## **CITY OF MERCED Planning Commission**

#### **MINUTES**

Merced City Council Chambers Wednesday, July 18, 2012

Chairperson CERVANTES 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: Carole McCoy, Kimberly Madayag, Travis Colby,

Mary Ward, Dwight Amey, Brandon Williams,

and Chairperson Richard Cervantes

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Principal Planner

King, Planner Nelson, Deputy City Attorney

Rozell, and Recording Secretary Lane

### 1. **APPROVAL OF AGENDA**

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

### 2. MINUTES

M/S WARD-AMEY, and carried by unanimous voice vote, to approve the Minutes of June 20, 2012, as submitted.

### 3. <u>COMMUNICATIONS</u>

None.

### 4. **ITEMS**

4.1 Conditional Use Permit #1171, initiated by Kyle Harris, applicant for the Church of Jesus Christ of Latter Day Saints, property owner. This application involves a request to construct a new shade structure for church activities near the southwest corner of the property located at 1080 E. Yosemite Avenue within a Low-Density Residential (R-1-6) zone.

Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #12-13.

Commissioner WARD disclosed that she had a very brief discussion about this item in the elevator on the way to the meeting.

Public testimony was opened at 7:09 p.m.

Speaker from the Audience in Favor:

KYLE HARRIS, applicant, Arroyo Grande

No one spoke in opposition to the project.

Public testimony was completed at 7:12 p.m.

M/S WARD-AMEY, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #12-16, and approve Conditional Use Permit #1171, subject to the Findings and eleven (11) Conditions set forth in Staff Report #12-13 (RESOLUTION #3005):

AYES: Commissioners McCoy, Madayag, Colby, Ward, Amey,

Williams, and Chairperson Cervantes

NOES: None ABSENT: None ABSTAIN: None Planning Commission Minutes Page 3 July 18, 2012

4.2 Conditional Use Permit #1169, initiated by Firaz Jaber, applicant for Encina Investment Group Mainplace, property owner. This application involves a request to allow a hookah lounge and dance club for ages 18 and over (no alcohol allowed) to locate at 435 W. Main Street, located approximately 125 feet east of Canal Street, within a Central Commercial (C-C) Zone.

Planner NELSON reviewed the report on this item. She noted a memo from planning staff amending Condition #19 to change the number of security guards required. This was provided to the Commission prior to the meeting. For further information, refer to Staff Report #12-09  $-2^{nd}$  Addendum.

Public testimony was opened at 7:23 p.m.

Speaker from the Audience in Favor:

GHALEB JABER, representing the applicant, Fresno

No one spoke in opposition to the project.

Public testimony was completed at 7:25 p.m.

The Commission discussed the matter. Some of the concerns raised were whether the business was a good fit for the downtown area, concerns about the proximity of the business to food establishments, and the desire for more family-friendly businesses in the downtown area. Others indicated that the business should be allowed since it was a legal land use and consumer demand would determine if the business would be successful or not. Some were concerned that what should be a land use decision was being clouded by personal preferences.

The Commission took a preliminary vote to determine the direction of the majority. Planning Commission Minutes Page 4 July 18, 2012

M/S WARD-MCCOY, and carried by the following vote, to preliminarily adopt a Categorical Exemption regarding Environmental Review #12-12, and to preliminarily deny Conditional Use Permit #1169, subject to the findings for denial that would be composed by staff and presented at the next Planning Commission Meeting of August 8, 2012.

AYES: Commissioners McCoy, Colby, Ward, and Amey

NOES: Commissioners Madayag, Williams, and Chairperson

Cervantes

ABSENT: None ABSTAIN: None

Deputy City Attorney ROZELL advised that the item would need to be continued to the next Planning Commission meeting to allow staff time to compose findings for denial based on the Planning Commission's discussion and preliminary vote.

Public testimony was re-opened at 7:50 p.m.

M/S WARD-MCCOY, and carried by the following vote, to continue the public hearing to the Planning Commission Meeting of August 8, 2012.

