

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, June 5, 2019

Chairperson DYLINA called the meeting to order at 7:02 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Mary Camper, Scott G. Drexel, Michael Harris, Peter Padilla, Sam Rashe, and Chairperson Robert Dylina

Commissioners Absent: None (One Vacancy)

Staff Present: Director of Development Services McBride, Principal Planner Hren, Interim City Engineer Beltran, Attorney Flores, and Recording Secretary Hensley

1. **APPROVAL OF AGENDA**

M/S PADILLA-HARRIS, and carried by unanimous voice vote (one vacancy), to approve the Agenda as submitted.

2. **MINUTES**

M/S PADILLA-RASHE, and carried by unanimous voice vote (one vacancy), to approve the Minutes of May 8, 2019, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Consent) Vacation #19-02, initiated by Bright Development, to abandon a 20-foot-wide temporary access easement on Lot 137 within the Summer Creek Subdivision, generally located west of McKee Road at Silverstone Drive.
- 4.2 (Consent) Vacation #19-03, initiated by Jose and Maria Morales, property owners, to abandon a street light easement and storm drain easement within 1368 Griffin Street.

Secretary's Note: The Planning Commission decided to vote on Items 4.1 and 4.2 simultaneously.

M/S HARRIS-RASHE, and carried by the following vote, to find that the proposed Vacations #19-02 (to abandon a 20-foot-wide temporary access easement on Lot 137 within the Summer Creek Subdivision) and #19-03 (to abandon a street light easement and storm drain easement within 1368 Griffin Street), are consistent with the *Merced Vision 2030 General Plan*.

AYES: Commissioners Camper, Drexel, Harris, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: None

4.3 Fiscal Year 2019-2020 Capital Improvement Program (CIP)

Interim City Engineer BELTRAN provided a brief overview of the Fiscal Year 2019-2020 Capital Improvement Plan.

Director of Development Services MCBRIDE clarified that the decision tonight was focused on finding consistency with the General Plan.

M/S DREXEL-HARRIS, and carried by the following vote, to find that the proposed Fiscal Year 2019-2020 Capital Improvement Program (CIP) is consistent with the *Merced Vision 2030 General Plan*.

AYES: Commissioners Camper, Drexel, Harris, Padilla, Rashe, and Chairperson Dylinea

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: None

4.4 Commercial Cannabis Business Permit #18-14R, initiated by Harvest of Merced, LLC., on property owned by Stephen G. Tinetti, trustee. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for both medicinal and adult use cannabis and cannabis-related products on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th Street.

Chairperson DYLINEA recused himself.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #19-16.

Public testimony was opened at 7:25 p.m.

Speaker from the Audience in Favor:

DOUGLAS SMURR, Applicant, Sacramento

There were no speakers from the audience in opposition to the project.

Public testimony was completed at 7:27 p.m.

M/S HARRIS-RASHE, and carried by the following vote, to approve the Provisional Zoning Clearance for 863 W. 15th Street as a retail sales dispensary for cannabis and cannabis-related products, and Commercial Cannabis Business Permit (CCBP) #18-14R, subject to the Findings and twenty-one (21) Conditions set forth in Staff Report #19-16 (RESOLUTION #4021):

AYES: Commissioners Camper, Drexel, Harris, Padilla, and Rashe

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: Chairperson Dylina

- 4.5 Commercial Cannabis Business Permit #18-21R, initiated by Canna Corn, Inc., DBA Medallion Wellness, on property owned by Brian and Beverly Morse, trustees. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for both medicinal and adult use cannabis and cannabis-related products on a 0.55 acre parcel in the General Commercial (C-G) Zone at 808 W. 16th Street.

Chairperson DYLINEA recused himself.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #19-17.

Commissioners PADILLA and HARRIS inquired about the distance between three dispensaries and if staff had any concerns about their proximity to one another.

