

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, November 4, 2015

Chairperson COLBY 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: Kurt Smoot, Kevin Smith, Bill Baker, Robert Dylina, Peter Padilla, Jill McLeod, and Chairperson Travis Colby

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Police Lieutenant Matthews, Associate Planner Nelson, Senior Deputy City Attorney Rozell, Secretary Davis, and Recording Secretary Lane

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S BAKER-DYLINA, and carried by unanimous voice vote, to approve the Minutes of October 21, 2015, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Conditional Use Permit #1205, initiated by Tongtoua Yang on behalf of Kajla Mahinder Singh, property owner. This application involves a request to allow the relocation of the 24-hour Merced Poker Room from 1445 Martin Luther King Jr., Way to 1459 Martin Luther King, Jr., Way, Suites, 4, 5, and 6, and to allow the sale of beer and wine for on-site consumption at the new location. The subject site has a General Plan Designation of Thoroughfare Commercial (CT) and is located within a Thoroughfare Commercial (C-T) zone.

Associate Planner NELSON reviewed the report on this item. After additional conversations with the Police Department, staff is recommending a modification to Condition #27. This is contained in a memo from staff, which was provided to the Commission prior to the meeting. For further information, refer to Staff Report #15-20.

Public testimony was opened at 7:26 p.m.

Speakers from the Audience (Neutral):

HECTOR RAMIREZ, Merced

Lieutenant MATTHEWS responded to some questions from the Commission.

No one spoke in favor of or in opposition to the project.

Public testimony was completed at 7:29 p.m.

The Commission discussed various aspects of the project, including the conditions regarding installing video surveillance cameras and providing food for the patrons. Some concerns were raised regarding the request for alcohol sales and this possibly resulting in more police calls and incidents. There were some comments to give the applicants

the benefit of the doubt and approve their request for alcohol sales since conditions were in place to address potential problems.

M/S PADILLA-BAKER, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #15-28, and approve Conditional Use Permit #1205, subject to the Findings and thirty (30) Conditions set forth in Staff Report #15-20, amending Condition #27 as follows (RESOLUTION #3056):

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

“27. The business must have food available, other than chips and nuts, to patrons during the hours that alcohol is served ~~of operation which may include having food brought in from nearby restaurants if food cannot be prepared on site. Details to be worked out with staff.~~”

- AYES: Commissioners Baker, Dylina, Padilla, McLeod, and Chairperson Colby
- NOES: Commissioners Smoot and Smith
- ABSENT: None
- ABSTAIN: None

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA introduced new Planning Commissioner Jill McLeod and briefed the Planning Commission on items for the next few Planning Commission meetings and reminded them of the Joint City Council/Planning Commission study session on the Zoning Code that will be held on Monday, December 7, 2015, at 5:30 p.m.

6. **ADJOURNMENT**

There being no further business, Chairperson COLBY adjourned the meeting at 7:51 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



TRAVIS COLBY, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3056

WHEREAS, the Merced City Planning Commission at its regular meeting of November 4, 2015, held a public hearing and considered **Conditional Use Permit #1205**, initiated by Tongtoua Yang on behalf of Kajla Mahinder Singh, property owner. This application involves a request to allow the relocation of the 24-hour Merced Poker Room from 1445 Martin Luther King Jr., Way to 1459 Martin Luther King, Jr., Way, Suites, 4, 5, and 6, and to allow the sale of beer and wine for on-site consumption at the new location. The subject site has a General Plan Designation of Thoroughfare Commercial (CT) and is located within a Thoroughfare Commercial (C-T) zone; also known as Assessor's Parcel No. 031-241-029; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through L of Staff Report #15-20; 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 #15-28, and approve Conditional Use Permit #1205, 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 Baker, and carried by the following vote:

AYES: Commissioners Baker, Dylina, Padilla, McLeod, and Chairperson Colby

NOES: Commissioners Smoot and Smith

ABSENT: None

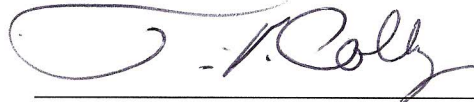
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3056

Page 2


November 4, 2015

Adopted this 4th day of November 2015



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #3056
Conditional Use Permit #1205

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (floor plan) -- Attachments B and C of Staff Report #15-20, 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 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 (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. The business owner shall obtain all necessary permits and approvals from the Merced City Fire Department. The business owner shall contact the Merced City Fire Department at 99 E. 16th Street to obtain all necessary approvals.
8. This approval is for four card tables. If in the future, any additional tables are allowed within the City of Merced, the business owner shall be required to obtain Conditional Use Permit approval to add additional tables.
9. The Merced Poker Room shall not operate at this location until it has vacated the existing location (1445 Martin Luther King, Jr. Way). Under no circumstances shall the Merced Poker Room operate at both locations.
10. No food shall be prepared on the premises without prior approval of the City's Inspection Services and Fire Departments and the Merced County Health Department. Prior to food being prepared on the premises, a commercial kitchen shall be installed.
11. All signing shall comply with the City's Sign Ordinance.
12. If the Merced Poker Room is closed at this location for six months or more, this Conditional Use Permit shall expire and will no longer be valid.
13. If the Merced Poker Room moves to another permitted location within the City of Merced, this approval shall no longer be valid and shall terminate upon vacation of the premises by the Merced Poker Room.
14. The card room is approved to operate 24 hours per day.
15. The City reserves the right to periodically review the area for potential problems. If problems, including, but not limited to, excessive harassment, malicious property damage, lewd and/or disorderly conduct, arise as a result of the cardroom, this 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.

16. “No Loitering” signs shall be placed on the exterior of the building to deter non-patrons from gathering near the building.
17. Sufficient lighting shall be provided throughout the site to provide a safe environment for patrons of the cardroom.
18. The premises shall remain clean and free of debris at all times.
19. No one under the age of 21 shall be allowed to participate in card playing activities.
20. All participants in the card games shall play with their own money. No employees shall be allowed to participate in the game.
21. No owner or employee shall extend credit to card players.
22. The Merced Police Department reserves the right to conduct inspections of the cardroom during normal business hours to monitor compliance with all conditions of approval and state regulations.
23. The applicant shall install interior and exterior video surveillance cameras that continuously record both the inside and outside activities 24 hours a day, 7 days a week (locations to be worked out with the Police Department). Any video related to criminal investigations must be accessible immediately for viewing by the Merced Police Department or any other law enforcement agency. A recorded copy of surveillance video, requested in connection with a criminal investigation, must be reasonably accessible and available within 24 hours when requested by law enforcement. The business owner is responsible for maintaining the video surveillance equipment in an operable manner at all times.
24. Smoking is not allowed within 25-feet of the entrance to the building and the owner shall designate an exterior area that is available for smoking that is at least 25 feet from all business entrances. Receptacles acceptable for the disposal of smoldering remnants and discarded debris associated with smoking tobacco products (such as ashes and cigarette butts) shall be made available within this smoking area. The business owner shall be responsible for ensuring all applicable laws are enforced and adhered to and that signage is posted advising patrons of those rules.
25. A minimum of one security guard shall be provided in the cardroom area during business hours. The Police Department reserves the right to request additional security guards if any problems arise. All security guards shall be hired from a company that has been approved by the Merced City Council and properly licensed through the City of Merced.

All security guards are subject to approval of the Merced Police Department.

26. Beer and wine only may be sold for on-site consumption in the cardroom. The business shall also provide a variety of non-alcoholic beverages for sale to patrons.
27. The business must have food available, other than chips and nuts, to patrons during the hours that alcohol is served.
28. 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.
29. In accordance with state law, no alcoholic beverages shall be sold between 2:00 a.m. and 6:00 a.m. of the same day.
30. Approval of the sale of beer and wine shall not become effective until such time as the City Council makes a Finding of Public Convenience or Necessity to allow the sale of alcoholic beverages at this location. If no such finding is made, the approval for alcohol sales becomes null and void.

n:shared:planning:PC Resolutions: CUP#1205 Exhibit A