

CITY OF MERCED
Planning Commission

Resolution #2983

WHEREAS, the Merced City Planning Commission at its regular meeting of March 9, 2011, held a public hearing and considered **Conditional Use Permit #1158**, initiated by Mark Calvano, property owner. This application involves demolition of an existing 31,500-square-foot building in order to construct a convenience store with gas pumps (including “off-site” alcohol sales as an accessory use), two restaurants (one with a drive-through window), and a car wash (or possibly a second restaurant with a drive-through). The Applicant also requests to increase the allowable signage for each of the three parcels created by this development from 200 square feet to 500 square feet, and the construction of a multi-functional pylon sign up to 110 feet tall. The proposed project is on a 3.2-acre site generally located on the southwest corner of East Childs Avenue and Parsons Avenue within a Thoroughfare Commercial (C-T) Zone; also known as Assessor’s Parcel No. 061-240-040; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through W of Staff Report #11-02 - Addendum; and,

WHEREAS, 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 #11-01, and approve Conditional Use Permit #1158, subject to the Conditions set forth in Exhibit A attached hereto.

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

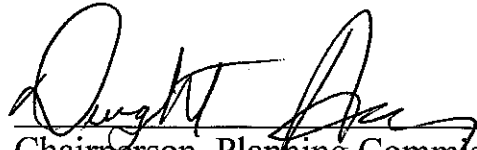
AYES: Commissioners Acheson, Ward, McCoy, Colby, and
Chairperson Amey
NOES: None
ABSENT: Commissioner Cervantes (one vacancy)
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #2983

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March 9, 2011

Adopted this 9th day of March 2011


Chairperson, Planning Commission of
the City of Merced, California

ATTEST:


Secretary

Attachment:

Exhibit A – Conditions of Approval

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Conditions of Approval
Planning Commission Resolution #2983
Conditional Use Permit #1158

Standard Conditions

1. The proposed project shall be constructed/designed as shown on Exhibits 1, 2, 3, 4, 5, and 6 (Site Plan, Roadway Cross-Sections, Convenience Store Elevations, Sit-Down Restaurant Elevations, Restaurant with Drive-through window Elevations, and Telecommunications Tower/Pylon Sign) -- Attachments B through G of Staff Report #11-02 - Addendum, except as modified by the conditions contained within this report.
2. All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions") 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 (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 (with counsel selected by the City), 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 project shall comply with all applicable local, state laws, codes and regulations of the current Edition of the Building, Plumbing and Mechanical Codes, National Electrical Codes, and State Accessibility (ADA) requirements including, but not limited to, site accessibility.
8. The project shall comply with the current Edition of the Fire Codes including, but not limited to, fire sprinklers for all buildings over 5,000 square feet; supervisory fire alarms, key box(s), fire department connection location(s), panic hardware, emergency lighting, illuminated exit signs, etc.
9. The placement of temporary signs on the building walls and windows is subject to City Staff review and approval.

Off-Site Sales of Alcohol

10. If window signs are installed, they shall not cover more than 40% of the window area.
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. No alcohol shall be displayed or stored outside of the cooler areas, including ice tubs.
13. 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 alcohol shall be located on the building or in the windows.
14. No sale of alcoholic beverages shall be made from a drive-in window. No beer or wine coolers shall be sold in “singles.”
15. Employees on duty between the hours of 10 p.m. and 2 a.m. shall be at least 21 years of age to sell alcohol.
16. 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.
17. The area within the mini-market dedicated to the display and sale of alcoholic beverages (beer and wine) shall not be more than 5 cooler spaces (typical of those found in a grocery store or convenience market) or approximately 50 square feet.
18. 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.

Signage

19. None of the proposed signs (inclusive of the monument signs) shall encroach into the 10-foot visual triangle required for each commercial driveway that intersects with a City Street as well as the 40-foot visual triangle at the intersection of Childs and Parsons Avenue.

20. The pylon sign shall be a maximum of 110-feet in height and may be capped with a “Welcome to Merced” sign. The digital reader board is not approved at this time and is prohibited by City Ordinance. However, if the digital reader boards are subsequently allowed by Ordinance amendment said pylon with digital reader board may be approved but subject to the new City Ordinance if and when implemented. Details to be worked out at the site plan review stage. The “Welcome to Merced” cap on the pylon sign shall be a requirement to be placed on the sign if a subsequent Ordinance Amendment is approved allowing for digital reader boards.
21. The applicant is allowed a maximum of 500 square feet of signage per parcel (up to 3 parcels can be created). All signage shall comply with the Merced Sign Ordinance and Zoning Code and be subject to building permits. Signs can only advertise businesses located on this 3.2 acre parcel (also known as APN# 061-240-040).
22. All signs shall be maintained regularly and any damage caused by weathering, vandalism or any other factors shall be repaired in keeping with the approved materials and finishes.
23. The monument signs, wall, or other types of site elements that require illumination constructed along Parsons Avenue shall not exceed a maximum of 4-foot candles, since they are across the street from residential uses. Details to be worked out at the building permit stage.
24. All signage (both sides, except the “Welcome to Merced” sign) installed on the pylon sign for each use counts toward the total sign allowance for each parcel. Only businesses located on the project site (3.2 acre parcel) are eligible to install signage on the pylon sign, with a joint use agreement. No off-premises businesses or events may be advertised on the pylon sign at this time. However, if digital reader boards and off-premises advertising are subsequently allowed by Ordinance Amendment, any off-premise advertising would be limited to the digital reader board after the applicant has obtained the necessary approvals from the City for the installation of a digital reader board.

