CITY OF MERCED Planning Commission

MINUTES

Merced City Council Chambers Wednesday, December 4, 2013

Vice-Chairperson MACKIN 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

*Chairperson Colby arrived at 7:04 p.m.

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Associate Planner

Nelson, City Attorney Diaz, and Recording

Secretary Lane

1. **APPROVAL OF AGENDA**

M/S MCCOY-PADILLA, and carried by unanimous voice vote (one absent), to approve the Agenda as submitted.

2. MINUTES

M/S MCCOY-SMITH, and carried by unanimous voice vote, to approve the Minutes of October 23, 2013, as submitted.

3. <u>COMMUNICATIONS</u>

None.

4. <u>**ITEMS**</u>

4.1 General Plan Amendment #13-05 and Zone Change #419, initiated by Peter Lau, applicant for Aloes and Cedars, LLC, property owner. This application involves a request to amend the General Plan Designation from Low-Density Residential (LD) to Commercial Office (CO) and change the zoning from Residential Planned Development (R-PD) #28 to Conditional Commercial Office (C-O) for an approximately 2.6-acre parcel, generally located at the northwest corner of M Street and Yosemite Avenue.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #13-18.

Public testimony was opened at 7:18 p.m.

Speakers from the Audience in Favor:

DUANE ANDREWS, Golden Valley Engineering, representing the applicant, Merced MICHELLE REID, Merced

No one spoke in opposition to the project.

Public testimony was completed at 7:21 p.m.

Chairperson COLBY expressed concerns that this project would create a commercial island in a residential area, the parking and the traffic issues would be too close to the neighborhood, there is limited visibility from the street, the space is too small for the use, and it doesn't fit with the goals and policies of the General Plan. However, Chairperson COLBY did add that an agreement with Merced College to use some of the project space could change the nature of his opinion about the project.

M/S WILLIAMS-MACKIN, and carried by the following vote, to recommend to City Council adoption of a Negative Declaration

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regarding Environmental Review #13-28, and approval of General Plan Amendment #13-05 and Zone Change #419, subject to the Findings and twenty (20) Conditions set forth in Staff Report #13-18 (RESOLUTION #3027):

AYES:

Commissioners Williams, Mackin, Smith, Smoot,

McCoy, and Padilla

NOES:

Chairperson Colby

ABSENT: None ABSTAIN: None

5. <u>INFORMATION ITEMS</u>

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

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

6. **ADJOURNMENT**

There being no further business, Chairperson COLBY adjourned the meeting at 7:37 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 #3027

WHEREAS, the Merced City Planning Commission at its regular meeting of December 4, 2013, held a public hearing and considered **General Plan Amendment #13-05 and Zone Change #419**, initiated by Peter Lau, applicant for Aloes and Cedars, LLC, property owner. This application involves a request to amend the General Plan Designation from Low-Density Residential (LD) to Commercial Office (CO) and change the zoning from Residential Planned Development (R-PD) #28 to Conditional Commercial Office (C-O) for an approximately 2.6-acre parcel, generally located at the northwest corner of M Street and Yosemite Avenue.; also known as Assessor's Parcel No. 230-220-055; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #13-18; and,

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Negative Declaration regarding Environmental Review #13-28, and approval of General Plan Amendment #13-05 and Zone Change #419, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Williams, seconded by Commissioner Mackin, and carried by the following vote:

AYES: Commissioners Williams, Mackin, Smith, Smoot, McCoy, and

Padilla

NOES: Chairperson Colby

ABSENT: None ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3027

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Adopted this 4th day of December 2013

Chairperson, Planning Commission of the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:GPA#13-05-ZC#419 M & Yosemite

Conditions of Approval Planning Commission Resolution #3027 General Plan Amendment #13-05/Zone Change #419

- 1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Attachment B of Staff Report #13-18, except as modified by the conditions.
- 2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- 3. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
- 4. Approval of the General Plan Amendment and Zone Change are subject to the applicant(s) entering into a written (development) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.
- 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

EXHIBIT A of Planning Commission Resolution #3027 Page 1 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.

- 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. The approval of this General Plan Amendment and Zone Change allows all principally permitted and accessory uses within a Commercial Office (C-O) zone (MMC 20.20). Accessory uses include incidental services, such as restaurants, pharmacies, and retail sales to serve occupants and patrons of the principally permitted uses, when conducted and entered from within the building group, provided there is no exterior display or advertising.
- 8. Conditional uses listed in Merced Municipal Code Section 20.20.040 are allowed with the approval of a Conditional Use Permit with the exception of mortuaries, crematories, bail bonds businesses, R-4 residential uses, and public utility uses, substation, and communication equipment buildings. which are precluded by the Conditional Zoning as proposed and agreed to by the applicant and as spelled out in the Developer Agreement per Condition #4.
- 9. Due to the City's interface regulations (MMC Section 20.52), a conditional use permit shall be required prior to the construction of all buildings.

- 10. All signs shall comply with the North Merced Sign Ordinance and Section 20.20 (Commercial Office Zone) of the City's Zoning Ordinance.
- 11. All driveways and sidewalks along the property frontage shall comply with requirements of the American with Disabilities Act (ADA).
- 12. Any missing or damaged improvements along the property frontage shall be installed/repaired.
- 13. Appropriate turning radii shall be provided within the parking areas to allow for Fire Department and refuse truck access.
- 14. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of at least one tree for each six parking spaces.
- 15. The applicant shall work with the City Engineering Department to determine the acceptable method of storm drainage from the site. An on-site retention area may be required.
- 16. If the property is split into multiple parcels, the owner shall be required to record joint access and parking easements allowing free vehicular access and parking between parcels. Such easements shall be recorded as part of any parcel map or conditional use permit approval.
- 17. Only non-illuminated signs shall be allowed along the northern and western elevations of the buildings.
- 18. Any retail uses allowed as an accessory use or otherwise shall be limited in hours to be open no later than 10:00 p.m.
- 19. The building design shall be approved at the Conditional Use Permit stage. At that time, full elevations, materials, and details on any other design elements shall be provided.
- 20. All artificial lighting on the site, including parking lot and building lighting, shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots in compliance with the California Energy Code requirements. Any lighting on the building shall be oriented to shine downward and not spill-over onto adjacent properties.