



Legislation Text

File #: 15-111, Version: 1

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SUBJECT: Public Hearing - Appeal of the Planning Commission's denial of Conditional Use Permit #1200 involving a request to construct a 216-unit apartment complex on a 9.8-acre parcel located on the north side of Merrill Place (extended) approximately 1,200 feet east of G Street

REPORT IN BRIEF

Request to overturn the Planning Commission's denial of Conditional Use Permit #1200 to allow the construction of a 216-unit apartment complex.

RECOMMENDATION

City Council -

To **Deny** the Appeal adopt a motion:

- A. Adopting **Resolution 2015-32**, A Resolution of the City Council of the City of Merced, California, approving Environmental Review #15-07 (CEQA Section 15162 Findings) and denying an appeal by B.P. Investors, L.P. concerning the action of the Planning Commission resulting in the denial of Conditional Use Permit #1200 and thereby denying Conditional Use Permit #1200.

To **Approve** the Appeal adopt a motion:

- A. Adopting **Resolution 2015-33**, A Resolution of the City Council of the City of Merced, California, approving Environmental Review #15-07 (CEQA Section 15162 Findings) and granting an appeal by B.P. Investors, L.P. concerning the action of the Planning Commission resulting in the denial of Conditional Use Permit #1200 and thereby approving Conditional Use Permit #1200 to allow the construction of a 216-unit apartment complex on a 9.8-acre parcel generally located on the north side of Merrill Place (extended) approximately 1,200 feet east of G Street.

ALTERNATIVES

1. Refer back to staff for reconsideration of specific items as requested by Council; or,
2. Continue item to a future Council meeting (date and time to be specified in City Council motion).

AUTHORITY

Title 19 of the Merced Municipal Code outlines environmental review procedures and Title 20 of the Merced Municipal Code (Zoning) regulates the use and zoning of the land. Any person aggrieved by the decisions of the Planning Commission with respect to the granting or denial of a use pursuant to the provisions of this chapter may appeal to the City Council in accordance with MMC Chapter 20.96.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

Proposal/Project Description

The project site is a vacant parcel containing 9.8-acres located north of Cardella Road, approximately 1,200 feet east of G Street (Attachment 1). The proposed project includes the construction of 216 apartment units (in two phases), a clubhouse/leasing building, outdoor gathering areas, a pool, a basketball court, and associated parking facilities within a gated community (refer to the site plan at Attachment 2). Phase One of the project would consist of the construction of 150 units, the clubhouse/leasing building, the pool, one gathering area, and a basketball court, as well as 362 parking spaces.

Access to the site would be from Merrill Place (extended) with a secondary access on the eastern edge of the site. Access to the clubhouse/leasing building is provided at approximately the middle point of the site's frontage along Merrill Place (extended). The site is completely enclosed with fencing except for the front along Merrill Place. Both access point are gated. The access points can be seen on the site plan provided at Attachment 2.

The proposed buildings are three-stories, with a maximum height of 45'3" (building elevations are provided at Attachment 3). The buildings would contain a mixture of one, two, and four bedroom units (Attachments 4 and 5) ranging in size from 542 square feet to 1,339 square feet. The first phase of construction would provide 150 units with a total of 465 bedrooms. Phase Two would add an additional 66 units with 213 bedrooms for a total of 678 bedrooms at full build-out of the project. Although the project would not be exclusively rented as student housing, it is being constructed with the intention of providing housing for UC Merced students. However, it would also be available for other market rate renters.

Building setbacks from the front property line along Merrill Place would vary from 17 to 25 feet. The building façade facing Merrill Place would consist of a variety of building materials, windows, and variation in the depth of the building (which results in the varied setback).

The site is located at the eastern edge of the City limits. Currently, there is no infrastructure (i.e., streets, water, sewer, etc.) provided to the site. Therefore, the developer would be required to extend all necessary City infrastructure from G Street to the site. There are two PG&E power line easements that are adjacent to the project site. Structures would not be allowed within the easement areas, but these areas may be used for providing open space, bike paths, and drainage swales for storm water.

