditional Use Permit Conditions"—except for Condition #16 which has been superceded 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 developer/applicant shall indemnify, protect, defend, and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all

PLANNING COMMISSION RESOLUTION #2908

Page 2 of 5

November 8, 2006/ May 4, 2016

- 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 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 driveway along G Street shall be expanded to be 40-feet wide (rather than the 35-feet proposed) in order to allow refuse trucks room to maneuver on-site with minimal backing. The additional 5-feet shall be obtained by extending the driveway an additional 5-feet north.
 8. All signage shall comply with the North Merced Sign Ordinance. This shall include all gas pump signing as well as building and free-standing signs.
 9. Any illuminated banding on the building or canopy shall be counted as signing. Non-illuminated banding that is not greater than 6-inches

PLANNING COMMISSION RESOLUTION #2908

Page 3 of 5

November 8, 2006/ May 4, 2016

- in height shall not be counted as signing. The amount of banding shown on the elevations will need to be reduced to meet code requirements.
10. Window signs shall be discouraged. However, if window signs are installed, they shall not cover more than 35% of the window area. The display areas shown on the elevations for rotating temporary signs shall be removed.
 11. The site shall be maintained free of graffiti. Any graffiti shall be removed immediately and painted over with a color that matches the existing building color.
 12. A complete landscape/sprinkler plan shall be submitted at the building permit stage. Parking lot trees shall be provided at a ratio of one tree for every six parking stalls.
 13. No beer or wine shall be displayed or stored outside of the cooler area.
 14. The proprietor and/or successors in interest and management shall be prohibited from advertising or promoting beer & wine and/or distilled spirits on the motor fuel islands and no self-illuminated advertising for beer or wine shall be located on the building or in the windows.
 15. No sale of alcoholic beverages shall be made from a drive-in window.
 16. No display or sale of beer or wine shall be made from an ice tub.
 17. Employees on duty between the hours of 10 p.m. and 2 a.m. shall be at least 21 years of age to sell beer and wine.
 18. 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.
 19. Alcohol sales shall cease at ~~12:00 a.m. (midnight)~~ 2:00 a.m. regardless of the business hours for the store in general.
 20. The area within the mini-market dedicated to the display and sale of alcoholic beverages (beer and wine) shall not be more than 4 cooler spaces (typical of those found in a grocery store or convenience market) or approximately 40 square feet.

Amended
by PC on
5/4/2016

PLANNING COMMISSION RESOLUTION #2908

Page 4 of 5

November 8, 2006/ May 4, 2016

21. A grease interceptor may be required. This will be determined at the building permit stage based on the type of food prepared and served and waste generated.
22. 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 in conformance with the procedures outlined in the Merced Municipal Code.

Upon motion by Commissioner Burr, seconded by Commissioner Acheson, and carried by the following vote:

AYES: Commissioners Acheson, Amey, Ward, Burr, and Chairman Shankland

NOES: None

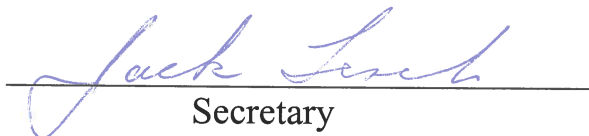
ABSENT: Commissioners Conte and Fisher

Adopted this 8th day of November, 2006



Chairman, Planning Commission of
the City of Merced, California

ATTEST:


Secretary

PLANNING COMMISSION RESOLUTION #2908

Page 5 of 5

November 8, 2006/ May 4, 2016

May 4, 2016: At their regularly scheduled meeting of May 4, 2016, the Merced City Planning Commission considered Modification to Conditional Use Permit #1103 and Environmental Review #16-07.

WHEREAS, the Merced City Planning Commission concurs with Findings A through E of Staff Report #16-09; 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 adopt a Categorical Exemption regarding Environmental Review #16-07, and approve a Modification of Conditional Use Permit #1103 with the modification of Condition #19 (see page 3) and the addition of Condition #23 as follows (new language underlined):

23) The business shall meet all applicable Alcoholic Beverage Control (ABC) requirements.

