



CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

Minutes Planning Commission

Wednesday, April 20, 2022

7:00 PM

A. CALL TO ORDER

Chairperson HARRIS called the Regular Meeting to order at 7:01 PM

A.1. Moment of Silence

A.2. Pledge of Allegiance to the Flag

Commissioner CAMPER led the Pledge of Allegiance to the Flag.

B. ROLL CALL

Clerk's Note: Commissioner Greggains was absent, excused.

Present: 6 - Chairperson Michael Harris, Member Robert Dylina, Member Dorothea White, Member Jose Delgadillo, Vice Chair Mary Camper, and Member Ronnie DeAnda

Absent: 1 - Member Jeremiah Greggains

C. ORAL COMMUNICATIONS

There were no public comments.

D. CONSENT CALENDAR

A motion was made by Member White, seconded by Member Delgadillo, to approve the Consent Agenda. The motion carried by the following vote:

Aye: 6 - Chairperson Harris
Member Dylina
Member White
Member Delgadillo
Vice Chair Camper
Member DeAnda

No: 0

Absent: 1 - Member Greggains

D.1

SUBJECT: Planning Commission Minutes of April 6, 2022

ACTION:

Approving and filing the Planning Commission Minutes of April 6, 2022

ATTACHMENTS

1. Draft Minutes of April 6, 2022

E. PUBLIC HEARINGS AND ACTION ITEMS**E.1**

SUBJECT: Commercial Cannabis Business Permit #21-07, initiated by Zhen Wu for Koyami, Inc., on behalf of James and Lynda Moulton, property owners. This application is to permit indoor cultivation of cannabis and cannabis-based products at 115 Heron Way, using an existing building on approximately 1.66 acres. The property is zoned Light Industrial (I-L), with a General Plan designation of Manufacturing Industrial (IND). **PUBLIC HEARING**

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #21-37 (*Categorical Exemption*)
- 2) Commercial Cannabis Business Permit #21-07

SUMMARY

This application is for a permit to utilize the property at 115 Heron Way, for cannabis-related business activities. The permits seeks to allow Koyami, Inc. to operate an indoor cultivation facility for cannabis and cannabis-related products. The project proposes to use and modify an existing building, which has access to utilities. Staff is recommending approval.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #21-37 (*Categorical Exemption*), and Commercial Cannabis Business Permit (CCBP) #21-07, subject to the conditions in Exhibit A and the findings/considerations in Exhibit B of the Draft Resolution at Attachment A.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #22-267.

Public testimony was opened at 7:11 PM

Speaker from the Audience Neutral:

WENDY THOMAS, Merced

Speakers from the Audience in Favor:

BRYAN WU, Applicant, Sacramento

MICHAEL MARTIN, Representative of applicant, Sacramento

There were no speakers in opposition to the project.

Public testimony was closed at 7:23 PM

A motion was made by Member Dylina, seconded by Member Delgadillo, to adopt a Categorical Exemption regarding Environmental Review #21-37 and approve Commercial Cannabis Business Permit #21-07, subject to the Conditions set forth in Exhibit A (RESOLUTION #4090). The motion carried by the following vote:

Aye: 6 - Chairperson Harris
Member Dylina
Member White
Member Delgadillo
Vice Chair Camper
Member DeAnda

No: 0

Absent: 1 - Member Greggains

E.2

SUBJECT: Cancellation of May 4, 2022, Planning Commission Meeting due to lack of items

ACTION:

Cancel the Planning Commission Meeting of May 4, 2022

A motion was made by Vice Chair Camper, seconded by Member White, to cancel the regular Meeting of May 4th, 2022 due to a lack of items. The motion carried by the following vote:

Aye: 6 - Chairperson Harris
Member Dylina
Member White
Member Delgadillo
Vice Chair Camper
Member DeAnda

No: 0

Absent: 1 - Member Greggains

F. INFORMATION ITEMS

F.1

SUBJECT: Report by Planning Manager of Upcoming Agenda Items

ACTION

Information only.

Planning Manager ESPINOSA went over items for the next several Planning Commission meetings.

Commissioner DYLINE asked for an update on Planning Commissioners being able to add items to the agenda. Deputy City Attorney MADAYAG indicated that she was still researching the matter.

F.2

SUBJECT: Calendar of Meetings/Events

April	18	City Council, 6:00 p.m.
	20	Planning Commission, 7:00 p.m.
	26	Bicycle and Pedestrian Advisory Commission, 4:00 p.m.
May	2	City Council, 6:00 p.m.
	4	Planning Commission, 7:00 p.m. (To be Cancelled)
	16	City Council, 6:00 p.m.
	18	Planning Commission, 7:00 p.m.
June	6	City Council, 6:00 p.m.
	8	Planning Commission, 7:00 p.m.
	21	City Council, 6:00 p.m. (Tuesday)
	22	Planning Commission, 7:00 p.m.
	28	Bicycle and Pedestrian Advisory Commission, 4:00 p.m.

