

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #15-13

AGENDA ITEM: 4.2

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: June 17, 2015

PREPARED BY: Julie Nelson,
Associate Planner

CITY COUNCIL
MEETING DATE: Aug. 3, 2015
(Tentative)

SUBJECT: **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. *PUBLIC HEARING*

ACTION: **PLANNING COMMISSION:**

Recommendation to City Council

- 1) Environmental Review #15-09
- 2) General Plan Amendment #15-02
- 3) Site Utilization Plan Revision #18 to Planned Development (P-D) #4

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #15-09
- 2) General Plan Amendment #15-02
- 3) Site Utilization Plan Revision #18 to Planned Development (P-D) #4

SUMMARY

The subject site is an approximately 0.92-acre parcel located at the southeast corner of M Street and Olive Avenue (Attachment A). The site is located within Planned Development (P-D) #4 and has a General Plan designation of Professional/Commercial Office (CO). The Site Utilization Plan for P-D #4 shows this site designated for a “Financial Institution.” The applicant is requesting a change to the General Plan land use designation from CO to Neighborhood Commercial (CN) and a change to the designation on the Site Utilization Plan map from “Financial Institution” to “Retail”(Attachment B).

The existing building on the site is approximately 11,500 square feet and 43 parking spaces are provided (Attachment C). The site is adjacent to other retail and office uses which share access from both Olive Avenue and M Street (Attachment D). There is also access available from College Green Drive to the east of the site.

The General Plan describes the Neighborhood Commercial designation as an area “for retail shopping areas, primarily in shopping centers, containing a wide variety of businesses including retail stores, eating and drinking establishments, commercial recreation, auto services, etc., to serve residential neighborhoods.” Although there are no residential uses immediately adjacent to the site, there are a number of apartments nearby and single-family dwellings within ¼ mile of the site which could be served by the Neighborhood Commercial uses that would be allowed if this request is approved. Uses allowed on this site if the requested changes are approved would be the same as those allowed in a Neighborhood Commercial (C-N) zone). For a list of uses that could be allowed under the new designations, please refer to Attachment E.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval of General Plan Amendment #15-02 and Site Utilization Plan Revision #18 to Planned Development (P-D) #4 (including the adoption of the Resolution at Attachment H) subject to the following conditions:

- *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.
- *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.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The applicant is requesting to change the General Plan designation and Site Utilization Plan designation for a 0.92 acre parcel located at the southeast corner of Olive Avenue and M Street (Attachment A). The site is currently designated as CO in the General Plan and as a "Financial Institution" in the Site Utilization Plan for Planned Development (P-D) #4. The applicant has requested to change the General Plan designation to Neighborhood Commercial (CN) and the Site Utilization Plan designation to "Retail." There is an existing building on the site

(approximately 11,500 s.f.) as well as 43 parking spaces. There are currently two tenants in the building – a specialty shoe store and a tax preparation service. The applicant, who is also the property owner, has retail users interested in occupying spaces within the building. By changing the General Plan designation to Neighborhood Commercial and the Site Utilization Plan designation to “Retail”, the types of uses allowed at the site would be broader allowing not only retail uses, but also service-related uses (i.e., beauty salons, nail salons, massage establishments) and business or professional offices (refer to Attachment E for a list of allowable uses). Therefore, the existing tenants could remain if desired. No plans are being proposed to make any changes to the site or the building at this time.

Surrounding Uses
(Attachment A)

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Jack-in-the-Box (across Olive Avenue)	P-D #5	Thoroughfare Commercial (CT)
South	Offices	P-D #4	Commercial Office (CO)
East	Starbucks/Retail	P-D #4	Neighborhood Commercial (CN)
West	Social Security Office (across M Street)	P-D #15	Commercial Office (CO)

BACKGROUND

In 1972, the original 3,375-square-foot building was constructed for Gibraltar Savings and Loan. In 1993, an approximately 8,000-square-foot addition was constructed. Shortly thereafter, an urgent care occupied the majority of the building. Since that time, different office uses have occupied the building. Currently there is a specialty footwear business and a tax preparation business occupying portions of the building.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) If approved, future retail uses would comply with the General Plan designation of Neighborhood Commercial (CN) and the zoning designation of Planned Development (P-D) #4 with a “Retail” designation.

Traffic/Circulation

- B) The Institute of Transportation Engineers (ITE) Trip Genera Manual (8th Edition) is used to estimate the number of trips generated by a particular use. However, not all specific uses are identified in the manual. Because specific tenants have not been identified, it is difficult to predict traffic generation for this project. It is likely that at least two tenants would share the building, but given the relatively small size of the building (11,500 s.f.), it does not meet the definition provided by the ITE Manual of a specialty retail center. The use that most closely matches possible future tenants and provides a good average for the variety of uses that could be allowed would be that of a Department Store. The

table below provides trip generation information based on an 11,500-square-foot department store and a comparison of the trips generated by the retail use verses the trips generated by the existing office uses. The Average Daily Trips for both uses is based on the rate per 1,000 square feet of floor area. The Peak Hour Trips (PHT's) is also based on the rate for one hour between 4 and 6 p.m. per 1,000 square feet of floor area.

