

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, November 7, 2012

Vice-Chairperson MADAYAG 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: Dwight Amey, Mary Ward, Brandon Williams, and Vice-Chairperson Kimberly Madayag

Commissioners Absent: Carole McCoy (excused), Richard Cervantes (unexcused), and Chairperson Travis Colby (unexcused)

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

1. **APPROVAL OF AGENDA**

M/S WARD-WILLIAMS, and carried by unanimous voice vote (three absent), to approve the Agenda as submitted.

2. **MINUTES**

M/S WARD-WILLIAMS, and carried by unanimous voice vote (three absent), to approve the Minutes of October 17, 2012, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Modification of Conditional Use Permit #1157, initiated by Steve Stuhmer, for the City of Merced, property owner, to allow a modification to the previously approved renovations for an existing restaurant within a 20,624 square-foot leased area within the Merced Regional Airport. The modification involves eliminating the plans for expanding the building area and reducing the expansion of the previously approved outdoor dining area.

Planner NELSON reviewed the report on this item. She noted a memo from planning staff that outlined a change in the design of the building that will house the restrooms for the Hangar Café and resulted in a change to Condition #1 and Finding G of Staff Report #12-19. The memo was provided to the Commission prior to the meeting. For further information, refer to Staff Report #12-19.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened and closed at 7:12 p.m.

M/S WARD-AMEY, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #12-26, and approve modifications to the Conditions of Planning Commission Resolution #2982, subject to the Findings and thirty (30) Conditions set forth in Staff Report #12-19, with the modification of Condition #1 and Finding G as follows (RESOLUTION #2982):

- “1. The proposed project shall be constructed/designed and operated as shown on ~~Exhibit 1 (floor plan), Exhibit 2 (elevations), and Exhibit 3 (Seating Diagram) — Attachments B, C, and D of Staff Report #11-01, Exhibit 4 (Site Plan – as Modified November 6, 2012), Exhibit 5 (Seating Diagram – Attachment C of Staff Report #12-19), and Exhibit 6 (Elevations), and Exhibit 7 (Floor Plan), submitted November 6, 2012,~~ except as modified by the conditions.

“Building Design

- “G. There are no changes to the existing building other than to widen the doorway to provide a handicap accessible entrance/exit. The proposed building to house the restrooms will be constructed on the north side of the restaurant. The building will provide two handicap accessible restrooms and a janitor’s room. The exterior of the building shall be constructed to match the finishes on the existing Hangar Café building (i.e., corrugated metal and wood). Refer to ~~Attachment B for the building elevations~~ the elevations and floor plan submitted November 6, 2012 (Exhibits #6 and #7).

The building originally approved with this CUP called for a wood-framed structure with corrugated metal and brick. The previously approved elevations can be found at Attachment E of Staff Report #12-19.”

AYES: Commissioners Ward, Williams, Amey, and Vice-Chairperson Madayag

NOES: None

ABSENT: Commissioners McCoy, Cervantes, and Chairperson Colby

ABSTAIN: None

- 4.2 General Plan Amendment #12-01 and Site Utilization Plan Revision #5 to Planned Development (P-D) #9, initiated by Golden Valley Engineering, applicant for L.J. Steiner, LLC, property owner. This application involves a change in the General Plan land use designation for Building #3 within Fahrens Park Plaza, located at the southeast corner of State Hwy. 59 and Buena Vista Drive, from “Business Park” (BP) to “Neighborhood Commercial” (CN), and a change in the Site Utilization Plan for Planned Development (P-D) #9 for Building #3 to allow those uses permitted in the C-N Zone (but excluding convenience markets, retail businesses of 20,000 square feet or less selling alcoholic beverages for off-site consumption, day care facilities for children, and tattoo parlors).

Planner NELSON advised that due to unresolved issues with the Developer Agreement, staff recommended that this item be continued to the Planning Commission meeting of December 5, 2012.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened at 7:14 p.m.

M/S WARD-AMEY, and carried by the following vote, to continue the public hearing to the Planning Commission meeting of December 5, 2012.