G. ADJOURNMENT

BY:

A handwritten signature in blue ink, appearing to read 'Kim Espinosa', written in a cursive style.

KIM ESPINOSA, SECRETARY
MERCED CITY PLANNING COMMISSION

APPROVED:

A handwritten signature in blue ink, appearing to read 'Michael Harris', written in a cursive style.

MICHAEL HARRIS, CHAIRPERSON
MERCED CITY PLANNING COMMISSION

CITY OF MERCED
Planning Commission

Resolution #4090

WHEREAS, the Merced City Planning Commission at its regular meeting of April 20, 2022, held a public hearing and considered **Commercial Cannabis Business Permit #21-07**, initiated by Zhen Wu for Koyami, Inc., on behalf of James and Lynda Moulton, property owners. This application is to permit indoor Cultivation of cannabis and cannabis-based products at 115 Heron Way, using an existing building on approximately 1.66 acres. The property is zoned Light Industrial (I-L), with a General Plan designation of Manufacturing Industrial (IND); also known as Assessor's Parcel Number (APN) 059-430-033; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K (Exhibit B) of Staff Report #22-267; 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 #21-37 and approve Commercial Cannabis Business Permit #21-07, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner DYLINA, seconded by Commissioner DELGADILLO, and carried by the following vote:

AYES: Commissioners Camper, DeAnda, Delgadillo, Dylina, white, and Chairperson Harris

NOES: None

ABSENT: Commissioner Greggains

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4090

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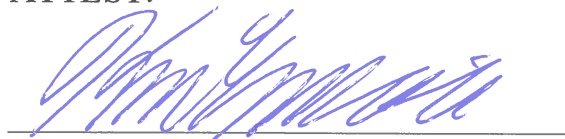
April 20, 2022

Adopted this 20th day of April 2022



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Findings and Considerations

Conditions of Approval
Planning Commission Resolution #4090
Commercial Cannabis Business Permit #21-07

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (floor plan), and Exhibit 3 (Elevations)-Attachments C, D, and E of Staff Report #22-267, and all other application materials submitted by the applicant, including business plans, security plans, etc., except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code Section 20.44.170, "Regulation of Commercial Cannabis Activities—Commercial Cannabis Business Permit Required" shall apply.
3. 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, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City including, but not limited to, City's attorney's fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and to provide all required deposits to fully fund the City's defense immediately but in no event later than five (5) days from that date of a demand to do so from City. In addition, the

developer/applicant shall be required to satisfy any monetary obligations imposed on City by any order or judgment. 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.

4. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
5. 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. State Law shall prevail in regard to cannabis activities as permitted by State Law.
6. The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), as it may be amended or updated from time to time.
7. The proposed project shall provide that all cultivation activities occur indoors within a fully enclosed and secure structure, and ensure that the property on which the structure sits is secure and appropriately screened. The details of the property's fencing, security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
8. The applicant shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment I of Staff Report #22-267) at the time of submittal for building permits for tenant improvements.
9. The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections.

These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.

10. The facility operated by the applicants shall be secured from intentional or accidental access by any person not employed, contracted, or otherwise authorized on the premises, including any tenants of other buildings on the same property.
11. Fire sprinklers shall be modified to accommodate the building configuration and process configuration prior to occupancy.
12. Regulatory Fees, as per Resolution #2021-43, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
13. Prior to issuance of a Certificate of Occupancy, applicant shall acquire a City of Merced Business License.
14. A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with MMC 20.44.170(L)(5), "Commercial Cannabis Business Permit Renewal (All Types)", at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process.
15. Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to the cultivation and/or distribution of cannabis and cannabis-based products may be authorized with the approval of the Director of Development Services by submitting a request for Minor Modification, in accordance with MMC 20.44.170(L)(7), "Modifications to Commercial Cannabis Business Permit (All Types)."
16. In the event that a proposed Minor Modification is submitted by the applicant that includes an expansion of building space being used, Staff

shall reevaluate parking needs and the applicant shall provide additional parking if necessary.