The site is located within Residential Planned Development (RP-D) #61 and is designated for Village Residential. Because the proposed apartment use is consistent with the Zoning, Site Utilization Plan and General Plan designations, the required level of review for this project is a Conditional Use Permit. However, the proposal includes some design elements (building height, setback, and building facade) that are inconsistent with the approved standards for Residential Planned Development (RP-D) #61. As part of the Conditional Use Permit review, the City Council should consider the site and building designs, the impact or benefit to the neighborhood and community as a whole, whether the density is consistent with the Village Residential density requirements, and whether or not the project achieves any Goals and/or Policies of the *Merced Vision 2030 General Plan*.

Background

The project site was part of Annexation and Pre-Zone Application #04-01 initiated by Bright Homes, Absolute, LLC, and Leeco LLC, which was approved by City Council on April 17, 2006, and officially became part of the City on December 26, 2006. This site was part of an approximately 97-acre area that was annexed into the City.

As part of the Pre-Zoning for the annexation area, Residential Planned Development (RP-D) #61 was established which included approximately 14 acres within the annexation area (Attachment 6).

Along with the Annexation and Pre-Zoning applications, two Tentative Subdivision Maps (TSM) were also approved (Attachment 7). One of the maps (TSM #1291) was approved for Bright Development which allowed the subdivision of 39.8 acres into 168 single-family residential lots within an R-1-5 zone. The second map (TSM #1292) was approved for Absolute/Leeco, LLC, and subdivided 48.89 acres into 155 single-family residential lots within an R-1-5 zone. Refer to the map at Attachment 7 for the location of these subdivisions. Neither subdivision has been constructed to date. Bright Development still intends to construct their subdivision, but Absolute/Leeco, LLC has expressed a desire to let their tentative map expire and pursue other development on the property.

Standards for Residential Planned Development (RP-D) #61

When RP-D #61 was approved, a set of Development Standards for the RP-D were approved. Many of these standards were also spelled out in the Pre-Annexation Development Agreement for the area. The maximum height allowed within RP-D #61 is 3 stories or 40'.

The building setback requirement is also defined by the Development Standards for RP-D #61. The RP-D Standards require a minimum 30-foot setback from the front property line. In addition, multi-family projects in Planned Developments are required to comply with Merced Municipal Code Section 20.54.290 (D), which requires a 1:1 height/setback from an exterior property line, for more than 50% of the allowable building area at any established distance from the exterior property line. A 1:1 ratio would require the setback to be 45 feet for at least 50% of the building length.

The Design Standards also address the building facades for multi-family units. The standard states: "In most cases, primary ground floor residential building entrances will face and be visible from the street."

Findings for Denial (not granting the requested appeal)

If the City Council wishes to deny the requested appeal, thus upholding the Planning Commission's denial of CUP #1200, the following proposed Findings have been provided for consideration.

Land Use/Density Issues (Finding for Denial)

- A) The project site is designated for Village Residential uses which allow a minimum of 7 dwelling units per acre and a maximum of 30 dwelling units per acre. The proposed project is at the upper end of the density range, providing 22 dwelling units per acre. Because this project would be primarily to provide student housing for UC Merced, the number of people within the complex would most likely be substantially higher than that typically found in an apartment complex rented primarily to families. The project would provide a total of 678 bedrooms which could result in an overall occupancy of 678 people if the units are occupied by one person per bedroom or possibly, up to 1,354 people if each unit was occupied by two people per bedroom.

Although this density is within the range for property with a Village Residential designation, there are an additional 87 acres (approximately) of land designated as Village Residential within 1,000 feet of the site which would allow additional multi-family units to be constructed in the area (Attachment 8). Given this and the fact that the number of occupants for this project would most likely be well above the typical occupancy for a project with this density, the project would have a greater likelihood of introducing problems within the area and future residential neighborhoods, such as excessive on-street parking in the area, increased police calls, increased noise, and other nuisances. As such, a project within the lower density range for the Village Residential designation would be more compatible with the future neighborhood, specifically the single-family residences proposed to the west, and not create a concentrated area of such a large number of people.

Parking (Finding for Denial)

- B) The off-street parking space requirement for multiple-family dwellings is 1.75 spaces for each unit up to 30 units, and 1.5 spaces for each unit thereafter. Based on this formula, the project would be required to provide 233 spaces with Phase One and 99 spaces with Phase Two for a total of 332 parking spaces. The project proposes to construct 362 parking spaces which would meet the minimum requirements plus an additional 30 spaces.

