



## Legislation Text

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**File #:** 20-303, **Version:** 1

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**SUBJECT:** Continued Deliberation, Decision and Providing Direction Regarding the Appeal of Conditional Use Permit (CUP) #1238 and Site Plan Review #455 Which Would Allow the Construction of a Mixed-Use Development, Including 218 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 an appeal of the Planning Commission's approval of Conditional Use Permit (CUP #1238) and Site Plan Review #455.

### RECOMMENDATION

**City Council** - Adopt a motion:

A. Providing direction to approve or disapprove Environmental Review #19-37 (Mitigated Negative Declaration) for Conditional Use Permit #1238 and Environmental Review #20-05 (CEQA Section 15162 Findings) for Site Plan Review #455, and;

B. Providing direction to staff regarding findings to grant or deny the appeal, with or without prejudice.

### ALTERNATIVES

1. Provide direction to staff regarding findings to grant or deny the appeal, with or without prejudice; or,
2. Refer back to staff for reconsideration of specific items as requested by Council; or,
3. Continue item to a future council meeting (date and time to be specified in City Council motion).

### AUTHORITY

City of Merced Zoning Ordinance Section 20.74 - Appeals addresses the procedure for appealing a decision made by the Planning Commission.

### DISCUSSION

#### Summary

On May 4, 2020, the City Council held a public hearing regarding the appeal of the Planning Commission's approval of Conditional Use Permit #1238 and Site Plan Review #455. At the public hearing, the City Council received a report from staff and heard testimony from Richard Harriman on

behalf of the appellants and Raj Joshi and Joe Englanoff on behalf of the project applicant. Additionally, there were two e-mails read into the record and one voicemail played for the City Council to consider. One e-mail and the voicemail were opposed to the project and one e-mail was supportive of the project if modified to make the project more compatible with the area.

After hearing all the testimony, the City Council closed the public hearing and began its deliberation on the matter. After some discussion, the City Council voted to continue their deliberations to a future meeting. Although not its primary purpose, the continuance would also provide an opportunity for the appellant and the applicant to further discuss the project, if they so choose, potentially seeking a resolution of the appeal. On June 1, 2020, the City Council held further deliberations on the appeal and ultimately decided to continue the item to the June 15, 2020, agenda.

The previous Administrative Report is provided for reference at Attachment 6. The correspondence that was presented to the Council on May 4, 2020, is provided at Attachment 1. A letter from Joe Englanoff that was provided to Council, but not read into the record on May 4, 2020, is provided at Attachment 2, and an e-mail from Rosemary Duran, received after the deadline for the May 4 meeting, is provided at Attachment 3. Elisa Paster, representing Merced Holdings, submitted a letter on June 11, 2020, which is included at Attachment 7.

#### Other Projects in the Area

At the City Council meeting on May 4, 2020, the height of the buildings was a concern. Director of Development Services, Scott McBride, advised that the buildings currently under construction east of this site for the Merced Station Project (south side of Yosemite Avenue at Lake Road - refer to the Site Plan at Attachment 4) has three-story buildings. The building height for these buildings is 35 feet, but the building elevations have “wings” on each end of the building that extend up to 38 feet (Attachment 5). The City Council approved a General Plan Amendment and Zone Change for this project in 2017. The Zone Change created Planned Development #76 which allows for a maximum height of 45 feet for residential buildings.

Additionally, City staff is working on an annexation at the northeast corner of Yosemite Avenue and Gardner Road. The proposed buildings for the residential portion of this development would also be three-stories tall (no exact height has been determined at this point).

#### City Council Action

The City Council is asked to provide direction to staff, along with Findings to either approve or deny the appeal. Staff will prepare a Resolution based on that direction and Findings and return at a future Council meeting for Council to take final action on the appeal.

- Should the City Council provide direction to grant the appeal, thus over-turning the Planning Commission’s decision on Conditional Use Permit #1238 and Site Plan Review #455, City Council should provide direction as to whether the approval is with or without prejudice as well as providing specific objective reasons why the Council is approving the appeal and thus denying the project.
  - If the decision is made with prejudice, the applicant would be precluded from re-

applying for the same or similar project within one year of the decision.

- If the decision is made without prejudice, the applicant could re-apply with no time limit.
- Should the City Council vote to deny the appeal, thus upholding the Planning Commission's approval of CUP #1238 and Site Plan Review #455, staff recommends City Council direction include the Findings for Conditional Use Permit approval per MMC 20.68.020, the Findings for Site Plan Review approval per MMC 20.68.050 and the Conditions of approval contained in Planning Commission Resolutions #4035 and #4036 along with any recommended changes to the findings and conditions.

City Council should also provide direction to either approve or deny Environmental Review #19-37 (Mitigated Negative Declaration) for Conditional Use Permit #1238 and Environmental Review #20-05 (CEQA Section 15162 Findings) for Site Plan Review #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. Correspondence presented on May 4, 2020
2. Letter from Joe Englanoff
3. E-mail from Rosemary Duran
4. Site Plan for Merced Stations
5. Building Elevations for Merced Stations
6. Administrative Report #20-87
7. Letter from Elisa Paster on June 11, 2020