

**CITY OF MERCED  
Planning Commission**

**MINUTES**

Merced City Council Chambers  
Wednesday, January 21, 2015

Chairperson WILLIAMS 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, Peter Padilla, Kurt Smoot, Kevin Smith, Travis Colby, and Chairperson Brandon Williams

Commissioners Absent: None (one vacancy)

Staff Present: Planning Manager Espinosa, Principal Planner King, Associate Planner Nelson, Planner Mendoza-Gonzalez, Senior Deputy City Attorney Rozell, and Recording Secretary Lane

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S MCCOY-SMITH, and carried by unanimous voice vote (one vacancy) to approve the Minutes of December 3, 2014, and January 7, 2015, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Vacation #14-01, initiated by the City of Merced to abandon approximately 1,503 square feet of right-of-way along the western side of North Highway 59, approximately 500 feet south of Cooper Avenue.

As a Consent item, there was no staff presentation. For further information, refer to Staff Report #15-02.

M/S COLBY-SMITH, and carried by the following vote, to find that the proposed Vacation (to abandon approximately 1,503 square feet of right-of-way located west of North Highway 59 and south of Cooper Avenue), is consistent with the *Merced Vision 2030 General Plan*.

AYES: Commissioners McCoy, Padilla, Smoot, Smith, Colby, and Chairperson Williams

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: None

- 4.2 Conditional Use Permit #1193, initiated by Merced Baptist Church, applicant for Brownstone Capital Partners LLC, property owners. This application involves a request to allow a church to locate at 1004 W. 15<sup>th</sup> Street (Suites B and C), generally located near the southwest corner of 15<sup>th</sup> Street and Q Street, within Planned Development (P-D) #14 with a General Commercial (CG) General Plan designation.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #15-01 - Addendum.

Public testimony was opened at 7:11 p.m.

Speaker from the Audience in Favor:

PASTOR ANTHONY DOSS, Merced, representing the applicant

No one spoke in opposition to the project.

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

M/S WILLIAMS-SMITH, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #14-29, and approve Conditional Use Permit #1193, subject to the Findings and seventeen (17) Conditions set forth in Staff Report #15-01 - Addendum (RESOLUTION #3040):

AYES: Commissioners McCoy, Padilla, Smoot, Smith, Colby, and Chairperson Williams

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: None

4.3 Conditional Use Permit #1195, initiated by Central Valley Gas Stations Atwater Partnership, LLC, property owner. This application involves a request to allow alcohol sales (beer and wine only) for off-site consumption at an existing gas station/mini-market generally located at the northeast corner of G Street and East 21st Street (2104 G Street), within a Neighborhood Commercial (C-N) Zone.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #15-03 - Addendum.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened and closed at 7:27 p.m.

M/S COLBY-PADILLA, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #14-31, and approve Conditional Use Permit #1195, subject to the Findings and twenty-three (23) Conditions set forth in Staff Report #15-03 - Addendum (RESOLUTION #3041):

AYES: Commissioners McCoy, Padilla, Smoot, Smith, Colby,  
and Chairperson Williams

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: None

4.4 General Plan Amendment #14-05, Site Utilization Plan Revision #10 to Planned Development (P-D) #42, Conditional Use Permit #1194 and Vesting Tentative Subdivision Map #1303 (“Bellevue Ranch Condos”), initiated by Golden Valley Engineering, on behalf of C.W.N. Development, LLC, property owner. This application involves: a General Plan Amendment and Site Utilization Plan Revision to modify the improvement order and financing of off-site infrastructure within the Bellevue Ranch Master Development Plan; a Conditional Use Permit to allow the construction of 432 condominium dwellings and associated parking, open space and on-site amenities on 20.77 acres; and a Tentative Subdivision Map to enable condominium properties to be created. The project site is bound by M Street, M Street Circle, Mandeville Lane, and Barclay Avenue within the Bellevue Ranch Master Development Plan Area and is zoned Planned Development (P-D) #42.

Principal Planner BILL KING advised that the applicant requested this item to be continued to the Planning Commission meeting of February 4, 2015. He noted a phone call he had received from a citizen regarding the project and a letter from another citizen which was provided to the Commission prior to the meeting.

Public testimony was opened at 7:32 p.m.

M/S MCCOY-SMITH, and carried by the following vote, to continue the public hearing to the Planning Commission meeting of February 4, 2015.

AYES: Commissioners McCoy, Padilla, Smoot, Smith, Colby,  
and Chairperson Williams

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: None

5. **INFORMATION ITEMS**

5.1 **Calendar of Meetings/Events**

Planning Manager ESPINOSA briefed the Commission on items for the next Planning Commission meeting.

6. **ADJOURNMENT**

There being no further business, Chairperson WILLIAMS adjourned the meeting at 7:34 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary  
Merced City Planning Commission

APPROVED:



BRANDON WILLIAMS, Chairperson  
Merced City Planning Commission

**CITY OF MERCED**  
**Planning Commission**

**Resolution #3040**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of January 21, 2015, held a public hearing and considered **Conditional Use Permit #1193**, initiated by Merced Baptist Church, applicant for Brownstone Capital Partners LLC, property owners. This application involves a request to allow a church to locate at 1004 W. 15<sup>th</sup> Street (Suites B and C), generally located near the southwest corner of 15<sup>th</sup> Street and Q Street, within Planned Development (P-D) #14 with a General Commercial (CG) General Plan designation; also known as Assessor's Parcel No. 031-203-021; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through G of Staff Report #15-01 - Addendum; 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 #14-29, and approve Conditional Use Permit #1193, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioners McCoy, Padilla, Smoot, Smith, Colby, and Chairperson Williams