Circulation

25. The applicant shall improve all adjacent roads to meet City Standards where necessary including but not limited to curb, gutter, sidewalk, park strip, landscaping, street lights, parking, Childs Avenue median, and travel lanes.
26. Secondary access points shall be maintained for each parcel within the project for fire access purposes. The access shall be a minimum of 20-feet in width. These drive aisles shall comply with the City of Merced Standard for commercial development and are to be reviewed by the Fire Department as part of the review of the parcel map and improvement plan submittals. Joint Parking and Access Agreements shall be required to be approved prior to issuance of building permits.
27. The applicants shall install a concrete (non-landscaped) median along Childs Avenue. The median shall begin at the intersection of Parsons and Childs Avenues and stop at a point to be determined by the City Engineer, but at least preventing left-hand turns into the driveway closest to Parsons Avenue, but not further than 300 feet from the eastern property intersection on Childs Avenue. Details to be reviewed by the Planning and Engineering Departments as part of the review of the parcel map and improvement plan submittals.

Site Design

28. Each building shall be internally connected with pedestrian walkways with lighting, which in turn will be connected to public sidewalks along adjacent public streets. Where a building is fronting a street, each building shall have a minimum of two connection points to the public sidewalks.
29. The setback from property lines that parallel public streets for all buildings shall be a minimum of 20 feet. The setback includes all features of the building and the buildings' ancillary features.
30. All exterior utilities will need to be screened with details to be reviewed by Planning Staff at the building permit stage.

31. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project. Refuse containers or other items shall not be permitted to be placed in the required clear space of the turning area.
32. Refuse containers shall be stored in receptacle shelters that match the building elevation to the refuse container(s). Details to be reviewed by Planning and Public Works Staff at the building permit stage.
33. Fire hydrants to be provided and spaced in accordance with City of Merced standards. Placement of fire hydrants and number of hydrants to be worked out at the building permit stage.
34. Concurrent with or prior to submitting the building permit plan, a Lighting Plan shall be submitted to the Planning Department for review. The plan shall be designed to include decorative lamps, low foot-candles (no more than 4 foot-candles along Parsons Avenue) and an even distribution of light. Shields shall be used to prevent light from spilling onto surrounding streets and properties. Top shields are required on pole-mounted lights.
35. A demolition permit is required prior to demolition of the existing buildings from the Inspection Services Division. Prior to issuance of the demolition permit, the applicant shall obtain a release from the San Joaquin Valley Air Pollution Control District.
36. 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.
37. A grease interceptor may be required for any use that requires the preparation of food. This will be determined at the building permit stage based on the type of food prepared and served and waste generated.

Future Applications

38. If the Census Tract in which the parcel is located in is “over-concentrated,” then an alcohol license requires approval of a “Public Convenience or Necessity” Letter (PCN Letter). The allowance for the

sales of Alcohol on the project site, whether it be for on-site consumption or off-site sales, shall be subject to approval by the City Council of a finding of the Public Convenience or Necessity, per the requirements of Alcoholic Beverage Control (ABC).

39. Since detailed elevations, including materials, dimensions, etc. are not available, a Site Plan Review Application is required for the elevations, signage, landscaping, etc. for all buildings on the project site prior to construction, subject to approval by the Site Plan Review Committee.
40. A Parcel Map, subject to approval by the Minor Subdivision Committee, shall be required if the applicant would like to pursue subdividing the 3.2 acre parcel. If the development's 3.2 acre parcel is subdivided, the Telecommunications Tower/Pylon Sign can be located on its own separate parcel. However, if the telecommunications tower and equipment area is located on its own parcel, no signage shall be permitted for this parcel. The 3.2 acre development site shall be limited to a maximum of 1,500 square feet of total signage.
41. If the pylon sign is to be used as a telecommunications tower, approval of a Site Plan Review application by the Site Plan Review Committee will be required once a telecommunications tenant is identified.
42. If the Telecommunications Tower/Pylon Sign parcel were to have an additional building constructed on site (in addition to the other buildings already approved for the site) that catered to customers and required these patrons to visit the commercial business; the site might be eligible for up to 500 square feet of signage with a Site Plan Review Application by the Site Plan Review Committee.

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