



Legislation Text

File #: 20-461, Version: 1

Report Prepared by: Scott McBride, Director of Development Services and Kim Espinosa, Planning Manager

SUBJECT: Public Hearing - To Receive Comments on the Adequacy of the Findings for (1) Adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program and Report for Conditional Use Permit #1238; (2) CEQA Section 15162 Findings for Environmental Review #20-05 for Site Plan Review Permit #455; (3) Approval of Conditional Use Permit #1238; (4) Approval of Site Plan Review Permit #455; (5) Denial of the Appeal of the Environmental Determinations to Adopt a Mitigated Negative Declaration and Mitigation Monitoring Report and Program for Conditional Use Permit (CUP) #1238 and Environmental Review #20-05 (CEQA Section 15162) for Site Plan Review #455; (6) Denial of the Appeal for Conditional Use Permit #1238; and, (7) Denial of the Appeal for Site Plan Review Permit #455; All of Which Would Allow the Construction of a Mixed-Use Development, Including 200 Apartments, Approximately 22,000 s.f. of Retail Commercial Space, and Approximately 14,000 s.f. of Office Space on a 5.94-Acre Parcel Generally Located at the Southeast Corner of Yosemite Avenue and McKee Road

REPORT IN BRIEF

Considers the Adequacy of the Findings for: (1) Adoption of a Mitigated Declaration for Conditional Use Permit (CUP) #1238; (2) CEQA Section 15162 Findings for Environmental Review #20-05 for Site Plan Review Permit #455; (3) Approval of CUP #1238; (4) Approval of Site Plan Review Permit #455; (5) Denial of the Appeal of the Environmental Determinations; (6) Denial of the Appeal for CUP #1238; and, (7) Denial of the Appeal for Site Plan Review Permit #455.

RECOMMENDATION

City Council - Adopt a motion:

A. Adopting **Resolution 2020-63**, a Resolution of the City Council of the City of Merced, California, Denying an Appeal by Casey Steed and Richard Harriman on behalf of Merced Smart Growth Advocates (MSGGA) Related to Conditional Use Permit #1238, Site Plan Review Permit #455, Mitigated Negative Declaration for Conditional Use Permit #1238, Environmental Determination #20-05 (CEQA Section 15162) for Site Plan Review Permit #455, and Approving a Mitigated Negative Declaration and Mitigation Monitoring Report and Program for Conditional Use Permit #1238, Approving Environmental Determination #20-05 (CEQA Section 15162) for Site Plan Review Permit #455, Approving Conditional Use Permit #1238, Approving Site Plan Review Permit #455, and making Certain Findings and Imposing Certain Conditions in Connection Therewith.

ALTERNATIVES

1. Approve as presented or as modified based upon the comments received during the public hearing related to the adequacy of the findings; or,
2. Continue to a future City Council meeting (date to be specified in City Council motion).

AUTHORITY

Merced Vision 2030 General Plan; -Merced Municipal Code Section 19.28 - Mitigation Monitoring and Reporting Program; the City of Merced Zoning Ordinance Sections - 20.68.020 - Conditional Use Permit Findings, 20.32 - Interface Regulations, 20.46.030 - Standards for Multi-Family Dwellings, 20.46.040 - Landscape Standards, Section 20.38 - Parking Standards, 20.66.040 - Application Review, Section 20.68.050(F) - Site Plan Review Permit Findings, and 20.74 - Appeals.

DISCUSSION

The City Council held a public hearing on May 4, 2020, to consider the appeal of Conditional Use Permit (CUP #1238) and Site Plan Review Permit #455. After receiving the staff report and answering initial questions from the Council, the public hearing was opened. The applicant, appellant and any interested parties were allowed to and did address the Council either verbally or in writing. After receiving testimony and/or written comments from all interested parties, the public hearing was closed and the Council began their deliberations. The Council on its own motion decided to continue their deliberations to a future meeting.

On June 1, 2020, this matter was scheduled for further deliberations before the Council. After receiving the staff report, members of the public were allowed to address the Council. Since the public hearing was closed on May 4, 2020, comments were received in accordance with the Brown Act. In addition, written correspondence was provided to the Council including communication from Ms. Paster, applicant's counsel. Ms. Paster requested a continuance. The Council granted Ms. Paster's request and the matter was continued to the June 15, 2020, City Council meeting for further deliberations.

On June 15, 2020, after a presentation from staff and at the request of Ms. Paster, applicant's counsel, with the concurrence of Mr. Harriman, appellant's counsel, the matter was continued to August 17, 2020, to re-open the public hearing and consider additional evidence related to the appeal.

On August 17, 2020, staff presented a PowerPoint presentation to the Council, the public hearing was re-opened, additional evidence was submitted by the applicant, appellant, and interested parties were heard or submitted written communication to the Council for consideration. After all evidence was submitted, the public hearing was closed and the Council began their deliberations.

After considering all the testimony and other evidence, and although the project did not meet the objective building height standard of 35 feet in the C-N zone or the objective parking standards of 431 parking spaces for the project, based upon the numeric limit on residential units being set at 200, in lieu of granting the appeal and denying the project, the Council exercised its discretion to approve the project with modifications and additional conditions. The Site Plan Review permit allows the building height of Buildings 2 and 4 to exceed 35 feet and the approval of a parking demand study allows the parking standard to be lowered from 431 to 386. With the granting of the Site Plan Review permit and the approval of the parking demand study, the conditioned project meets the General Plan, Zoning Code, and Design standards

The City Council directed staff to prepare findings to deny the appeal and approve the project subject to: (1) the numeric limit on residential units being set at no more than 200; (2) modification of unit types being proportional to the current ratio of unit types; (3) improvements being made to McKee Road; and, (4) modifications to the roof deck, as well as the other items identified in Ms. Paster's letter dated June 12, 2020, which was presented to the Council on June 15, 2020, and included in the administrative record.

Attached to this report are the resolution(s) that contain the findings and conditions for approval of the project in accordance with the direction provided by the Council on August 17, 2020.

City Council Action

The City Council should adopt a motion to approve the resolutions denying the appeal of (1) the environmental determination to adopt a Mitigated Negative Declaration and Mitigation Monitoring Report and Program for Conditional Use Permit (CUP) #1238; (2) Environmental Review #20-05 (CEQA Section 15162) for Site Plan Review Permit #455; (3) Conditional Use Permit #1238; and, (4) Site Plan Review Permit #455; and approve the findings for (5) adoption of the Mitigated Negative Declaration and Mitigation Monitoring Program and Report for Conditional Use Permit #1238; (6) the CEQA Section 15162 Findings for Environmental Review #20-05 for Site Plan Review #455; (7) approval of Conditional Use Permit #1238; and, (8) approval of Site Plan Review Permit #455.

IMPACT ON CITY RESOURCES

The project would be required to annex into the City's Community Facilities District for Services and pay all required Public Facility Financing Program Impact Fees. Payment of these fees and ongoing payment of the CFD taxes would mitigate any expected impacts on City resources.

ATTACHMENTS

1. Draft Resolution(s) with Findings and Conditions of Approval
2. Administrative Record Meeting Date 8-17-2020
3. Administrative Record Meeting Date 6-15-2020
4. Administrative Record Meeting Date 6-1-2020
5. Administrative Record Meeting Date 5-4-2020