AYES: Commissioners Ward, Williams, Amey, and Vice-Chairperson Madayag

NOES: None

ABSENT: Commissioners McCoy, Cervantes, and Chairperson Colby

ABSTAIN: None

4.3 Cancellation of November 21 and December 19, 2012, Planning Commission Meetings due to Holidays

M/S WARD-AMEY, and carried by unanimous voice vote (three absent), to cancel the Planning Commission Meetings of November 21 and December 19, 2012.

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, Vice-Chairperson MADAYAG adjourned the meeting at 7:17 p.m.

Planning Commission Minutes

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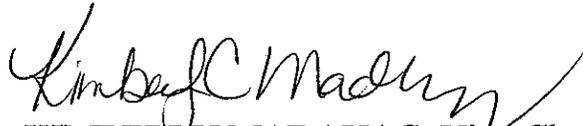
November 7, 2012

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



KIMBERLY MADAYAG, Vice-Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #2982

Amended by Planning Commission on Nov. 7, 2012
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WHEREAS, the Merced City Planning Commission at its regular meeting of January 19, 2011, held a public hearing and considered **Conditional Use Permit #1157**, initiated by Hangar Café LLC, applicant for City of Merced, property owner. This application involves renovation of an existing restaurant within a 20,624 square-foot leased area within the Merced Regional Airport. The renovation involves expansion of the dining area (outdoors) and the addition of alcohol sales as an accessory use within the restaurant area, generally located in the southwest area of Macready Drive, located approximately 500 feet south of Grogan Avenue, within the Light Industrial (I-L) Zone; also known as Assessor's Parcel No. 059-300-047; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through ~~KL~~ of Staff Report #11-012-19, Finding G amended as show on page 2 of this Resolution; and,

Amended- -See page 2

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 #10-43, and approve Conditional Use Permit #1157, subject to the Conditions set forth in Exhibit A attached hereto.

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

- AYES: Commissioner Cervantes, Acheson, McCoy, Colby, and Vice-Chairperson Ward
NOES: None
ABSENT: Chairperson Amey (one vacancy)
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #2982

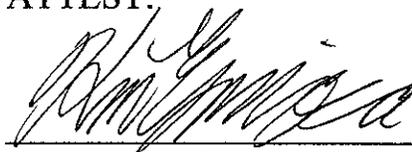
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January 19, 2011/November 7, 2012

Adopted this 19th day of January 2011

Mary E Ward, Vice Chair
for Dwight Amey
Chairperson, Planning Commission of
the City of Merced, California

ATTEST:


Secretary

Attachment:

Exhibit A – Conditions of Approval

n:\shared:\planning\PC Resolutions\CUP#1157 Hangar Cafe

November 7, 2012: At their regularly scheduled meeting of November 7, 2012, the Merced City Planning Commission considered and concurred with the Findings of Staff Report #12-19, Finding G amended as follows and approved modifications to the Conditions of Planning Commission Resolution #2982 as set forth in Exhibit A attached hereto.

Building Design

- G) There are no changes to the existing building other than to widen the doorway to provide a handicap accessible entrance/exit. The proposed building to house the restrooms will be constructed on the north side of the restaurant. The building will provide two handicap accessible restrooms and a janitor's room. The exterior of the building shall be constructed to match the finishes on the existing Hangar Café building (i.e., corrugated metal and wood). Refer to Attachment B for the building elevations the elevations and floor plan submitted November 6, 2012 (Exhibits #6 and #7).

PLANNING COMMISSION RESOLUTION #2982

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January 19, 2011/November 7, 2012

The building originally approved with this CUP called for a wood-framed structure with corrugated metal and brick. The previously approved elevations can be found at Attachment E of Staff Report #12-19.