Mr. HREN clarified that the ordinance did not specify distance requirements between dispensaries, and that there were no staff concerns expressed.

Speaker from the Audience in Favor:

ZACH DRIVON, Applicant, Stockton

There were no speakers from the audience in opposition to the project.

Public testimony was closed at 7:44 p.m.

M/S HARRIS-RASHE, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-34, and to approve the Provisional Zoning Clearance for 808 W. 16th Street as

a retail sales dispensary for cannabis and cannabis-related products, and Commercial Cannabis Business Permit (CCBP) #18-21R, subject to the Findings and twenty (20) Conditions set forth in Staff Report #19-17 (RESOLUTION #4022):

AYES: Commissioners Camper, Drexel, Harris, Padilla, and Rashe

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: Chairperson Dylina

Chairperson DYLINEA returned to the dais.

4.6 Cancellation of June 19, 2019, Planning Commission Meeting due to a lack of items and July 3, 2019, Planning Commission Meeting due to the Holiday

M/S PADILLA-CAMPER, and carried by unanimous voice vote (one vacancy), to cancel the Planning Commission meetings of June 19 and July 3, 2019.

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

Director of Development Services MCBRIDE briefed the Planning Commission on the progress of approved projects. He also invited them to attend the Builders Forum on July 24, 2019.

Chairperson DYLINEA inquired about the existence of a budget for Planning Commissioners to attend educational seminars.

6. **ADJOURNMENT**

There being no further business, Chairperson DYLINEA adjourned the meeting at 7:57 p.m.

Planning Commission Minutes

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June 5, 2019

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINE, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #4021

WHEREAS, the Merced City Planning Commission at its scheduled meeting of June 5, 2019, held a public hearing and considered **Commercial Cannabis Business Permit #18-14R**, initiated by Harvest of Merced, LLC., on a property owned by Stephen G. Tinetti, trustee. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for both medicinal and adult use cannabis and cannabis-related products on a 0.36 acre parcel in the General Commercial (C-G) Zone at 863 W. 15th Street.; also known as Assessor's Parcel No. 031-173-012; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through N of Staff Report #19-16; and,

NOW THEREFORE, the Merced City Planning Commission does resolve to hereby approve Commercial Cannabis Business Permit #18-14R, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner HARRIS, seconded by Commissioner RASHE, and carried by the following vote:

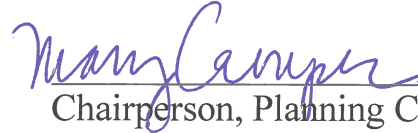
AYES: Commissioners Camper, Drexel, Harris, Padilla, and Rashe
NOES: None
ABSENT: None (one vacancy)
ABSTAIN: Chairperson Dyline

PLANNING COMMISSION RESOLUTION # 4021

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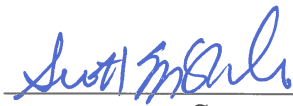
June 5, 2019

Adopted this 5th day of June 2019



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #4021
Commercial Cannabis Business Permit #18-14R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Attachment C of Staff Report #19-16, and Exhibit 2 (floor plan), Attachment D of Staff Report #19-16, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2498 (Attachment J) shall apply. Particular attention shall be paid to MMC 20.44.170(F) “Additional Regulations for Dispensary and Retail Sales of Cannabis” and MMC 20.44.170(G) “Additional Regulations for Commercial Cannabis Delivery Services.”
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,

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION # 4021

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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. 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).
8. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment K of Staff Report #19-16) at the time of submittal for building permits for tenant improvement.
9. The details of the property's fencing (if any), 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.
10. 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.
11. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
12. Regulatory Fees, as per Resolution #2017-67, 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. 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 20.44.170(L).4, "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.
14. As per Ordinance #2498, the use of vending machines to dispense cannabis is strictly prohibited. Any vending machines on the property must not contain cannabis or cannabis-based products.
15. The applicants shall provide or cause to be provided a trash enclosure on the property such that all waste is securely stored until it is removed from the premises. The details, including elevations, roofing, siting, and orientation of the enclosure, shall be responsive to input from the City's Department of Public Works, to whom access to this enclosure shall be provided.
16. Key access and/or a Knox Box to the perimeter fence shall be provided to the City of Merced Fire Department, Department of Public Works, and Police Department.
17. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State standards and regulations.
18. The parking lot shall be repaved and restriped in compliance with the City of Merced's City Standard Designs.
19. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures if applicable, flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.

