CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, October 23, 2013

Chairperson COLBY called the meeting to order at 7:00 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Nathan Mackin, Carole McCoy, Peter Padilla, Kevin Smith, Kurt Smoot, Brandon Williams, and Chairperson Travis Colby

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Associate Planner Nelson, Senior Deputy City Attorney Rozell, and Recording Secretary Lane

1. APPROVAL OF AGENDA

M/S MCCOY-WILLIAMS, and carried by unanimous voice vote, to approve the Agenda as submitted.

2. MINUTES

M/S WILLIAMS-PADILLA, and carried by unanimous voice vote, to approve the Minutes of September 18, 2013, as submitted.

3. COMMUNICATIONS

None.

4. **ITEMS**

4.1 Conditional Use Permit #1186, initiated by Don and Nancy Bergman, applicant for Merced Farm Workers Health Project, Inc., property owner. This application involves a request to allow a mobile Farmer's Market truck to sell fresh produce on Saturdays and Sundays at the Golden Valley Health Center, generally located at the northwest corner of N Street and Childs Avenue (847 Childs Avenue), within an R-1-6 zone.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #13-17.

Public testimony was opened at 7:10 p.m.

Speaker from the Audience in Favor:

VICTOR NAZARIO, representing the applicant, Merced

No one spoke in opposition to the project.

Public testimony was completed at 7:13 p.m.

M/S MCCOY-SMITH, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #13-24, and approve Conditional Use Permit #1186, subject to the Findings and twelve (12) Conditions set forth in Staff Report #13-17 (RESOLUTION #3025):

AYES: Commissioners Williams, Mackin, Smith, Smoot, McCoy, Padilla, and Chairperson Colby
NOES: None
ABSENT: None
ABSTAIN: None

4.2 Cancellation of November 6, November 20, and December 18, 2013, Planning Commission Meetings due to the Holidays and Lack of Items

M/S COLBY-PADILLA, and carried by the following vote, to cancel the Planning Commission meetings of November 6, November 20, and December 18, 2013.

AYES: Commissioners Williams, Smith, Smoot, McCoy, Padilla, and Chairperson Colby
NOES: None
ABSENT: None
ABSTAIN: Commissioner Mackin

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

There was no discussion regarding the calendar of meetings/events.

6. ADJOURNMENT

There being no further business, Chairperson COLBY adjourned the meeting at 7:17 p.m.

Respectfully submitted,

KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:

TRAVIS COLBY, Chairperson
Merced City Planning Commission

n:shared:Planning:PCMINUTE:Minutes

CITY OF MERCED
Planning Commission

Resolution #3026

WHEREAS, the Merced City Planning Commission at its regular meeting of October 23, 2013, held a public hearing and considered **Conditional Use Permit #1186**, initiated by Don and Nancy Bergman, applicant for Merced Farm Workers Health Project, Inc., property owner. This application involves a request to allow a mobile Farmer's Market truck to sell fresh produce on Saturdays and Sundays at the Golden Valley Health Center, generally located at the northwest corner of N Street and Childs Avenue (847 Childs Avenue), within an R-1-6 zone; also known as Assessor's Parcel No. 032-300-016; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through G of Staff Report #13-17; 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 #13-24, and approve Conditional Use Permit #1186, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner McCoy, seconded by Commissioner Smith, and carried by the following vote:

AYES:	Commissioners Williams, Mackin, Smith, Smoot, McCoy, Padilla, and Chairperson Colby
NOES:	None
ABSENT:	None
ABSTAIN:	None

Adopted this 23rd day of October 2013

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:CUP#1186 Don Bergman mobile Farmer's Market

Conditions of Approval
Planning Commission Resolution #3026
Conditional Use Permit #1186

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) -- Attachments B and C of Staff Report #13-17, except as modified by the conditions.

2. All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions"—except for Condition #16 which has been superceded by Code) shall apply.

3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.

4. The Project shall comply with the conditions set forth in Resolution #2977 for Conditional Use Permit #1151 previously approved for this site.

5. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.

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, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify,

defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

7. 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.

8. The project shall comply with all regulations of the City's Sign Ordinance. No free-standing or moveable signs shall be allowed.

9. The approval is for one 30-foot long truck to operate at this site. Any expansion of the business that would include being open additional days or hours, or adding additional vehicles or other sales areas shall be approved by the Director of Development Services or may be referred back to the Planning Commission if deemed appropriate.

10. The market sponsor shall be responsible for removing all trash and debris at the end of each market event. If additional refuse containers are required, the applicant shall contact the City's Refuse Department to make arrangements for additional containers.

11. The driveways into the site and all drive aisles shall not be blocked at any time. All Fire Department requirements to access and egress shall be adhered to at all times.

12. The City reserves the right to periodically review the event for potential problems. If problems (on-site or within the immediate area) result from this event, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and in conformance with the procedures outlined in the Merced Municipal Code.

n:shared:planning:PC Resolutions:CUP#1186 Exhibit A