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

AYES: Commissioners Ward, Williams, Amey, and Vice-Chairperson Madayag

NOES: None

ABSENT: Commissioners McCoy, Cervantes, and Chairperson Colby

ABSTAIN: None

Conditions of Approval
Planning Commission Resolution #2982
Conditional Use Permit #1157

Amended by Planning Commission on Nov. 7, 2012

(New language underlined, deleted language strikethrough)

1. The proposed project shall be constructed/designed and operated as shown on ~~Exhibit 1 (floor plan), Exhibit 2 (elevations), and Exhibit 3 (Seating Diagram) — Attachments B, C, and D of Staff Report #11-01,~~ Exhibit 4 (Site Plan – as Modified November 6, 2012), Exhibit 5 (Seating Diagram – Attachment C of Staff Report #12-19), and Exhibit 6 (Elevations), and Exhibit 7 (Floor Plan), submitted November 6, 2012, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“*Standard Conditional Use Permit Conditions*”) shall apply.
3. The proposed project shall comply with all standard Municipal Code requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. 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 (with counsel selected by the City), 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 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.

6. 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.
7. Based on occupant load as determined by the California Fire and Building Codes, the area used for seating (indoors and outdoors) is strictly limited to that space as shown on Exhibit 3 2 (seating plan) (Attachment ~~D~~ C of Staff Report #11-01 #12-19) and shall not be increased. No additional tables or chairs shall be added to the restaurant area (indoors and outdoors). The maximum number of seats shall not exceed the number of parking spaces provided to serve the restaurant. ~~and the seating arrangement shall be as shown in Exhibit 3. If the need arises to change the layout of the seating area, this change shall be reviewed and approved by the Chief Building Official and Fire Chief and may require approval by the Planning Commission if parking requirements are increased.~~
8. The project shall comply with the current Edition of the Fire Codes including, but not limited to, ~~fire sprinklers for all buildings over 5,000 square feet; supervisory fire alarms, key box(es), fire department connection location(s);~~ panic hardware, emergency lighting, illuminated exit signs, etc. Adequate turning radius for fire vehicles shall be provided throughout the project.
9. The outside area shall only be used for dining or other similar activities. The number of occupants in this area shall not exceed 100 people. Any other use will be in violation of the California Building and Fire Codes and would present a life/safety issue which could result in the business being closed. "No Loitering" signs shall be clearly posted and it shall be the owner's responsibility to ensure customers do not linger in the ~~outside dining or bathroom areas.~~ The bathroom area and all exits shall remain clear of any impediments at all times.
10. The maximum number of occupants for the internal dining area is ~~96~~ 49 people. The maximum number of seats provided both inside and

outdoors shall not exceed 90 based on the number of parking spaces provided both on-site and through a joint use agreement to use 21 spaces belonging to the City of Merced on the adjacent parcel. Signs shall be clearly posted with these numbers stating the occupant load for all areas as required by the Uniform Fire and Building Codes. It shall be the business owner's responsibility to ensure the number of occupants in the building area does not exceed these numbers at any time. Violation of this condition may be cause for revocation of this Conditional Use Permit per the requirements and procedures in the Merced Municipal Code.

11. If music (live or otherwise) or any other form of entertainment is provided in the outdoor seating area, it shall cease by 10:00 p.m. nightly. No D.J.'s or dancing is allowed nor may a cover charge be imposed due to the fact that a nightclub is not an allowable use in the Light Industrial Zone. Any amplification of music or other forms of entertainment in the outdoor seating area shall be kept to a minimum and shall not exceed a reasonable level to be heard in the immediate area. Details to be worked out with staff.
12. All existing or proposed landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be repaired. A landscape plan shall be submitted at the building permit stage ~~showing the addition of some landscape areas to the subject site with details to be worked out with staff~~ detailing the new landscape area as shown on Exhibit 1 (Site Plan), Attachment B of Staff Report #12-19. Prior to installing the new landscaping, the existing asphalt shall be removed to allow for proper installation of landscaping materials. The use of beach sand to create a beach-type atmosphere shall not be approved. If seeding is used to plant grass in the outdoor seating area, hydro-seed shall be used that will produce grass within a maximum of 4 weeks. ~~The leased area, parking lot, signage, entrance, and exterior bathrooms will be redesigned to meet current City Design Standards with details to be worked out with staff. If changes are proposed to the existing building exterior, those changes shall be reviewed and approved by staff.~~
13. This approval is subject to the Hangar Café being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), the City of Merced, and other regulatory agencies.