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3040

Page 2

January 21, 2015

Adopted this 21<sup>st</sup> day of January 2015



Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

**Conditions of Approval**  
**Planning Commission Resolution #3040**  
**Conditional Use Permit #1193**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) and Exhibit 2 (Site Plan) - Attachments B and C of Staff Report #15-01, 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 superseded 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. 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, 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 project shall comply with all Building and Fire Codes including those for assembly-type uses.
8. All signing shall comply with the City's Sign Ordinance and the subject site's Sign Program (Attachment D of Staff Report #15-01). Design Review approval and Building permits shall be obtained prior to installing any permanent signing. A Temporary Sign Permit shall be obtained prior to installing any temporary signs or banners. Temporary freestanding or A-frame signs are not allowed.
9. In no instance shall any assembly area exceed an occupant load of 300 without meeting requirements set forth in the California Building and Fire Codes.
10. Because sufficient parking is not available on the site, the church shall enter into a parking agreement with the owner of a property (located within 400 feet of the subject site as outlined in Merced Municipal Code Section 20.58.370. C.) where parking will be provided. Parking shall be provided at a ratio of one parking space for each 3 ½ seats in the largest assembly area or one for each 15 classroom seats, whichever is greater. Parking shall be provided as long as a church use is located on this site. If sufficient parking is not provided, this church will not be able to locate at this site. If the agreement is terminated for any reason, the church shall provide alternate parking immediately. If parking cannot be provided, the church shall find an alternate location within 120 days. A copy of the parking agreement shall be provided to the City of Merced Planning Department prior to occupancy.
11. Parking on the vacant parcels located west of the subject site (APN: 031-203-005 and 031-203-004) will not be permitted without first engaging in a Parking Agreement with the property owners of said parcels. A Building Permit shall be submitted and approved prior to

the construction of a parking lot. All parking lot related requirements would have to be satisfied.

12. Per MMC Section 17.36.810 and 17.36.820, the church would not be allowed to advertise on the pylon sign.
13. Any further expansion of the church use beyond the area shown on Exhibit 1 (Attachment B of Staff Report #15-01) may require evaluation by the Inspection Services and Fire Departments to determine the potential need for expanding the existing fire sprinkler system.
14. If exterior changes are made to the building, they shall be subject to Design Review approval (either staff level or by the Planning Commission as determined by staff).
15. All Church activities at this location shall be conducted within the building space.
16. The noise from music or other service activities shall be kept to a minimum so as not to disturb the surrounding tenants. Outside doors shall not be propped open during services. If sufficient complaints are received regarding the noise from music or other activities, the church shall provide a means for suppressing the noise coming from the building. The means and method used shall be approved by the Building Department prior to installation.
17. All lighting on site 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 parcels.

n:\shared\planning\PC Resolutions: CUP#1193 Exhibit A

**CITY OF MERCED**  
**Planning Commission**

**Resolution #3041**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of January 21, 2015, held a public hearing and considered **Conditional Use Permit #1195**, initiated by Central Valley Gas Stations Atwater Partnership, LLC, property owner. This application involves a request to allow alcohol sales (beer and wine only) for off-site consumption at an existing gas station/mini-market generally located at the northeast corner of G Street and East 21st Street (2104 G Street), within a Neighborhood Commercial (C-N) Zone; also known as Assessor's Parcel No. 034-071-014; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through E of Staff Report #15-03 - Addendum; 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 #14-31, and approve Conditional Use Permit #1195, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Colby, seconded by Commissioner Padilla, and carried by the following vote:

AYES: Commissioners McCoy, Padilla, Smoot, Smith, Colby, and  
Chairperson Williams  
NOES: None  
ABSENT: None (one vacancy)  
ABSTAIN: None

January 21, 2015

Adopted this 21<sup>st</sup> day of January 2015



Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

**Conditions of Approval**  
**Planning Commission Resolution #3041**  
**Conditional Use Permit #1195**

1. The proposed project shall be constructed/designed/operated as shown on Exhibit 1 (floor plan) and Exhibit 2 (business plan/description) -- Attachments C and D of Staff Report #15-03, 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 superseded 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 #2108 for Conditional Use Permit #733 and Site Plan Review #363 previously approved for this project.
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. No sales of alcoholic beverages shall be allowed between the hours of 2:00 a.m. and 6:00 a.m.
9. No beer or wine shall be displayed within five (5) feet of the cash register or the front door.
10. No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
11. No sale of alcoholic beverages shall be made from a drive-in window.
12. No display or sale of beer or wine shall be made from an ice tub.
13. No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.
14. Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. shall be at least twenty-one (21) years of age to sell beer and wine.
15. Prior to obtaining a license from the Alcoholic Beverage Control (ABC) to sell alcohol, the applicant shall obtain a Finding of Public Convenience or Necessity from the Merced City Council.
16. No single-serving containers smaller than 20 ounces shall be sold individually. Any containers smaller than 20 ounces shall be sold as part of a larger pack (i.e., 6-pack or 12-pack).
17. "No Loitering" signs shall be placed on the building along the alley and the front of the store.

18. The proprietor and/or successors in interest and management shall be prohibited from externally advertising or promoting beer & wine and/or distilled spirits including, but not limited to, window and wall signage.
19. This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.
20. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws and other nuisance-related issues.
21. The City reserves the right to periodically review the area 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, disturbing the peace and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.
22. Sufficient lighting shall be provided throughout the site to provide a safe environment for patrons of the market. If lighting does not currently exist, it shall be provided within 60 days of this approval. Details to be worked out with staff.
23. The premises shall remain clean and free of debris at all times.

n:shared:planning:PC Resolutions: CUP#1195 Exhibit A