AYES: Commissioners McCoy, Madayag, Colby, Ward, Amey,

Williams, and Chairperson Cervantes

NOES: None ABSENT: None ABSTAIN: None

4.3 Local Hazard Mitigation Plan. Brief the Planning Commission of the effort by City Staff to draft the City of Merced Local Hazard Mitigation Plan and provide the community with an opportunity to comment during development of the plan. Initiated by the City of Merced, the City of Merced Local Hazard Mitigation Plan, once completed, will describe the hazards that threaten Merced such as flooding, earthquakes, and

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fog, and then lay out the best way to save lives and reduce property damage in the event that one of these types of natural disasters occurs.

Principal Planner KING gave a brief presentation on this item. For further information, refer to Staff Report #12-12.

### 4.4 <u>Election of Chairperson and Vice-Chairperson</u>

Chairperson CERVANTES introduced and welcomed new Commissioner, BRANDON WILLIAMS.

M/S CERVANTES-AMEY, and carried by the following vote, to elect Commissioner COLBY as Chairperson and Commissioner MADAYAG as Vice-Chairperson.

AYES: Commissioners McCoy, Ward, Amey, Williams, and

Chairperson Cervantes

NOES: None ABSENT: None

ABSTAIN: Commissioners Colby and Madayag

# 4.5 <u>Cancellation of August 8, 2012, Planning Commission Meeting</u> due to Lack of Items

Due to the continuation of Conditional Use Permit #1169 to the next Planning Commission Meeting of August 8, 2012, the agenda item to cancel this meeting was withdrawn.

### 5. <u>INFORMATION ITEMS</u>

### 5.1 <u>Calendar of Meetings/Events</u>

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

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### 6. **ADJOURNMENT**

There being no further business, Chairperson CERVANTES adjourned the meeting at 8:20 p.m.

Respectfully submitted,

KIM ESPINOSA, Secretary

Merced City Planning Commission

APPROVE

RICHARD CERVANTES, Chairperson Merced City Planning Commission

n:shared:Planning:PCMINUTE:Minutes 2012:M07-18-2012

# **CITY OF MERCED Planning Commission**

#### Resolution #3005

WHEREAS, the Merced City Planning Commission at its regular meeting of July 18, 2012, held a public hearing and considered Conditional Use Permit #1171, initiated by Kyle Harris, applicant for the Church of Jesus Christ of Latter Day Saints, property owner. This application involves a request to construct a new shade structure for church activities near the southwest corner of the property located at 1080 E. Yosemite Avenue within a Low-Density Residential (R-1-6) zone; also known as Assessor's Parcel No. 006-050-037; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through G of Staff Report #12-13; and,

**WHEREAS**, 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 #12-16, and approve Conditional Use Permit #1171, subject to the Conditions set forth in Exhibit A attached hereto.

Upon motion by Commissioner Ward, seconded by Commissioner Amey, and carried by the following vote:

AYES: Commissioners McCoy, Madayag, Colby, Ward, Amey,

Williams, and Chairperson Cervantes

NOES: None ABSENT: None ABSTAIN: None

### PLANNING COMMISSION RESOLUTION # 3005

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Adopted this 18th day of July 2012

Chairperson, Planning Commission of the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:CUP#1171 Kyle Harris Church of LDS Picnic shelter

# Conditions of Approval Planning Commission Resolution #3005 Conditional Use Permit #1171

- 1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) -- Attachments B and C of Staff Report #12-13, 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 #1496 for Conditional Use Permit #430 previously approved for this project.
- 5. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
- The developer/applicant shall indemnify, protect, defend (with counsel 6. 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 claims, actions, suits, proceedings, or judgments against 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 noise from music or other activities shall be kept to a minimum so as not to disturb the surrounding neighborhood.
- 9. All events held in the pavilion and surrounding area shall end no later than 9:00 p.m.
- 10. Lighting for the pavilion and any additional lighting provided for special events in the area shall not spill over onto the adjacent residential properties.
- 11. All landscaping shall be regularly maintained to have an aesthetically pleasing appearance. Irrigation shall be provided to all landscaped areas. Any dead or dying plants shall be immediately replaced.

n:shared:planning:PC Resolutions:CUP#1171 Exhibit A