Although the proposal includes on-site parking spaces that exceed City code requirements, the unique needs and parking demands of student housing are not addressed. Overall, the proposal provides 1.68 parking spaces per unit. As proposed the project consists of 1, 2, and 4 bedroom units with approximately 36% of the units being 4 bedroom/4 bath units (see table below).

UNITS BREAKDOWN BY BEDROOM/BATH

Unit Type	Size	Phase 1 Units	Phase 2 Units	Total Units	Total Bedrooms
1 Bedroom/1 Bath	542 s.f.	9	3	12	12
2 Bedroom/1 Bath	782 s.f.	24	3	27	54
2 Bedroom/2 Bath	916 s.f.	30	18	48	96
4 Bedroom/2 Bath	1,270 s.f.	36	15	51	204
4 Bedroom/4 Bath	1,339 s.f.	51	27	78	312
Total		150	66	216	678

If each bedroom is occupied by a single occupant, the maximum number of people occupying the apartment complex in Phase One would be 465 people. Phase Two would add an additional 213 people for an overall total of 678 people. If each bedroom were occupied by 2 people, the total project occupancy could be up to 1,356 people. The proposal does not include any measures to limit the occupancy of rooms, which could lead to parking demands that exceed the spaces provided (362 spaces). This would lead to project occupants parking on the street and on the adjacent properties, including the streets within the future single-family residential development to the west and the other areas designated for residential uses within close proximity.

Building Design (Finding for Denial)

- C) The proposed height of each building would be 45 feet 3 inches tall (3 stories) (Attachment 3).

The Pre-Annexation Development Agreement for this property allowed a 40-foot building height within the Village Residential areas, while Ordinance #2240 establishing Residential Planned Development (RP-D) #61 stated the maximum building height to be 35 feet. It is staff's opinion that the Pre-Annexation Development Agreement would control and the maximum height within the Village Residential area would be 40 feet.

Although the maximum height allowed would be 40 feet or 3-stories, the proposed buildings are 45 feet 3 inches tall (3 stories). This would exceed the allowable height limit by 5 feet 3 inches.

The single-family residential lots to the west of the site have a height limit of 2 ½ stories or 35 feet. The land to south would have a height limit of 35 feet as well. Therefore, at 45 feet 3 inches, this development would stand much taller than the surrounding uses and would look somewhat disproportional to the other future developments in the area.

In addition, as discussed in Finding D below, the reduced setback for a building of that height would create an imposing presence on the streetscape. Such a tall building that close to the street could make the area feel crowded and less friendly to pedestrians. Such tall buildings close to the street are more typical in Downtown or dense urban areas.

Site Design (Finding for Denial)

- D) The buildings are situated toward the front of the property with the parking bordering the buildings on the north, west, and east (Attachment 2). Due to the varying depth of the buildings, the front setback along Merrill Place would vary from 17 to 25 feet.

The Design Standards for RP-D #61 require a 30-foot setback from the front property line. In addition, multi-family projects in Planned Developments are required to comply with Merced Municipal Code Section 20.54.290 (D), which requires a 1:1 height/setback from an exterior property line, for more than 50% of the allowable building area at any established distance from the exterior property line. A 1:1 ratio would require the setback to be 45 feet for at least 50% of the building length.

The proposed setback of 17 to 25 feet does not meet either requirement described above. The proposed building height of 45 feet 3 inches would be as close as 17 feet from the sidewalk in some areas. For comparison, the Merced Civic Center (City Hall) is approximately 45 feet tall. A building with such mass would prevent the street scape from feeling like a residential neighborhood. It would instead have more of a commercial feel and be less inviting to pedestrians and members of the future surrounding neighborhoods.

Findings for Approval (Granting Appeal)

If the City Council wishes to grant the requested appeal, thereby approving Conditional Use Permit #1200, the following proposed Findings and Conditions of Approval have been provided for consideration.

General Plan Compliance and Policies Related to this Application

- A) The proposed project complies with the General Plan designation of Village Residential (VR) and the zoning designation of Residential Planned Development (RP-D) #61 (with the exception of the design elements described in Finding K below). The Village Residential General Plan designation is a residential designation that allows for a density of 7 to 30 dwelling units per acre with a minimum average of 10 dwelling units per acre. This designation is intended to provide for

the development of mixed-use, medium-density urban “village” centers within ¼ mile of Village Commercial Core areas. A range of densities and dwelling types are permitted in Village Residential areas as long as the average minimum density of 10 dwelling units per acre is met. The proposed density of 22 dwelling units per acre is within the allowable range for land designated as Village Residential. Additional information regarding General Plan compliance and policies related to this project may be found on page 8 of Planning Commission Staff Report #15-11 at Attachment 21.

Traffic/Circulation

- B) The project site would be located on the north side of the future intersection of Merrill Place (extended) and a north/south collector road connecting Merrill Place to Cardella Road (Attachment 9). Because these roads have not been constructed, there is no data available to show existing traffic volume. Both Merrill Place and the future north/south road would be major collectors and have a 74 foot right-of-way with two travel lanes and bike lanes. Refer to Figure 4.24 of the *Merced Vision 2030 General Plan* found at Attachment 10 for the lane configuration.

The intersection of Merrill Place and G Street would be constructed in the same configuration as the intersection on the west side of G Street (Attachment 11). This intersection will eventually be signalized either with the development of the parcels adjacent to G Street or as a City Project. Condition #20 of Exhibit C of the Draft City Council Resolution at Attachment 24 requires a 150-foot deceleration lane on G Street, south of Merrill Place and a 150-foot acceleration lane north of Merrill Place.

With Phase One of the project, Merrill Place would be extended from G Street east to the eastern edge of the project frontage. Condition #10 of Exhibit C of the Draft City Council Resolution at Attachment 24 requires the full roadway to be constructed with two 12-foot-wide travel lanes and striping for bike lanes. Full improvements are required along the north side of the road along the project frontage, but only the travel lanes, bike lanes, curb, gutter, and street lights are required for the southern half. However, a sidewalk would be required along the entire north side of Merrill Place to provide pedestrian access to G Street.

Phase Two of the project would be required to construct the north/south road connecting Merrill Place and Cardella Road. If Cardella Road has not been improved by the time Phase Two of this project is constructed, improvements to Cardella Road would be required to allow Fire Department access (Condition #13 of Exhibit C of the Draft City Council Resolution at Attachment 24).

Primary access to the site would be near the western edge of the property (Attachment 2). A secondary entrance would be provided on the east side of the property. As shown on the site plan at Attachment 2 the entrance would be located near the southeast corner of the site. Due to concerns from the Fire Department about being able to get their Fire Engine in and out of the site, Condition #29 of Exhibit C of the Draft City Council Resolution at Attachment 24 requires this entrance to be moved to the north to align with the internal drive aisle on the north side of the apartments or an additional entrance added to align with this drive aisle allowing the Fire Engine access to the site.

Information regarding estimated trip generation and pedestrian access may be found on Page 10 of Planning Commission Staff Report #15-11 at Attachment 21.

Parking

- C) The parking requirements for apartments are 1.75 spaces for each unit up to 30 units and 1.5 spaces for each unit over 30. Based on this formula, the project would be required to provide 233 spaces with Phase One and 99 spaces with Phase Two for a total of 332 parking spaces. The developer is proposing to construct all the required parking with Phase One and provide an additional 30 spaces above the minimum requirement. Out of the 362 total spaces provided, 224 would be covered with carports and 108 spaces would be open. The tenant parking is provided primarily to the north of the buildings with a small number of spaces to the east and west of the buildings. Seventeen parking spaces are provided in front of the clubhouse/leasing building.

The Zoning Ordinance requires parking spaces based on the number of units within an apartment complex, not based on the number of bedrooms. As long as the project complies with the minimum number of spaces required per unit, the project is in compliance with the regulations set forth in the Zoning Ordinance.

Because the entire parking area would be installed with Phase One (332 spaces), excess parking would be provided for this phase. As mentioned above, the minimum parking requirements for the 150 units to be constructed with Phase One is 233 spaces. Therefore, there would be an excess of 129 spaces provided with the first phase of construction.

