



CITY OF MERCED

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

Minutes Planning Commission

Wednesday, August 9, 2023

7:00 PM

A. CALL TO ORDER

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

Chairperson HARRIS welcomed newly appointed Commissioners Yang Pao Thao, Emanuelle Ochoa, and Walter Smith to the Planning Commission.

A.1. Moment of Silence

A.2. Pledge of Allegiance to the Flag

Commissioner GONZALEZ led the Pledge of Allegiance to the Flag.

B. ROLL CALL

Present: 7 - Chairperson Michael Harris, Member Jose Delgadillo, Vice Chair Mary Camper, Member Anthony Gonzalez, Member Yang Pao Thao, Member Walter Smith, and Member Emanuelle Ochoa

Absent: 0

C. ORAL COMMUNICATIONS

There were no public comments.

D. CONSENT CALENDAR

D.1 **SUBJECT:** Planning Commission Minutes of July 5, 2023

ACTION:

Approving and filing the Planning Commission Minutes of July 5, 2023

A motion was made by Member Camper, seconded by Member Delgadillo and carried by the following vote, to approve the Consent Agenda.

Aye: 7 - Chairperson Harris
Member Delgadillo
Vice Chair Camper
Member Gonzalez
Member Pao Thao
Member Smith
Member Ochoa

No: 0

Absent: 0

E. PUBLIC HEARINGS AND ACTION ITEMS

E.1

SUBJECT: Conditional Use Permit #1272, initiated by Paramjeet Singh, on behalf of Encina Investment Group Mainplace Merced, LLC, property owner. This application involves a request for alcohol sales (beer, wine, and distilled spirits) for off-site consumption for a new convenience market at 429 W. Main Street, generally located on the north side of Main Street, approximately 75 feet east of Canal Street, with a General Plan designation of Regional/Community Commercial (RC), and a Zoning classification of Central Commercial (C-C)
CONTINUED PUBLIC HEARING

ACTION: Approve/Disapprove/Modify
 1) Environmental Review #23-18 (*Categorical Exemption*)
 2) Conditional Use Permit #1272

SUMMARY

Paramjeet Singh is requesting approval to sell beer, wine, and distilled spirits for off-site consumption (Type 21 Alcoholic Beverage Control License) for a new convenience market located at 429 W. Main Street. A conditional use permit is required to approve the sale of alcohol for off-site consumption for buildings under 20,000 square feet per Merced Municipal Code Section 20.44.010 - Alcoholic Beverage Sales for Off-Premises Consumption. On July 5, 2023, the Planning Commission considered this matter and voted to continue the public hearing to August 9, 2023. Staff is recommending approval of this application subject to the conditions contained in the Staff Report.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #23-18 (*Categorical Exemption*), and Conditional Use Permit #1272, including the adoption of the Draft Resolution at Attachment A of Staff Report #23-642, subject to the conditions in Exhibit A and the findings/considerations in Exhibit B.

Acting Planning Manager NELSON reviewed the report on this item for Associate Planner MENDOZA-GONZALEZ. For further information, refer to Staff Report #23-642.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened and closed at 7:13 PM.

Vice Chair CAMPER expressed concern that the proposed sale of alcohol for off-site consumption did not fit into the vision that the City has for the downtown area. Other Commissioners agreed with this concern and added that the sale of alcohol for off-site consumption could encourage other unwanted activities in the area such as drinking in public and loitering.

A motion was made by Member Gonzalez to adopt a Categorical Exemption regarding Environmental Review #23-18 and approve Conditional Use Permit #1272 subject to the Findings and twenty-seven (27) Conditions set forth in Staff Report #23-642 (RESOLUTION #4117). The motion failed for lack of a second.

A motion was made by Vice Chair Camper, seconded by Member Delgadillo and carried by the following vote, to request Staff prepare a resolution of intent to deny Conditional Use Permit #1272.