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

AYES: Commissioners Baker, Dylina, McLeod, Padilla, Smith, Smoot and Chairperson Colby

NOES: None

ABSENT: None

ABSTAIN: None

CITY OF MERCED
Planning Commission

Resolution #3066

WHEREAS, the Merced City Planning Commission at its regular meeting of May 4, 2016, held a public hearing and considered **General Plan Amendment #16-01 and Zone Change #423**, initiated by Eddie Laplante and Daniel Kazakos, on behalf of Landmark Hill Investments, LLC, property owner. This application is a request to change the General Plan and Zoning designations for an approximately 1.1 acre parcel, located on the north side of East 16th Street, approximately 245 feet east of G Street. The requested change is to amend the General Plan designation from Thoroughfare Commercial (CT) to High Density Residential (HD) and to change the Zoning designation from Thoroughfare Commercial (C-T) to High Density Residential (R-4) to allow the conversion of an existing 37-unit motel to a 41-unit supportive housing complex with an on-site manager's residence; also known as Assessor's Parcel Number (APN): 034-204-002; and,

WHEREAS, the Merced City Planning Commission hereby adopts Findings K through M as follows:

FINDINGS FOR DENIAL OF GPA #16-01/ZC #423

- K) On May 4, 2016, the Planning Commission held a public hearing on the proposed General Plan Amendment #16-01/Zone Change #423 and heard testimony from four individuals, including the applicant.
- L) Although the Planning Commission felt that the applicant's goals for the project and desire to help the homeless problem in the community were worthy, the Planning Commission agreed that the location was not ideal due to its close proximity to Downtown, which already houses a number of homeless service programs, and the safety of pedestrian and bicycle traffic and disabled access in such close proximity to the Highway 99 off-ramp and high speed traffic.
- M) The Planning Commission was concerned about the lack of requirements for the tenants to sign a "sober living agreement" and the lack of a structured treatment program for alcohol and substance abuse issues and mental health issues. The Commission was also concerned about the lack of incentives in the program for tenants to resolve their

PLANNING COMMISSION RESOLUTION #3066

Page 2

May 4, 2016

issues and move onto other housing and employment options as well as the lack of information provided regarding the success rate of similar programs.

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 denial of a Negative Declaration regarding Environmental Review #16-09, and denial of General Plan Amendment #16-01 and Zone Change #423.

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

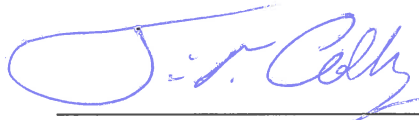
AYES: Commissioners Dylina, McLeod, Smith, Smoot, and
Chairperson Colby

NOES: Commissioner Baker

ABSENT: None

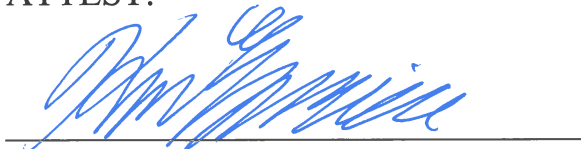
ABSTAIN: Commissioner Padilla

Adopted this 4th day of May 2016



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

CITY OF MERCED
Planning Commission

Resolution #3067

WHEREAS, the Merced City Planning Commission at its regular meeting of May 4, 2016, held a public hearing and considered **General Plan Amendment #16-02**, initiated by the City of Merced, to amend the Safety and Conservation Elements of the *Merced Vision 2030 General Plan* to include information, maps, and policies consistent with state mandates related to protection of property and loss of life from future local flood events; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through H of Staff Report #16-08; 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 Categorical Exemption regarding Environmental Review #16-10, and approval of General Plan Amendment #16-02.

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

AYES: Commissioners Baker, Dylina, McLeod, Padilla, Smith, Smoot,
and Chairperson Colby

NOES: None

ABSENT: None

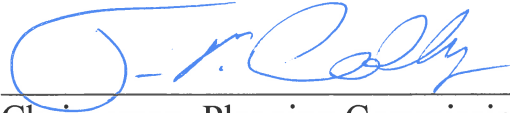
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3067

Page 2

May 4, 2016

Adopted this 4th day of May 2016



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary