

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, June 17, 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, Associate Planner Nelson, Senior Deputy City Attorney Rozell, and Recording Secretary Lane

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S COLBY-SMOOT, and carried by unanimous voice vote (one vacancy), to approve the Minutes of May 20, 2015, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Conditional Use Permit #1200, initiated by BP Investors, LLC, property owners. This application involves a request to construct a 216-unit apartment complex in two phases on a 9.8-acre parcel located on the north side of Merrill Place (extended) approximately 1,200 feet east of G Street. This parcel is located within Residential Planned Development (RP-D) #61 and has a Village Residential (VR) General Plan designation. (Continued from May 20, 2015)

Associate Planner Nelson reviewed the report on this item. She noted a letter from Pete and Vicki Bandoni in opposition to the project which was provided to the Commission prior to the meeting. For further information, refer to Staff Report #15-11 – Addendum.

Commissioner COLBY suggested an amendment to Finding N to clarify that 60% of the proposed units are 4 bedroom units as opposed to the previous statement that 36% of the proposed units are 4 bedroom/4 bath units since this statistic doesn't address the 4 bedroom/2 bath units.

Public testimony was opened at 7:16 p.m.

Speaker from the Audience in Opposition:

PETE BANDONI, Merced

No one spoke in favor of the project.

Public testimony was completed at 7:22 p.m.

The Commission discussed the project and briefly revisited the reasons they did not support it, which were voiced at the previous Planning Commission meeting of May 20, 2015.

M/S COLBY-PADILLA, and carried by the following vote, to deny Environmental Review #15-07 and Conditional Use Permit #1200,

subject to the Findings set forth in Staff Report #15-11 – Addendum, amending Finding N as follows (RESOLUTION #3051):

(Note: ~~Strikethrough~~ deleted language, underline added language.)

Parking (Finding for Denial)

“N. The off-street parking space requirement for multiple-family dwellings is 1.75 spaces for each unit up to 30 units, and 1.5 spaces for each unit thereafter. Based on this formula, the project would be required to provide 233 spaces with Phase One and 99 spaces with Phase Two for a total of 332 parking spaces. The project proposes to construct 362 parking spaces which would meet the minimum requirements plus an additional 30 spaces.

“Although the proposal includes on-site parking spaces that exceed City code requirements, the unique needs and parking demands of student housing are not addressed. The proposal provides 1.68 parking spaces per unit. As proposed the project consists of 1, 2, and 4 bedroom units with approximately 60~~36~~% of the units being 4 bedroom/~~4 bath~~ units (see table below).

UNIT BREAKDOWN BY BEDROOM/BATH

Unit Type	Size	Phase 1 Units	Phase 2 Units	Total Units	Total Bedrooms
1 Bedroom/1 Bath	542 s.f.	9	3	12	12
2 Bedroom/1 Bath	782 s.f.	24	3	27	54
2 Bedroom/2 Bath	916 s.f.	30	18	48	96
4 Bedroom/2 Bath	1,270 s.f.	36	15	51	204
4 Bedroom/4 Bath	1,339 s.f.	51	27	78	312
TOTAL		150	66	216	678

“If each bedroom is occupied by a single occupant, the maximum number of people occupying the apartment complex in Phase One would be 465 people. Phase Two would add an additional 213 people for an overall total of 678 people. If each bedroom were occupied by 2 people, the total project occupancy could be up to 1,356 people. The proposal does not

include any measures to limit the occupancy of rooms, which could lead to parking demands that exceed the spaces provided (362 spaces). This would lead to project occupants parking on the street and on the adjacent properties, including the streets within the future single-family residential development to the west and the other areas designated for residential uses within close proximity.”

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

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: None

4.2 General Plan Amendment #15-02 and Site Utilization Plan Revision #18 to Planned Development (P-D) #4, initiated by Shemoil Moradzadeh, property owner. This application is a request to change the General Plan designation from Commercial Office (CO) to Neighborhood Commercial (CN) and to change the Site Utilization Plan designation from “Financial Institution” to “Retail” for an approximately 0.92 acre parcel located at the southeast corner of M Street and Olive Avenue.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #15-13.

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

Speaker from the Audience in Favor:

DAVID THELEN, Merced, representing the applicant

No one spoke in opposition to the project.

Public testimony was completed at 7:35 p.m.

M/S PADILLA-SMITH, and carried by the following vote, to recommend to City Council adoption of a Negative Declaration regarding Environmental Review #15-09, and approval of General Plan Amendment #15-02 and Site Utilization Plan Revision #18 to Planned Development (P-D) #4, subject to the Findings and ten (10) Conditions set forth in Staff Report #15-13 (RESOLUTION #3052):

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

NOES: None

ABSENT: None (one vacancy)

ABSTAIN: None

4.3 Cancellation of July 8, 2015, Planning Commission Meeting
due to Lack of Items

M/S SMOOT-SMITH, and carried by the following vote, to cancel the Planning Commission meeting of July 8, 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 noted that Robert Dylina and Bill Baker were appointed to the Planning Commission by the City Council and announced that this is Commissioner MCCOY's last meeting on the Planning Commission. Commissioner PADILLA updated the Commission on the High Speed Rail Committee meeting that he recently attended.

6. **ADJOURNMENT**

There being no further business, Chairperson WILLIAMS adjourned the meeting at 7:43 p.m.

Respectfully submitted,

Handwritten signature in blue ink that reads "Bun King for Kim ESPINOSA".

KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:

Handwritten signature in blue ink, appearing to be "Brandon Williams".

BRANDON WILLIAMS, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3051

WHEREAS, the Merced City Planning Commission at its regular meeting of May 20 and June 17, 2015, held a public hearing and considered **Conditional Use Permit #1200**, initiated by BP Investors, LLC, property owners. This application involves a request to construct a 216-unit apartment complex in two phases on a 9.8-acre parcel located on the north side of Merrill Place (extended) approximately 1,200 feet east of G Street. This parcel is located within Residential Planned Development (RP-D) #61 and has a Village Residential (VR) General Plan designation; also known as Assessor's Parcel No. 060-030-039; and,

WHEREAS, the Merced City Planning Commission concurs with Findings M through P of Staff Report #15-11 - Addendum, with Finding N modified as follows below; and,

(New language underlined, deleted language ~~strikethrough~~.)

Finding N modified as follows (second paragraph)

Although the proposal includes on-site parking spaces that exceed City code requirements, the unique needs and parking demands of student housing are not addressed. The proposal provides 1.68 parking spaces per unit. As proposed the project consists of 1, 2, and 4 bedroom units with approximately 60~~36~~% of the units being 4 bedroom/~~4 bath~~ units (see table below).

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 deny Environmental Review #15-07 and Conditional Use Permit #1200.

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)

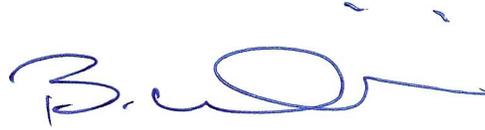
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3051

Page 2

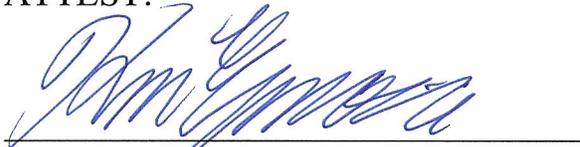
May 20 and June 17, 2015

Adopted this 17th day of June 2015



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

CITY OF MERCED
Planning Commission

Resolution #3052

WHEREAS, the Merced City Planning Commission at its regular meeting of June 17, 2015, held a public hearing and considered **General Plan Amendment #15-02 and Site Utilization Plan Revision #18 to Planned Development (P-D) #4**, initiated by Shemoil Moradzadeh, property owner. This application is a request to change the General Plan designation from Commercial Office (CO) to Neighborhood Commercial (CN) and to change the Site Utilization Plan designation from “Financial Institution” to “Retail” for an approximately 0.92 acre parcel located at the southeast corner of M Street and Olive Avenue; also known as Assessor’s Parcel No. 007-250-020; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #15-13; 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 #15-09, and approval of General Plan Amendment #15-02 and Site Utilization Plan Revision #18 to Planned Development (P-D) #4, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Padilla, 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 # 3052

Page 2

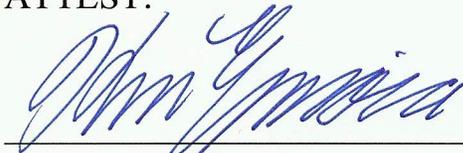
June 17, 2015

Adopted this 17th day of June 2015



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #3052
General Plan Amendment #15-02
Site Utilization Plan Revision #18 to P-D #4

1. The General Plan Land Use Map and the Site Utilization Plan Map for Planned Development (P-D) #4 shall be changed as shown on Exhibit 1 (map of changes) -- Attachment B of Staff Report #15-13.
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 Site Utilization Plan Revision is subject to the applicants entering into a written (developer) 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 #3052

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 the General Plan Amendment and Site Utilization Plan Revision allows all principally permitted and accessory uses within a Neighborhood Commercial (C-N) zone [Merced Municipal Code (MMC) Chapter 20.22] subject to all rules and regulations of the Planned Development. Conditional Uses listed in MMC Section 20.22.050 would be allowed subject to Conditional Use Permit review and approval.
8. All signing shall comply with the North Merced Sign Ordinance. A temporary banner permit shall be obtained prior to any tenant installing a temporary banner or sign. Free-standing temporary signs (i.e., sandwich boards, A-frame, feather-type, and moveable/dancing signs) are prohibited.
9. Sufficient parking shall be provided for all tenants of the building. If sufficient parking cannot be provided on-site or within 400 feet of the site as allowed by Merced Municipal Code Section 20.58.370, such use would be unable to locate within this building.
10. Any future modifications to the site or building may require the issuance of a building permit. The owner shall obtain all necessary permits for any improvements to the building or the site.