14. The business shall operate as a “bona-fide” restaurant at all times. Per the Municipal Code, a bona-fide restaurant is required to serve a full-menu during all hours of operation.
15. In order to serve alcohol in the outdoor area, a fence must be installed to separate the dining area from the exterior of the restaurant area per ABC requirements. Any new fencing installed to enclose the outdoor seating area shall be constructed to match the existing fencing in front of the building.
16. The applicant shall abide by all relevant regulations and provisions set forth in the General Regulations sections of the Sign Ordinance for any signage on the building. All temporary signing shall be approved by Planning staff.
17. There shall be no age restrictions placed on the patrons at any time. Any person of any age shall be allowed access into the restaurant and a full restaurant menu shall be served during all hours of operation and when alcohol is served.
18. The City reserves the right to periodically review the operation for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, lewd and/or disorderly conduct, and disturbing the peace result from the proposed land use, etc., the conditional use permit may be subject to review and revocation by the City of Merced per the procedures in the Merced Municipal Code.
19. Noise levels generated by the entertainment venues shall be kept to a level not creating a public nuisance to the surrounding business establishments and/or immediate area. If noise-related complaints are received by the City of Merced, the conditional use permit may be subject to review and possible revocation by the Planning Commission per the procedures in the Merced Municipal Code.
20. To prevent noise from carrying throughout the area, no stages shall be allowed in the outdoor area. The exterior doors may be propped open during business hours to allow the internal music to be heard by the patrons sitting outside, provided the noise level does not interfere with other businesses or operations.
21. If the restaurant business and/or business owner changes from the current owner(s), a new application must be brought back to staff with possible referral to the Planning Commission.

22. The business shall close to the public at 2:00 a.m. and may not re-open to the public until 6:00 a.m. At 6:00 a.m., the business may open as a restaurant. In the event a private party is held at this location, the party shall end and all party-goers shall leave the premises by 2:00 a.m.
23. In accordance with state law, all alcohol sales shall end at 2:00 a.m.
- ~~24. City Council approval will be required to expand the lease area, approve a parking sharing agreement for 21 additional parking spaces, and direct staff to sign the Alcohol Beverage Control application to allow the applicant the ability to have a "Type 47" license on City of Merced Property.~~
- ~~25. The San Joaquin Valley Air Pollution Control Board (SJVAPCB) shall be required to review and approve the use of any and all fire pits shown on Exhibit 1, including the outdoor fireplace on the north side of the building.~~
24. On-site improvements required prior to issuance of occupancy shall include any new driveways to maintain proper ADA accessibility. The refuse enclosure shall be designed per City Standards R-2 and R-4 for front end loader service. In addition, the installation of the minimum number of handicapped parking spaces as required by the California Building Code. These spaces shall be in compliance with ADA standards.
25. All portions of the property not occupied by paving or building shall be maintained to acceptable standards for health, fire safety, and aesthetic reasons. Grasses and weeds shall be kept to a maximum of six inches, or as otherwise required by the Fire Department and County Health Department.
- ~~26. There shall be a minimum of 23 parking spaces for the site and it shall be shown how they would not interfere with the two-way traffic of the drive aisle or the alley way. The location of the parking spaces with size dimensions noted shall be demonstrated on the site plan submitted for a building permit, with details to be worked out with Planning Staff. Bike racks shall be added and located near the front entrance to the restaurant.~~
26. Two Permanent ADA-compliant restrooms with running water, sewer connection, and electricity shall be provided within 50-feet of the Hangar Café building ~~the leased area~~ for employee and customer use

- during all hours of operation. In addition, an ADA compliant entrance/exit shall be provided to the Hangar Café building.
27. The bathroom facility shall be constructed to meet all FEMA requirements as applied by the Inspection Services Department.
 28. The exterior finish and building colors for the proposed bathrooms shall match that of the existing building.
 29. No “adult entertainment” uses as defined in Merced Municipal Code (MMC) Section 20.90 shall be allowed on the premises.
 30. The existing FAA security fence shall be relocated as shown on the site plan (Exhibit 1 – Attachment B of Staff Report #12-19) and installed per FAA standards and approved by the Airport Manager. The location of the airport walk-thru gate shall be approved by the Airport Manager and installed per FAA Standards.

n:shared:planning:PC Resolutions:CUP#1157 Exhibit A