Aye: 6 - Chairperson Harris
Member Delgadillo
Vice Chair Camper
Member Pao Thao
Member Smith
Member Ochoa

No: 1 - Member Gonzalez

Absent: 0

E.2

SUBJECT: Certificate for Alteration #23-01 and Minor Use Permit #23-09 initiated by Melinda Stewart Wilbur, on behalf of Bear Creek Inn, LLC, property owner. The request for the Hooper House (Historic Preservation file #88-01) is to allow the installation of a 7-foot-tall wrought iron security fence around the perimeter of the property located at 575 W. North Bear Creek Drive. The property is generally located on the northeast corner of M Street and North Bear Creek Drive with a Low-Density (LD) Residential General Plan Designation, within a Zoning classification of Residential Planned Development (RP-D) #13. **PUBLIC HEARING**

ACTION: Approve/Disapprove/Modify
1) Environmental Review #23-23 (*Categorical Exemption*)
2) Certificate for Alteration #23-01
3) Minor Use Permit #23-09

SUMMARY

This application is to modify a property considered to be a historic resource by installing a supplemental fence around its perimeter that will encroach into an exterior yard at the southwest corner of the property; the main use for the fence is for security. No change to the current operations of the property is being proposed. Staff is recommending approval.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #23-23 (Categorical Exemption), Certificate for Alteration #23-01 for Hooper House, and Minor Use Permit (MUP) #23-09, subject to the conditions in Exhibit A and the findings/considerations in Exhibit B of the Draft Resolution at Attachment A of Staff Report #23-619.

Development Services Technician II DAVIS reviewed the report on this item. For further information, please refer to Staff Report #23-619.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened and closed at 7:35 PM.

MID requested two added Conditions as follows:

(Note: ~~Strikethrough~~ deleted language, underline added language)

"13. An Encroachment Agreement with MID will be required for the proposed fencing within the MID 30-foot-wide reservation.

"14. MID reserves the right for further comment as unforeseen circumstances may arise."

A motion was made by Vice Chair Camper, seconded by Member Gonzalez and carried by the following vote, to approve Certificate of Alteration #23-01 and Minor Use Permit #23-09, subject to the Findings and twelve (12) Conditions set forth in Staff Report #23-619 (RESOLUTION #4121), including the addition of Conditions #13 and #14 at the request of MID as noted above.

- Aye:** 7 - Chairperson Harris
- Member Delgadillo
- Vice Chair Camper
- Member Gonzalez
- Member Pao Thao
- Member Smith
- Member Ochoa

No: 0

Absent: 0

E.3

SUBJECT: Zoning Ordinance Amendment #23-02, initiated by the City of Merced, involves various changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would add Section

20.08.060 (Small House, Small Lots), modify the existing Chapter 20.42 (Accessory Dwelling Units) and Chapter 20.56 (Density Bonus) to comply with current State law and modify Merced Zoning Ordinance Sections 20.08-1 (Permitted Land Uses in the Residential Zoning Districts) and Section 20.90.020 (Definitions). **PUBLIC HEARING**

ACTION: PLANNING COMMISSION:
 Recommendation to City Council
 Environmental Review #23-24 (*General Rule Exemption*)
 Zoning Ordinance Amendment #23-02
 CITY COUNCIL:
 Approve/Disapprove/Modify
 Environmental Review #23-24 (*General Rule Exemption*)
 Zoning Ordinance Amendment #23-02

SUMMARY

The Merced City Council and the City of Merced have identified housing as a main priority and recently adopted Pro-housing Policies and are working towards a State Pro-housing Designation. To address the City's Pro-housing strategy, updates to the City's Zoning Ordinance have been proposed to facilitate the production of housing that encourages affordability by design, expansion of housing choices, and increased flexibility for housing options and development.

The Proposed Zoning Ordinance Amendment #23-02 seeks to support the City Council's direction to provide increased housing choices and update the Merced Zoning Ordinance to be in compliance with current State law and address the City's Pro-housing strategy.

After this amendment was publicly noticed, staff determined that the Tiny Homes on Wheels Villages section would be removed from consideration at this time.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of Environmental Review #23-24 (General Rule Exemption) and Zoning Ordinance Amendment #23-02 (including the adoption of the Draft Resolution at Attachment A of Staff Report #23-647), subject to the findings/considerations in Exhibit A of the Draft Resolution.

Management Analyst BROWN reviewed the report on this item. For further information, refer to Staff Report #23-647.

Public Testimony was opened at 7:59 PM.

Speaker from Audience in Opposition

FUE XIONG, Resident, Merced, CA

There were no speakers in favor of the project.

Public Testimony was closed at 8:02 PM.

A motion was made by Vice Chair Camper, seconded by Member Delgadillo and carried by the following vote to recommend to City Council the adoption of a General Rule Exemption regarding Environmental Review #23-24 and the approval of Zoning Ordinance Amendment #23-02, subject to the Findings and Considerations set forth in Staff Report #23-647 (RESOLUTION #4120).