If the developer decides to add an additional entrance/exit on the east side of the project to accommodate a fire engine, a few parking spaces may be lost. Staff would confirm at the building permit stage that sufficient parking is provided to meet the minimum requirements of the Zoning Ordinance.

The developer would also be working with UC Merced to provide bus service to the site. If this is accomplished, it could reduce the need for students to have vehicles. Condition #27 of Exhibit C of the Draft City Council Resolution at Attachment 24 requires that if a bus stop is provided it either be located on site or additional right-of-way be dedicated to provide a turn-out for the bus. All bus stops would be required to be handicap accessible and be approved by the City of Merced prior to service being initiated (Condition #27 of Exhibit C of the Draft City Council Resolution at Attachment 24).

Condition #25 of Exhibit C of the Draft City Council Resolution at Attachment 24 also requires bicycle parking be provided. The California Green Code requires bicycle parking to equal at least 5% of the total number of vehicle parking spaces. For this development, if 332 vehicle parking spaces are provided, 17 bicycle parking spaces would be required. Bicycle storage areas are provided on each building near the stairways.

Public Improvements/City Services

- D) Roads: As described in the Traffic/Circulation section above, the project would be responsible for constructing Merrill Place from G Street to the eastern edge of the project site. With Phase Two of the project, the construction of the north/south collector road connecting Merrill Place and Cardella Road would be required. All roads would be required to be constructed to City Standards, providing two vehicle travel lanes and bike lanes on each side of the road. Conditions #10 through #13 spell out the road improvements required.

Water: A water main line would have to be installed in Merrill Place to serve the subject site. The water main would have to be extended from G Street to the eastern edge of the project site. In order to ensure water quality in the line, a fire hydrant would be required to be installed at the end of the line to allow water to be released and not become stagnate within the main line. The line would also be required to be sized appropriately to provide adequate fire protection to the

site. Condition #18 of the Draft Resolution for approval found at Attachment 24 addresses both of these issues. Originally, it was thought that the line would have to be “looped” from the site back to G Street. However, prior to the Planning Commission meeting on May 20, 2015, staff determined that installing the hydrant as described above would provide the same protection.

Sewer: A sewer main would also be required to be installed in Merrill Place to serve the subject site. This development would be responsible for the installation from G Street to the eastern edge of the subject site.

Storm Water: Storm water is required to be maintained on site with Phase One. This could be accomplished by providing a drainage basin in the area where Phase Two would be constructed. At the time of Phase Two, if the storm water cannot be contained on site, the developer would be required to provide an alternative for the storm water. When the site was annexed, it was envisioned that drainage swales would be installed under the PG&E power lines running along the western side of the property. The swales would direct the water to a basin in the park located to the north of the site. Conditions #15, #16, and #17 address the requirements for storm water and the timing of the future basin.

Bike Path: This project would be required to construct a portion of the bike path running parallel with the PG&E power lines on the western side of the site (Condition #19 of Exhibit C of the Draft City Council Resolution at Attachment 24). The project would be required to construct the path along the west property frontage.

Reimbursement for Improvements: In accordance with the provisions of the Merced Municipal Code, the developer would be eligible for reimbursement by the property owners of the adjacent properties where he installed public improvements as follows:

- Sewer/Water Lines - eligible for reimbursement for up to 10 years.
- Streets - eligible for reimbursement for up to 15 years.

Building Design

- E) The proposed buildings would share the same building elevations (Attachment 3). The proposed height of each building would be 45 feet 3 inches tall (3 stories). The buildings vary the dimension of the front of each unit creating more visual interest with variation in depth. The color palette proposed is primarily earth tones (see the color palette at Attachment 12). The exterior materials would be a mixture of stucco and siding. Awnings over some of the windows are staggered between the first, second, and third stories providing some variation to the elevation. The roof has a fairly steep pitch to help balance the appearance of the buildings and would have a metal roofing finish in a brown color to coordinate with the rest of the color palette. All entrances to the units would be from inside the complex. No doors are facing the street.

The buildings are designed in clusters with the entrance to each unit off a common corridor. Elevators as well as an exterior stairway would be provided for each building. Bicycle storage is provided next to the elevators and stairways.

