

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, April 6, 2016

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, and Chairperson Travis Colby

Commissioners Absent: Jill McLeod (excused) and Peter Padilla (excused)

Staff Present: Planning Manager Espinosa, Senior Deputy City Attorney Rozell, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

M/S SMITH-DYLINA, and carried by unanimous voice vote (two absent), to approve the Agenda as submitted.

2. **MINUTES**

M/S BAKER-SMITH, and carried by unanimous voice vote (two absent), to approve the Minutes of March 23, 2016, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Modification to Conditional Use Permit #1086, initiated by Van Sinvongsa, applicant for Promenade Center, Limited Partnership, property owners. This application involves a request to modify an existing beer and wine ABC License to include the sale of liquor for Thai Cuisine II, located at 779 E. Yosemite Avenue, Suite G, within the Promenade Shopping Center in Planned Development (P-D) #48 with a Neighborhood Commercial (CN) designation.

Planning Manager ESPINOSA reviewed the report on this item and noted the addition of Conditions #10 and #11. For further information, refer to Staff Report #16-07.

There was no one present wishing to speak regarding this item; therefore, public testimony was opened and closed at 7:09 p.m.

M/S DYLYNA-COLBY, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-06, and approve a Modification of Conditional Use Permit #1086, subject to the Findings set forth in Staff Report 16-07, the nine (9) Conditions set forth in Staff Report # 06-22, and Conditions #10 and #11 set forth in Staff Report #16-07 (RESOLUTION #2864):

(Note: New language underlined, deleted language ~~strikethrough~~)

AYES: Commissioners Baker, Dylina, Smoot, and Chairperson Colby

NOES: Commissioner Smith

ABSENT: Commissioners McLeod and Padilla

ABSTAIN: None

4.2 2015-2016 Annual Planning Commission Attendance Report

M/S COLBY-SMITH, and carried by the following vote, to approve the Annual Planning Commission Attendance Report as submitted.

AYES: Commissioners Baker, Dylina, Smith, Smoot, and Chairperson Colby

NOES: None

ABSENT: Commissioners McLeod and Padilla

ABSTAIN: None

4.3 Cancellation of April 20, 2016, Planning Commission Meeting due to a conflict with the City Council study session

M/S COLBY-SMITH, and carried by the following vote, to cancel the Planning Commission meeting of April 20, 2016.

AYES: Commissioners Baker, Dylina, Smith, Smoot, and Chairperson Colby

NOES: None

ABSENT: Commissioners McLeod and Padilla

ABSTAIN: None

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

6. **ADJOURNMENT**

There being no further business, Chairperson COLBY adjourned the meeting at 7:12 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



TRAVIS COLBY, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Amended by PC on 4/6/2016. See pg. 4.
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Resolution #2864

WHEREAS, the Merced City Planning Commission at its regular meeting of March 8, 2006, held a public hearing and considered **Conditional Use Permit #1086**, initiated by Angela Peng, applicant for Promenade Center, Limited Partnership, property owners. This application involves a request to allow on-site sale of beer and wine within the Asian Express Restaurant, located at 779 E. Yosemite Avenue, Suite G, within the Promenade Shopping Center in Planned Development (P-D) #48 with a Neighborhood Commercial (C-N) designation; also known as Assessor's Parcel No. 231-040-009; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through D of Staff Report #06-22; and,

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 #06-10 and approve Conditional Use Permit #1086, subject to the following conditions:

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (floor plan) - Attachments C and D of Staff Report #06-22.
2. All conditions contained in Resolution #1249 ("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. The Project shall comply with the conditions set forth in Resolution #2685 for Conditional Use Permit #1033 previously approved for the *Promenade Shopping Center*.

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5. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
6. The developer/applicant shall indemnify, protect, defend, 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 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. The City reserves the right to periodically review the area for potential problems. Should excessive calls for service or violation of these conditions of approval occur, the City may consider revocation

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of the Conditional Use Permit (CUP) after a public hearing and following the procedures spelled out in the Merced Municipal Code.

9. Separate sign permits are required and shall comply with the North Merced Sign Ordinance and the Master Sign Program for the Promenade Shopping Center.

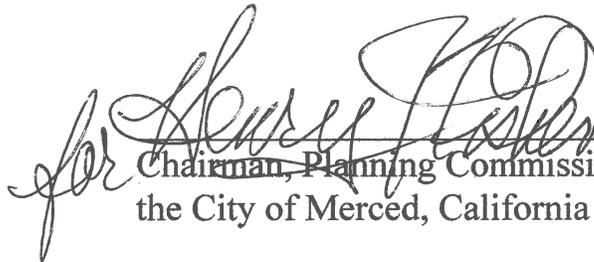
Upon motion by Commissioner Burr, seconded by Commissioner Ward, and carried by the following vote:

AYES: Commissioners Fisher, Acheson, Burr, Conte, Ward, and
Chairman Shankland

NOES: Commissioner Amey

ABSENT: None

Adopted this 8th day of March, 2006


Chairman, Planning Commission of
the City of Merced, California

ATTEST:


Secretary

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April 6, 2016: At their regularly scheduled meeting of April 6, 2016, the Merced City Planning Commission considered Modification to Conditional Use Permit#1086 and Environmental Review #16-06.

WHEREAS, the Merced City Planning Commission concurs with Findings A through E of Staff Report #16-07; 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 adopt a Categorical Exemption regarding Environmental Review #16-06, and approve a Modification of Conditional Use Permit #1086 with the addition of Conditions #10 and #11 as follows:

10. Alcohol sales shall cease at 11:00 p.m. regardless of the business hours for the restaurant.
11. In addition to beer and wine, the restaurant shall now be allowed to sell liquor if they meet all applicable Alcoholic Beverage Control (ABC) requirements.

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

AYES: Commissioners Baker, Dylina, Smoot, and Chairperson Colby

NOES: Commissioner Smith

ABSENT: Commissioners McLeod and Padilla

ABSTAIN: None