- Aye:** 7 - Chairperson Harris
- Member Delgadillo
- Vice Chair Camper
- Member Gonzalez
- Member Pao Thao
- Member Smith
- Member Ochoa

No: 0

Absent: 0

E.4

SUBJECT: Cancellation of August 23, 2023, Planning Commission Meeting due to lack of items

ACTION:

Cancel the Planning Commission Meeting of August 23, 2023

A motion was made by Member Gonzalez, seconded by Member Delgadillo and carried by the following vote, to cancel the Planning Commission meeting of August 23, 2023, due to a lack of items.

- Aye:** 7 - Chairperson Harris
- Member Delgadillo
- Vice Chair Camper
- Member Gonzalez
- Member Pao Thao
- Member Smith
- Member Ochoa

No: 0

Absent: 0

F. INFORMATION ITEMS

F.1 **SUBJECT:** Report by Director of Development Services of Upcoming Agenda Items

ACTION

Information only.

Director of Development Services MCBRIDE went over items for the next several Planning Commission meetings.

F.2 **SUBJECT:** Calendar of Meetings/Events

- August 7 City Council, 6:00 p.m.
- 9 Planning Commission, 7:00 p.m.
- 21 City Council, 6:00 p.m.
- 22 Bicycle and Pedestrian Advisory Commission, 4:00 p.m.
- 23 Planning Commission, 7:00 p.m. **(To be cancelled)**
- Sept 5 City Council, 6:00 p.m. **(Tuesday)**
- 6 Planning Commission, 7:00 p.m.
- 18 City Council, 6:00 p.m.
- 20 Planning Commission, 6:00 p.m.

G. ADJOURNMENT

Clerk's Note: The Regular Meeting adjourned at 8:09 PM.

A motion was made by Member Ochoa, seconded by Member Smith and carried by the following vote, to adjourn the Regular Meeting.

- Aye:** 7 - Chairperson Harris
- Member Delgadillo
- Vice Chair Camper
- Member Gonzalez
- Member Pao Thao
- Member Smith
- Member Ochoa

No: 0

Absent: 0

BY:



SCOTT MCBRIDE, SECRETARY
MERCED CITY PLANNING COMMISSION

APPROVED:


for

MICHAEL HARRIS, CHAIRPERSON
MERCED CITY PLANNING COMMISSION

CITY OF MERCED
Planning Commission

Resolution #4121

WHEREAS, the Merced City Planning Commission at its regular meeting of August 9, 2023, held a public hearing and considered **Certificate for Alteration #23-01, and Minor Use Permit #23-09** initiated by Melinda Stewart Wilbur, on behalf of Bear Creek Inn, LLC, Property owner. This application involves a request to install a 7-foot wrought iron security fence around the perimeter of the historic property (Bear Creek Inn) at 575 W. North Bear Creek Drive, generally located on the northeast corner of M Street and North Bear Creek Drive, with a General Plan designation of Low Density (LD) Residential, within a Zoning classification of Residential Planned Development (RP-D) #13. The subject site is more particularly described as Parcel “B” on that Recorded Map entitled “Parcel Map for Estate of C. Ray Robinson,” recorded in Book 29, Page 48, in Merced County Records; also known as Assessor’s Parcel Number (APN) 007-310-002; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through G (Exhibit B) of Staff Report #23-619; and,

WHEREAS, the Merced City Planning Commission concurs with the Findings for a Certificate for Alteration in Merced Municipal Code Section 17.54.100 (F) and Minor Use Permit in Merced Municipal Code Section 20.68.020 (E), and other Considerations as outlined in Exhibit B; 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 #23-23, and approve Certificate of Alteration #23-01, and Minor Use Permit #23-09, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Camper, seconded by Commissioner Gonzalez, and carried by the following vote:

AYES: Commissioners Smith, Thao, Camper, Ochoa, Gonzalez, Delgadillo, and Chairperson Harris

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4121

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August 9, 2023

Adopted this 9th day of August 2023



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Exhibits:

Exhibit A – Conditions of Approval

Exhibit B – Findings/Considerations

Conditions of Approval
Planning Commission Resolution #4121
Certificate for Alteration #23-01 and Minor Use Permit #23-09

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) - Attachment C of Staff Report #23-619.
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. All previously approved conditions within Planning Commission Resolution #2098-Amended for General Plan Amendment #96-05, Revision #6 for Residential Planned Development #13, and Conditional Use Permit #730 (#923) shall apply.
5. The applicant shall comply with the standards for fences and hedges within Residential zoning districts found in Merced Municipal Code Section 20.30 – Walls and Fences, including Table 20.30-1 – Fence Height in Residential Zoning Districts, unless otherwise modified through the conditions in this approval.
6. 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.