Each building would be provided with a mixture of 1, 2, and 4 bedroom units. Refer to the table below for the breakdown of the number of units and the floor plans at Attachment 4 and the building layout by bedroom at Attachment 5.

UNIT BREAKDOWN BY BEDROOM/BATH

Unit Type	Size	Phase 1 Units	Phase 2 Units	Total Units
1 Bedroom/1 Bath	542 s.f.	9	3	12
2 Bedroom/1 Bath	782 s.f.	24	3	27
2 Bedroom/2 Bath	916 s.f.	30	18	48
4 Bedroom/2 Bath	1,270 s.f.	36	15	51
4 Bedroom/4 Bath	1,339 s.f.	51	27	78
TOTAL		150	66	216

The clubhouse/leasing building would be located near the center of the site. This building would provide leasing services as well as amenities for the tenants. Amenities within the clubhouse include a fitness room, game room, social room, a small kitchen/dining area for tenants and guests to cook and eat in, vending machines, and restrooms. Refer to the floor plan at Attachment 13 for details on the clubhouse amenities.

Site Design

- F) As described above, the site is accessed from two driveways - one from Merrill Place and the second from a private road extending north from Merrill Place at the east side of the property. Depending on how the applicant decides to address Condition #29 of Exhibit C of the Draft City Council Resolution at Attachment 24 requiring access for the City's Fire Engine, a second access could be located on the east side off of the private road. The parking lot layout provides access throughout the site. A vehicle could enter the site from any driveway and be able to travel through the site and out the other side. Each entrance/exit would be gated to provide security for the tenants. A driveway entrance/exit is provided on Merrill Place to serve the clubhouse/leasing building. Condition #30 of Exhibit C of the Draft City Council Resolution at Attachment 24 requires entrance/exit signs at this location to prevent conflicts between vehicles since the driveways are located so close to each other.

The buildings are situated toward the front of the property with the parking bordering the buildings on the north, west, and east. Due to the varying depth of the buildings, the front setback along Merrill Place would vary from 17 to 25 feet.

In addition to the amenities provided within the clubhouse, there are several outdoor amenities provided as well. There is a pool, two gathering areas, and a basketball court. Sidewalks provide connections between the buildings and from the buildings to the amenity areas.

Landscaping

- G) The front setback area and the open space areas between the buildings would be provided with landscaping. Condition #38 of Exhibit C of the Draft City Council Resolution at Attachment 24 requires a detailed landscape sprinkler plan be provided at the building permit stage. All landscaping and irrigation is required to comply with the City's water conservation ordinance as well as all state-mandated water conservation requirements. The use of artificial turf or xeriscape is encouraged.

Neighborhood Impact/Interface

- H) The project site is located within an undeveloped area. The closest house would be

approximately 1,000 feet to the south of the site. There are still several acres of land being farmed in the area. The site designated for the City Park is currently being leased for farming and land owned by the Bandoni family to the south and east continues to be farmed.

While there are no other housing units nearby, the development of three-story apartment buildings could impact future development. Based on past testimony from the community, most people living in single-family homes don't want to live next to a three-story building. However, because the surrounding property to the north, south, and east is also designated for Village Residential, it is likely that higher density housing would be constructed in those areas so the impact would be less for a higher density development. The property to the west is zone R-1-5 and currently has an approved tentative map for the construction of 168 single-family homes (TSM #1291 for Bright Development). The owner of this property, CEB Holdings, LLC (Bright Development) received a public hearing notice and obtained copies of the plans as well as the staff report for this item. As of the date of this report, staff has not received any comments from CEB Holdings, LLC.

Testimony was received at the Planning Commission meetings on May 20, 2015, and June 17, 2015, from Mr. Pete Bandoni. Mr. Bandoni was concerned with the number of units and the number of tenants that could be occupying the complex. He mentioned the fact that his land is still being farmed and that he already has a problem with people trespassing on his land. Prior to the Planning Commission meeting on June 17, 2015, staff received a letter from Pete and Vicki Bandoni expressing their opposition to the project. This letter may be found at Attachment 16.