Use	ADT Rate/ 1,000 s.f.	Total ADT	PHT Rate*/ 1,000 s.f.	Total PHT
Department Store	22.88	263.12	1.78	20.47
General Office	11.01	126.62	1.49	17.14
*Peak Hour Rate – One hour between 4 and 6 P.M.				

As shown above, the retail uses would increase the Average Daily Trips by slightly more than double the general office rate. According to the *Merced Vision 2030 General Plan*, Olive Avenue between M Street and G Street currently has a volume 28,210 ADT's and M Street between Bear Creek and Olive Avenue currently has a volume of 21,140 ADT's. The traffic generated by the retail uses would be equal to 0.9% of the total traffic volume for Olive Avenue between M and G Streets. On M Street between Bear Creek and Olive Avenue, the retail uses would be equal to 1.2% of the total traffic volume. By comparison the general office uses represent 0.5 % of the traffic volume on Olive Avenue and 0.6% of the traffic volume on M Street. The overall traffic volume estimated for the retail uses is less than a significant increase compared to the existing trips generated by the office uses. The proposed change in future tenants would not reduce the current level of service for Olive or M Street below their existing level of service (LOS) C+.

The site has several access points (Attachment D). The driveway on M Street is located completely on this parcel and provides the main access for someone entering the site from M Street. The driveway on Olive Avenue is shared with the parcel to the east (where Starbucks is located). This driveway would be the primary access for vehicles entering from Olive Avenue. There is an additional driveway that shares access to this property located south of the primary driveway on M Street. There is also a driveway on College Green Drive providing access to the site through the adjacent parcels to the east. There are no changes proposed to the access. The current driveways meet City Standards for location and distance from the intersection.

Parking

- C) There are 43 parking spaces provided on the site. This would be sufficient to serve most typical retail uses. However, the parking requirements for office, personal service and restaurant uses are slightly higher than for general retail uses. All future uses would be evaluated to determine if sufficient parking would be available to serve the use with consideration given for any existing uses within the building. If sufficient parking could not be provided, a use would not be allowed to locate at this site (Condition #9).

Public Improvements/City Services

- D) All public improvements are existing for this site. The site is connected to City sewer and water facilities and all sidewalks, curbs, and gutters are installed. Any future improvements to the site may require upgrades or modifications to the public improvements.

Building Design

- E) No changes are proposed to the existing approximately 11,500-square-foot building. The building can be accessed from all frontages with sidewalks provided from the building to the public sidewalk on both Olive Avenue and M Street. Pictures of the building elevations are found at Attachment F. Any future modifications to the building would require building permit approval (unless the improvements are considered to be exempt from permit requirements by the California Building Code). Condition #10 requires the owner to obtain all necessary permits for any work done to the building or the site.

Site Design

- F) No changes are proposed to the site. Parking is provided along the south side of the building both adjacent to the building and along the southern property line. There is also parking provided on the east side of the building adjacent to the building. All driveways and access ways will remain the same. As stated above, Condition #10 requires all necessary permits be obtained for any changes made to the site.

Landscaping

- G) No changes are proposed to the landscaping onsite. The applicant/owner has done a nice job maintaining the landscaping on the site. Any future improvements may require additional landscaping be installed or the replacement of any dead or dying landscape.

Neighborhood Impact/Interface

- H) There are no residential uses directly adjacent to the site. There is a Senior/Assisted Living facility located approximately 200 feet south of the site (refer to the Location Map at Attachment A). All the other uses within the immediate area are commercial uses. The change to the allowable uses on this site is not expected to impact the neighborhood since the site is already being used for commercial uses. The proposed change is consistent with the other uses in the area.

Public hearing notices were sent out to all property owners within 300 feet of the site. To date, staff has not received any comments from the surrounding neighbors.

Signage

- I) No new signs are proposed with this request. Condition #8 requires all signing to comply with the North Merced Sign Ordinance.

Environmental Clearance

- J) The Planning staff has conducted an environmental review (Initial Study #15-09) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Negative Declaration (i.e., no significant adverse environmental effects have been found) is being recommended (Attachment G).

Attachments:

- A) Location Map
- B) Proposed Land Use Changes
- C) Site Plan (Aerial Photo)
- D) Site Access (Aerial Photo)
- E) Allowed Uses
- F) Pictures of Building
- G) Initial Study #15-09
- H) Draft Planning Commission Resolution

Refer to Attachment 1-4 and 5-8 of the Administrative Report for Attachments. Attachment H intentionally omitted.