7. This approval allows the applicant to install a 7-foot-tall wrought-iron fence within the exterior yard to be installed in front of the existing 3-foot-tall wooden fence (Finding D of Staff Report #23-619).
8. The proposed fence shall not encroach into the City right-of-way without obtaining any necessary permits from the Merced City Engineering Department.
9. The gate to the proposed fence shall not be blocked and shall include a Knox box to allow access for emergency personnel when necessary.
10. The proposed fence shall provide as much area around existing hydrants as needed for access by emergency personnel. The applicant shall consult with the Fire Department to determine the space needed.
11. The existing 3-foot fence shall not be removed or damaged in any way by the installation of the proposed fence.
12. This approval is for the installation of the wrought-iron fence only and does not permit any other alterations to the historic property.
13. An Encroachment Agreement with MID will be required for the proposed fencing within the MID 30-foot-wide reservation.
14. MID reserves the right for further comment as unforeseen circumstances may arise.

**Findings and Considerations
Planning Commission Resolution #4121
Certificate for Alteration #23-01 and Minor Use Permit #23-09**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The project site has a General Plan designation of Low Density Residential (LD). The current use of the property as a bed and breakfast was approved by a conditional use permit approved in June of 1989 (Attachment E). With the conditions contained in this approval, the proposed alteration of installing a 7-foot fence is consistent with the current designation of the property.

Mandatory Findings for Certificates for Alteration

- B) Merced Municipal Code (MMC) Section 17.54.100 (F) requires that the following findings be made by the Planning Commission in order to approve a Certificate of Alteration:

1. *The action proposed is consistent with the purposes of this chapter.*

With the conditions contained within this approval, the proposed fence shall be consistent with the purposes of this chapter.

2. *The action proposed will not be detrimental to a structure or feature of significance as a historic resource.*

With the conditions contained within this approval, the proposed fence will not be detrimental to the existing structure or feature of significance as a historic resource. The proposed fence shall be installed in front of the existing 3-foot fence with the purpose of protecting it and the property (Condition #11).

3. *The applicant has demonstrated that the action is necessary to correct an unsafe or dangerous condition on the property.*

The proposed fence shall be installed for the purpose of protecting the property and its habitants. The applicant has demonstrated that there is frequent trespassing and vandalizing on the site as well as unlawful entry into the carriage house. The proposed fence would help to secure the premises and protect residents.

4. *The applicant has demonstrated that denial of the application will result in immediate, undue, or substantial hardship.*

The property has experienced a high volume of trespassing that has resulted in property damage, repaired at the applicant's expense. If the fence is not installed, trespassing and damage would continue which results in a substantial financial hardship to repair the property from the damages incurred from people trespassing and vandalizing the property.

Mandatory Findings for Minor Use Permits

C) Merced Municipal Code (MMC) Sections 20.68.020 (E) and 20.30.020 (C) require that the following findings be made by the Planning Commission in order to approve a Minor Use Permit for a fence.

1. *The proposed use is consistent with the purpose and standards of the zoning district, the general plan, and any adopted area or neighborhood plan, specific plan, or community plan.*

As described in Finding A, the proposed land use is consistent with the General Plan designation of Low-Density Residential (LD). With the approval of the conditions, the fence would be consistent with the current General Plan designation.

2. *The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the subject property.*

As indicated on the location map at Attachment B of Planning Commission Staff Report 23-619, the site is surrounded by residential uses on all sides. With the conditions contained within this approval, the proposed fence will be compatible with the existing and future land uses in the vicinity of the subject property.

3. *The proposed use will not be detrimental to the public health, safety, and welfare of the city.*

The proposed project does not include any uses that would be detrimental to the public health, safety, and welfare of the City. Implementation of the conditions of approval and adherence to all applicable Building Codes, Fire Codes, and City Standards would prevent the project from having any detrimental effect on the health, safety, and welfare of the City.