Signage

- I) Per a letter from the applicant dated April 14, 2015, the applicant does not anticipate any signing for the project at this time. However, if in the future signing is proposed, it would be required to comply with the North Merced Sign Ordinance and Merced Municipal Code Section 17.36.572 - Apartments or Condominiums. No off-site signs are allowed, so there could be no signage for the project adjacent to G Street. The applicant is aware of the requirements regarding the location of off-site signs and has been made aware that no signs would be allowed along G Street.

Land Use/Density Issues

- J) The project site is designated for Village Residential uses which allow a minimum of 7 dwelling units per acre and a maximum of 30 dwelling units per acre, but the overall density within a Village Residential area should average 10 dwelling units per acre. The proposed project is at the upper end of the density range, providing 22 dwelling units per acre. Because this project would be primarily to provide student housing for UC Merced, the number of people within the complex could be higher than that typically found in an apartment complex rented primarily to families. The project would provide a total of 678 bedrooms. According to the United States Census Bureau's American Community Survey Data (2009-2013), the average number of people per household within the City of Merced is 3.21 persons compared with a statewide rate of 2.94 persons. Based on this data, the average number of people occupying this apartment complex in Phase One could be 482 people or 50 people per acre. After the completion of Phase Two, the number could increase to 693 people or 71 people per acre.

If each bedroom is occupied by a single occupant, the maximum number of people occupying the apartment complex in Phase One would be 465 people or 48 people per acre. Phase Two

would add an additional 213 people for an overall total of 678 people or 70 people per acre.

Number of People Based on One Person/Bedroom

Unit Type	Phase 1 Units	Phase 2 Units	Total Units	No. of People/ Unit	Phase 1 - No. of People	Phase 2 - No. of People	Total No. of People
1 Bedroom/1 Bath	9	3	12	1	9	3	12
2 Bedroom/1 Bath	24	3	27	2	48	6	54
2 Bedroom/2 Bath	30	18	48	2	60	36	96
4 Bedroom/2 Bath	36	15	51	4	144	60	204
4 Bedroom/4 Bath	51	27	78	4	204	108	312
TOTAL	150	66	216		465	213	678

By comparison, if this property were zoned R-4 which allows one unit for every 1,000 square feet of lot area or approximately 44 units/acre, this site could have up to 422 units with no discretionary review required.

Compliance with Residential Planned Development (RP-D) #61

- K) When RP-D #61 was established, development standards were adopted to ensure development within this area would be consistent, provide the uses intended, and integrate well with the surrounding community. These standards addressed land uses and building and site design standards (Attachment 14). This project complies with the density and land use requirements. However, the building height exceeds the standard, the front setback is less than required by the standards, and the front door location is not facing the street.

Building Height: The maximum height allowed under the development standards as defined in the Pre-Annexation Development Agreement is 40 feet or 3 stories. The proposed apartment buildings would be 45 feet 3 inches tall (Attachment 3). In comparison, the maximum height requirement within an R-4 zone (which would allow apartments) is 40 feet tall. The actual height of the building walls is approximately 30 feet tall. The additional height is due to the pitch of the roof (6:12). However, reducing the roof pitch would affect the appearance of the buildings. The higher roof line helps balance the appearance of the buildings making them more aesthetically pleasing.

Building Setback: According to the design standards, the front setback should be a minimum of 30 feet. The proposed site design shows the setback varies from 17 to 25 feet (see Site Plan at Attachment 2). In order to achieve the 30-foot setback, the open space area between the buildings would have to be reduced or the area between the buildings and the carports would have to be reduced. In an R-4 zone, the minimum front yard setback is only 15 feet. While the proposed design does not comply with the design standards, it seems reasonable to allow the reduced setback given the fact that the proposed setback is greater than what would be required by standard apartment zoning and to allow more useable open space for the tenants.

Building Façade: The design standards state, "In most cases, primary ground floor residential building entrances will face and be visible from the street." The proposed project does not include this design feature. The building design has the doors facing inward and the exterior elevation has windows (refer to the building elevations at Attachment 3). However, the exterior

elevation also incorporates a variety of materials and the use of awnings to help add interest and variety to the elevations. In addition, because the project is a gated community, doors facing the street would not provide as much security as the proposed design.