20. There shall be no shared access to the building sharing a common wall with 863 W. 15th Street. Any existing shared access point must be sealed prior to the issuance of a Certificate of Occupancy.
21. The details of the final design of the exterior elevations and any signage shall be approved by Planning staff prior to issuance of a Certificate of Occupancy.

n:shared:planning:PC Resolutions: CCBP #18-14R Exhibit A

CITY OF MERCED
Planning Commission

Resolution #4022

WHEREAS, the Merced City Planning Commission at its scheduled meeting of June 5, 2019, held a public hearing and considered **Commercial Cannabis Business Permit #18-21R**, initiated by Canna Corn, Inc., DBA Medallion Wellness, on property owned by Brian and Beverly Morse, trustees. This application is a request to permit the operation of a Retail Dispensary, including delivery services, for both medicinal and adult use cannabis and cannabis-related products on a 0.55 acre parcel in the General Commercial (C-G) Zone at 808 W. 16th Street; also known as Assessor's Parcel Number (APN) 031-173-006; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through M of Staff Report #19-17; 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 #18-34 and approve Commercial Cannabis Business Permit #18-21R, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner HARRIS, seconded by Commissioner RASHE, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Padilla, and Rashe
NOES: None
ABSENT: None (one vacancy)
ABSTAIN: Chairperson Dylina

PLANNING COMMISSION RESOLUTION # 4022

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June 5, 2019

Adopted this 5th day of June 2019



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 4022
Commercial Cannabis Business Permit #18-21R

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Attachment C of Staff Report #19-17, and Exhibit 2 (floor plan), Attachment D of Staff Report #19-17, except as modified by the conditions.
2. All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2498 (Attachment I) shall apply. Particular attention shall be paid to MMC 20.44.170(F) "Additional Regulations for Dispensary and Retail Sales of Cannabis" and MMC 20.44.170(G) "Additional Regulations for Commercial Cannabis Delivery Services."
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.

EXHIBIT A

OF PLANNING COMMISSION RESOLUTION # 4022

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. State Law shall prevail in regards to cannabis activities as permitted by State Law.
7. 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).
8. The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment K of Staff Report #19-17) at the time of submittal for building permits for tenant improvement.
9. The details of the property's fencing (if any), 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.
10. 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.
11. Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy. A plan for the modification of the existing building's sprinkler system shall be provided and must meet the approval of the Chief Building Official.
12. Regulatory Fees, as per Resolution #2017-67, 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

EXHIBIT A

OF PLANNING COMMISSION RESOLUTION # 4022

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. 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 20.44.170(L).4, "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.
14. As per Ordinance #2498, the use of vending machines to dispense cannabis is strictly prohibited. Any vending machines on the property must not contain cannabis or cannabis-based products.
15. The applicants shall provide or cause to be provided a trash enclosure on the property such that all waste is securely stored until it is removed from the premises. Access to this enclosure shall be provided to the City's Department of Public Works.
16. Key access and/or a Knox Box to the perimeter fence, if one exists, shall be provided to the City of Merced Fire Department, Department of Public Works, and Police Department.
17. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State standards and regulations.
18. The parking lot shall comply with the City of Merced's City Standard Designs, including repaving and restriping if necessary.
19. If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures if applicable, flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.

20. The details of the final design of the exterior elevations and any signage shall be approved by Planning staff prior to issuance of a Certificate of Occupancy.