4. *The proposed use is properly located within the City and adequately served by existing or planned services and infrastructure.*

The project site is located within a developed area that is adequately served by infrastructure.

5. *The fence materials are of high quality with an aesthetically-pleasing appearance that fit in well with the neighborhood.*

The proposed wrought-iron fencing is considered a high-quality material and would be aesthetically pleasing and compatible with the surrounding neighborhood.

6. *The added fence height or alternative material is necessary to address privacy, noise, interface, or security concerns and/or issue with animals.*

The increased fence height to 7 feet is needed to help provide security to the site. The location is a very busy location and has a lot of traffic in the area making security difficult without a fence that is at least 7 feet high.

Proposed Operations

- D) The applicant is proposing the installation of a 7-foot-tall wrought iron fence located around the perimeter of the property with three access gates. The wrought-iron fence would be installed in front of the existing 3-foot-tall wooden fence. The gates will include a Knox box to allow access for emergency personnel and shall not block or encroach on City right-of-way (Conditions #8 and #9). Per the MMC Table 20.30-1, a Minor Use Permit would permit a fence within the exterior yard at a maximum of 6 feet in height; however, staff has determined that based on the position of the property, a 7-foot-tall fence would not impact surrounding residential properties.

Parking

- E) No use has been proposed that would require additional on-site parking.

Neighborhood Impact/Interface

- F) As discussed in Finding C above, the site is surrounded by residential uses. With the conditions contained within this approval, staff does not anticipate any impacts to the surrounding properties

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.

Environmental Clearance

- G) Planning staff has conducted an environmental review (Environmental Review #23-23) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and recommends a Categorical Exemption (no further environmental review is required) is being recommended based on Section 15331 (Attachment G of Planning Commission Staff Report #23-619).

CITY OF MERCED
Planning Commission

Resolution #4120

WHEREAS, the Merced City Planning Commission at its regular meeting of August 9, 2023, held a public hearing and considered **Zoning Ordinance Amendment #23-02**, initiated by the City of Merced. This application involves various changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would add Sections 20.08.060 (Small Home Single-Family Dwelling) and Section 20.44.180 (Tiny Homes on Wheels Villages), modify the existing Chapter 20.42 (Accessory Dwelling Units) and Chapter 20.56 (Density Bonus) to comply with current State regulations and amend Merced Municipal Code Sections 20.08-1 (Permitted Land Uses in the Residential Zoning Districts) and Section 20.90.020 (Definitions). These amendments would allow for further development of smaller parcels, smaller unit sizes, villages for Tiny Homes on Wheels or Small Homes and define these units.; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through K of Staff Report #23-647 (Exhibit A); 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 recommend to City Council adoption of a General Rule Exemption regarding Environmental Review #23-24, and approval of Zoning Ordinance Amendment #23-02, as outlined in Attachments B and C of Staff Report #23-647 and subject to the Findings set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Camper, seconded by Commissioner Delgadillo, and carried by the following vote:

AYES: Commissioners Ochoa, Camper, Delgadillo, Gonzalez, Smith, Thao, and Chairperson Harris

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4120

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August 9, 2023

Adopted this 9th day of August 2023



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Exhibits:

Exhibit A – Findings/Considerations

**Findings and Considerations
Planning Commission Resolution #4120
Zoning Ordinance Amendment #23-02**

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed zoning ordinance amendment would make changes in response to changes in State Law regarding accessory dwelling units, density bonus, definitions, and add sections for Tiny Homes on Wheels. General Plan Implementing Action L-2.3. d calls for the City to review and update the Zoning Ordinance as needed.

Proposed Changes to Zoning Ordinance

- B) The ordinance changes are contained in the Draft Ordinance at Exhibit B of Planning Commission Resolution #4120 (Attachment A of Planning Commission Staff Report #23-647). Zoning Ordinance Amendment #23-02 proposes to amend Chapters 20.42 and Chapter 20.56, as well as propose new sections Section 20.44.180 and Section 20.90.020 in order to achieve the City of Merced’s housing goals as well as comply with current state law. Other amendments have been made to support these ordinance changes and include changes to the definitions and the residential land use table. As proposed, Zoning Ordinance Amendment #23-02 include:

- C) Chapter 20.42 – Accessory Dwelling Units (ADUs). The proposed Zoning Ordinance Amendment would revise the existing ADU Ordinance to make minor changes to comply with State Law and add the ability to utilize a Tiny Home on Wheels (THOW) as an ADU.

