



## Legislation Text

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File #: 20-473, Version: 1

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### Planning Commission Staff Report

*Report Prepared by: Julie Nelson, Associate Planner*

**SUBJECT:** Public Hearing to consider the Modification of Conditional Use Permit #1200, submitted by Rick Telegan, on behalf of BP Investors, LLC. This request is to modify Condition #10 of City Council Resolution No. 2015-33 to allow the construction of a part-width roadway for Merrill Place (extended east of G Street). \*\*PUBLIC HEARING\*\*

### **ACTION**

#### PLANNING COMMISSION:

Recommendation to City Council

- 1) Environmental Review #20-20 (CEQA Section 15162 Findings)
- 2) Modification of Conditional Use Permit #1200

#### CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #20-20 (CEQA Section 15162 Findings)
- 2) Modification of Conditional Use Permit #1200

### **SUMMARY**

This is a request is to modify Condition #10 of City Council Resolution 2015-33 to allow the construction of a part-width street (Merrill Place) east of G Street, to the western edge of property owned by BP Investors, LLC (see the location map Attachment A). BP Investors, LLC obtained Conditional Use Permit approval (CUP #1200) in 2015, to construction a 216-unit apartment complex on a 9.8-acre parcel as shown on the site plan at Attachment B (refer to the Background section of this report for updates on the number of units). However, in order to build this project, they need access to G Street via Merrill Place. To date, BP Investors, LLC, has been unable to obtain the necessary right-of-way for Merrill Place (extended). Therefore, Mr. Telegan, on behalf of BP Investors, LLC, is requesting a modification to the conditions of approval for Conditional Use Permit #1200 to allow Merrill Place to be constructed as a part-width road from G Street to the western edge of the apartment project site (refer to Attachment A).

Merced Municipal Code (MMC) Section 18.12.020 - Streets - Conditions of design Section F (2) allows a part-width street to be constructed upon recommendation of the Planning Commission and subject to the approval of the City Council.

Condition #21 of City Council Resolution #2015-33 states that if the necessary right-of-way needed

for Merrill Place cannot be obtained by the developer, the City would take action to obtain the necessary right-of-way. However, subsequent to the approval, it was determined by the Interim City Attorney at the time, Jolie Houston, that this condition would not be enforceable as the City cannot force the dedication of right-of-way only to benefit a specific project. Therefore, staff is recommending this condition be eliminated.

Staff is recommending the Planning Commission recommend to the City Council the modification of Condition #10 to allow the construction a part-width street for Merrill Place and the deletion of Condition #21.

**RECOMMENDATION**

Planning staff recommends that the Planning Commission recommend approval of Environmental Review #20-20 (CEQA Section 15162 Findings) and the applicant’s request to allow a part-width street be constructed for Merrill Place, east of G Street, subject to the approval of the modification of Finding B “Traffic/Circulation” of Exhibit B, and the modification of Condition #10 and deletion of Condition #21 of Exhibit C (Conditions of Approval) of City Council Resolution #2015-33, as shown on Attachment G.

**DISCUSSION**

Project Description

The applicant is requesting a modification to the conditions of approval for CUP #1200 to allow the construction of a part-width street for Merrill Place, east of G Street to the eastern edge of the project frontage (Attachment A). Per MMC Section 18.12.020, part-width roads are allowed with the recommendation of the Planning Commission and approval of City Council. By allowing the part-width road, the developer would be able to construct the 128-unit apartment complex approved by CUP #1200.

The part-width road would be constructed within the existing 37-foot-wide the City currently has. The construction of the part-width road would include one travel lane in each direction (east and west) as well as sidewalk, curb, gutter, bike lane, streetlights, etc. on the south side of the street.

The construction of the part-width street would allow the developer to build the 128-unit apartment complex approved in 2015.

Surrounding uses as noted in Attachment A.

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Vacant	RP-D #61/R-1-5	Village Residential (VR)/Low Density Residential (LD)
South	Vacant/Agriculture	P-D #53	Village Residential (VR)
East	Vacant	County	Village Residential (VR)

West	Vacant	R-1-5	Low Density Residential (LD)
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Background

In 2015, the applicant submitted CUP application #1200 to allow the construction of a 216-unit apartment complex (Attachment B). The Planning Commission denied the request. However, the developer appealed the Planning Commission decision and the City Council approved Conditional Use Permit (CUP) #1200 on appeal.

Although the original plan included 216 units, in December 2015, the developer subsequently revised the plans reducing the number of units to 186 (refer to revised plans at Attachment E). Because this was a reduction in the number of units, the revision was approved administratively. The developer again revised the plans in September 2016, further reducing the number of units to 128 units (Attachment F).

As previously described in this report, the City has had discussions with Bright Development to try to get the additional right-of-way needed. Although Bright is willing to dedicate the right-of-way with their final map, they have not agreed to make the dedication prior to the final map recording. Therefore, the applicant is requesting the part-width street be allowed.

Findings/Considerations

Please refer to Exhibit B (Findings), including the recommended modification of Finding B “Traffic/Circulation” and Exhibit C (Conditions of Approval), including the recommended modification of Condition #10 and deletion of Condition #21 of City Council Resolution #2015-33 at Attachment G.

**ATTACHMENTS**

- A) Location Map
- B) Site Plan - 216 units
- C) Parcel Map for Bandoni-Sunset, LP
- D) Bright Development TSM
- E) Site Plan 186 Units
- F) Site Plan 128 Units
- G) CC Resolution #2015-33 (with proposed revisions)