Condition #34 of Exhibit C of the Draft City Council Resolution at Attachment 24 allows the project to vary from the design standards as described above.

Environmental Clearance

- L) The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and concluded that Environmental Review #15-07 is a second tier environmental document, based upon the City's determination that the proposed development remains consistent with the current general plan and provisions of CEQA Guidelines, Section 15162 (Expanded Initial Study #04-02 for Pending Annexation/Pre-Zoning Application #04-01 adopted by the Merced City Council on April 17, 2006). A copy of the Section 15162 Findings can be found at Attachment 15.

Planning Commission Action

On May 20, 2015, the Planning Commission held a public hearing regarding Conditional Use Permit #1200. At that time, public testimony was heard and the public hearing was continued to the Planning Commission meeting of June 17, 2015. Because the Planning Commission indicated they would most likely vote to deny the request, staff prepared Findings for Denial of Conditional Use Permit #1200 which were presented to the Planning Commission along with the Findings and Conditions for approval on June 17, 2015.

At the public hearing on May 20, 2015, Pete Bandoni spoke against the project because of the large number of tenants that would be likely and the fact that the site plan showed a road going through his property that he was not aware of. As mentioned above, Pete and Vicki Bandoni provided a letter prior to the Planning Commission meeting on June 17, 2015, expressing their opposition to the project. This letter is provided at Attachment 16.

The project proponent, Rick Telegan, also testified at the meeting on May 20, 2015. Mr. Telegan testified that the project is not exclusively intended for student housing and as of the date of the meeting, Mr. Telegan had not responded to the recent Request for Proposal (RFP) from U.C. Merced for student housing.

The Planning Commission voted (6-0-1 vacancy) to deny Conditional Use Permit #1200 based on the Findings in Staff Report #15-11-Addendum. Planning Commission Resolution #3051 denying CUP #1200 is provided at Attachment 18.

Minutes from the May 20th meeting and Draft minutes from the June 17th meeting are provided at Attachments 19 and 20. The Planning Commission Staff Reports (#15-11 and #15-11 - Addendum) are provided at Attachments 21 and 22.

Applicant's Response to Planning Commission Concerns

On July 10, 2015, Rick Telegan, representative for BP Investors, LP, provided written comments via e-mail regarding the Planning Commission's concerns that led to them denying this project. Mr. Telegan's comments may be found at Attachment 17.

IMPACT ON CITY RESOURCES

If the City Council votes to deny the appeal, thus upholding the Planning Commission's denial of CUP #1200, there would be no impact to City resources.

If the City Council votes to grant the appeal, approving Conditional Use Permit #1200 allowing the construction of a 216-unit apartment complex, the developer would be required to annex into the City's Community Facilities District (CFD) for Services to pay for ongoing police and fire protection, landscape maintenance (in the public right-of-way), and storm drain maintenance. In addition, the developer would be required to pay all Public Facility Impact Fees and all connection costs to connect the project to the City's water and sewer systems. Therefore, it is not expected that this project would impact City resources beyond the impact mitigated by the payment of impact fees and annexation to the CFD.

ATTACHMENTS

- 1) Location Map
- 2) Site Plan
- 3) Elevations
- 4) Floor Plans
- 5) Building Layout by Bedroom
- 6) Map of RP-D #61
- 7) Map of Bright Subdivision & Palisades Park Subdivision
- 8) Land Use Diagram
- 9) Future Roadway Alignment
- 10) Figure 4.24
- 11) Existing Intersection of Merrill Place and G Street
- 12) Color Palette
- 13) Clubhouse/Leasing Floor Plan
- 14) RP-D #61 Design Standards
- 15) CEQA 15162 Findings
- 16) Letter from the Bandonis
- 17) Comments from applicant
- 18) Planning Commission Resolution #3051
- 19) Planning Commission Minutes Excerpt (May 20, 2015)
- 20) Draft Planning Commission Minutes Excerpt (June 17, 2015)
- 21) Planning Commission Staff Report #15-11
- 22) Planning Commission Staff Report #15-11-Addendum
- 23) Draft City Council Resolution to Deny the Appeal
- 24) Draft City Council Resolution to Grant the Appeal