17. If the site is to be gated, there must be a minimum 22-foot-wide clearance for emergency vehicles to pass through when the gate is opened. If the gate requires manual operation, the applicant shall provide a Knox padlock, prior to issuance of a Certificate of Occupancy. If the gate requires electronic operation, prior to issuance of a Certificate of Occupancy, the applicant shall provide a Knox override switch with "Click-to-Enter." Access to this equipment shall be provided to the City of Merced Police, Fire, and Refuse Departments.
18. Prior to commencement of cannabis growing activities, applicant shall provide an estimated volume of City water to be used annually to the City Water Department, and shall have floor plans, equipment, material sheets, and such other materials/plans/permits as deemed necessary approved by the Chief Building Official and Fire Chief.
19. The applicant shall provide or cause to be provided the necessary Accessible Parking Spaces in accordance with Table 11B-208.2, "Parking Spaces" of the California Building Code, Title 24, Part 2.
20. In accordance with Table 20.38-4, "Required Bicycle Parking Spaces" of the City of Merced Zoning Ordinance, the applicant shall provide or cause to be provided a minimum of 2 short-term and 2 long-term bicycle parking spaces.
21. The applicant shall provide required loading spaces in accordance with Table 20.38-5, "Required Loading Spaces."
22. Signage shall be limited to no more than fifty square feet and must comply with MMC 20.44.170(I)(2) that no exterior evidence of cannabis cultivation shall be visible from the public right-of-way. The display of the name of the facility shall not be construed on its own to provide such evidence. Details to be worked out with Planning staff.
23. Prior to issuance of a Certificate of Occupancy, applicant shall provide the City with a fully completed Industrial User Survey per the City's Public Works Department.
24. If determined to be necessary during the egress and ADA plan evaluation of the building permit submittal, applicant shall provide an additional exit to the public way.

Findings and Considerations
Planning Commission Resolution #4090
Commercial Cannabis Business Permit #21-07

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Manufacturing Industrial (IND) and the zoning classification of Light Industrial (I-H) with approval of a Commercial Cannabis Business Permit.

Land Use Issues

- B) The subject site is more than 600 feet from any schools, day care centers, youth centers, libraries, or public parks that are currently in existence, as is required by Section 11362.768 of the Health and Safety Code and Section 20.44.170(E)(3)(f) of the Merced Municipal Code (MMC).

Proposed Operations

- C) An operational flowchart and descriptions of cultivation steps provided by the applicant can be found as part of Attachment F of Staff Report #22-267. The applicant intends to establish and operate an indoor cultivation facility for cannabis and cannabis-based products. The facility will cultivate, grow, and clone cannabis plants. The proposed cultivation rooms would be automated and require minimal supervision, allowing the proposed facility to operate with three to six employees.

Traffic/Circulation

- D) As the project is proposed in an existing building with existing access to the City's roadway infrastructure, and due to conformity with the zoning and land use for the site, no concerns related to traffic or circulation have been raised as a result of this project.

Parking

- E) With the proposed building at approximately 16,000 SF, the Applicant is proposing to use the entire space of this building. Using the regulation for Warehousing, Wholesaling, and Distribution, the number of required spaces is 1 per 2,000 square feet of floor area, or 8 spaces. Bicycle parking spaces, Accessible spaces, and Loading Spaces shall be provided as required in Conditions #19, #20, and #21. With the proposed 23 parking spaces on the Site Plan at Attachment C of Staff Report #22-267,

the required parking is met or exceeded by the proposed project.

Neighborhood Impact/Interface

- F) The subject site is surrounded by industrial uses to the north, south, and east of the property and farmland to the west across Thornton Road. In 2021, the Planning Commission granted approval for Commercial Cannabis Business Permit #20-01, also for cultivation of cannabis, on the property to the north of the subject property. Because of the similar and compatible uses nearby, the fact that the facility will be screened and maintained indoors with HVAC and air-filtering equipment to prevent odors, staff believes that approval of this request should not have a significant impact on the surrounding area.

A public hearing notice was circulated in the Merced County Times and mailed to property owners within 300 feet of the subject site three weeks prior to this public hearing. As of the date that this report was prepared, staff has not received any comments from the community about this project.

Signage

- G) Currently submitted plans do not show any request for signage. Any future signage must comply with Condition #22 and are limited to 50 square feet maximum. Any signs shall not provide evidence of cannabis cultivation activities. The display of the name of the facility shall not be construed on its own to provide such evidence.

Safety/Security

- H) The security plan provided by the applicant can be found as part of Attachment C of Staff Report #22-188. The applicant indicates that they will be utilizing security steel doors, bulletproof windows, card key systems, alarm doors, a safe room, a third-party security company, and an alarm system managed by a third party.

Ownership

- I) Koyami, Inc. has one (1) owner with 5% or more interest in the proposed business. Zhen (Bryan) Wu has performed a Live Scan check and has successfully passed a background check to the satisfaction of the Chief of Police.

Modification to Operations

- J) City staff recognizes that the details of operating a business, particularly one in a developing sector such as cannabis and cannabis-based products, requires continual updating of business practices, methodologies, and tools, the modification of which may require alterations to the configuration of the equipment, setup, or layout of the facility. In order to allow for these changes while maintaining the safety of all parties involved, modifications to the permit in the course of cultivation and/or distribution of cannabis and cannabis-based products may be requested by the applicants by submitting a request for Minor Modification, in accordance with MMC 20.44.170(L)(7), “Modifications to Commercial Cannabis Business Permit (All Types)” (Conditions #15 and #16).

Environmental Clearance

- K) The project proposes to utilize an existing building, on a site comprised of approximately 1.66 acres. Planning staff has conducted an environmental review (Environmental Review #21-37) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (no further environmental review is required) is being recommended (Attachment J of Staff Report #22-267).