New ADU laws went into effect on January 1, 2023, requiring changes to Merced's ADU Ordinance to make minor clarifications and additions to the existing ordinance.

The existing ADU Ordinance has been modified to clarify the height requirements for attached ADUs to 25 feet and provides different height limits for detached ADUs that meet certain criteria. Currently, the Ordinance allows for a maximum height of 16 feet for detached ADUs;

pursuant to the provisions of Assembly Bill (AB) 2221 and Senate Bill (SB) 897, the proposed Ordinance would allow detached ADUs near a major transit stop or high-quality transit corridor to be 18 feet with a maximum 2-foot increase to accommodate roof pitch. The proposed Ordinance would also allow a detached ADU up to 18 feet on a parcel with an existing or proposed multi-family, multi-story dwelling.

In an effort to stay ahead of ever-changing State law, a "blanket" statement has also been added to clarify that in the event the ADU Ordinance conflicts with current State law, the provisions of State Law prevail.

- D) Section 20.42.060 – Tiny Homes on Wheels. This section is added to the ADU Ordinance, and would allow Tiny Homes on Wheels (THOW) as a form of detached accessory dwelling unit. The section outlines the standards and provisions required of THOWs that differ from a conventional ADU. Due to the nature of the structure, THOWs are required to register with the California Department of Motor Vehicles. A THOW is also required to show certification demonstrating compliance with all applicable American National Standards Institute (ANSI) A119.2 standards, National Fire Protection Association (NFPA) 1192 standards, Recreational Vehicle Standards, and A119.5 Park Model Recreational Vehicle standards.

- E) Chapter 20.56 – Density Bonus. The proposed Zoning Ordinance Amendment would revise the existing Density Bonus Ordinance to make minor changes to comply with State Law. Effective January 1, 2023, Assembly Bill (AB) 682 added shared housing as eligible for density bonus. Additionally, Assembly Bill (AB) 1551, also effective January 1, 2023, readopted previous legislation that provided development bonuses to commercial projects that partner with affordable housing projects. Language has been added to Chapter 20.56 to support these changes.

In an effort to stay ahead of ever-changing State law, a "blanket" statement has also been added to clarify that in the event the Density Bonus Ordinance conflicts with current State law, the provisions of State Law prevail.

- F) Section 20.44.180 – Tiny Homes on Wheels Villages. **This section will be brought back for consideration at a later date.**
- G) Section 20.08.020 (C) – Small Houses, Small Lots and Small House Villages. Section 20.90.020 has been added to the existing Residential Zoning District Chapter. The purpose of this ordinance is to allow a path forward for smaller lots and smaller homes, thus reducing costs and providing more housing options for different income levels. This Ordinance differs from the existing Small Lot Ordinance (Chapter 20.40) because it permits smaller lot configuration standards, such as lot size, depth, and width, without compromising other development standards such as setbacks. The Small Home Ordinance allows for a smaller home on a proportionally smaller lot, as opposed to a conventional home on a smaller lot with reduced setbacks.
- H) Table 20.08-1 – Permitted Land Uses in the Residential Zoning Districts. Minor modifications have been made to Table 20.08-1 within Chapter 20.08 (Residential Zoning Districts). Table 20.08-1 lists Permitted Land Uses in the Residential Zoning Districts and has been updated to include Small Houses and Small House Villages as permitted uses. Additionally, specific regulations have been added to the multiple-family dwellings line item to reference Sections 20.46.030 and 20.44.180. These sections direct to the multiple-family residential design standards and the Tiny Homes on Wheels Villages sections of the Code, respectively, to provide clarity on the development processes for multi-family development.
- I) Chapter 20.90 – Glossary (Definitions). Chapter 20.90 has been updated to include the language necessary to facilitate the other Zoning Ordinance Amendments included with this application. Definitions for Small House, Small House Village, Tiny Home on Wheels, and Tiny Home on Wheels Village have been added to facilitate the enforcement and provide guidance on what qualifies for these developments.

Time Frames

- J) If recommended for approval by the Planning Commission on August 9, 2023, the Ordinance revisions would be scheduled for a City Council public hearing on September 5, 2023. A second reading and adoption would follow on September 18, 2023, with the Ordinance being effective 30 days later on or about October 18, 2023.

Environmental Clearance

- K) Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a *General Rule Exemption* is being recommended (Attachment C of Staff Report #23-647).