

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, September 7, 2016

Chairperson McLEOD 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: Travis Colby, Robert Dylina, Peter Padilla, Kevin Smith, Kurt Smoot, and Chairperson McLeod

Commissioners Absent: Bill Baker (unexcused)

Staff Present: Planning Manager Espinosa, Associate Planner Nelson, Senior Deputy City Attorney Fincher, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

M/S SMOOT-DYLINA, and carried by unanimous voice vote (one absent), to approve the Agenda as amended.

2. **MINUTES**

M/S COLBY-SMITH, and carried by unanimous voice vote (one absent), to approve the Minutes of July 20, 2016, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Design Review Application #16-01, initiated by Capital Rivers Commercial and the Vernal Group, on behalf of “J” Street Plaza Company, a California general partnership, property owner. This application involves a request to demolish the existing building and construct a new 2,791-square-foot fast-food restaurant with a drive-thru at the southwest corner of Martin Luther King, Jr. Way and 15th Street (1445 Martin Luther King, Jr. Way) within a Thoroughfare Commercial (C-T) Zone.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #16-20.

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

Speaker from the Audience in Favor:

GREG AGUIRRE, property owner, Sacramento

No one spoke in opposition to the project.

Public testimony was closed at 7:14 p.m.

M/S COLBY-DYLINA, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-24, and approve Design Review #16-01, subject to the Findings and twenty-three (23) Conditions set forth in Staff Report #16-20 (RESOLUTION #3073):

AYES: Commissioners Colby, Dylina, Padilla, Smith, Smoot, and Chairperson McLeod

NOES: None

ABSENT: Commissioner Baker

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**

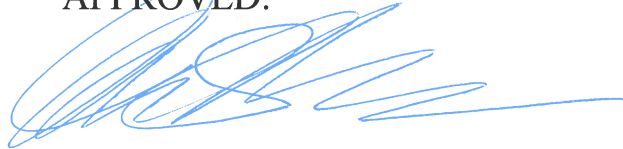
There being no further business, Chairperson McLEOD adjourned the meeting at 7:18 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



JILL McLEOD, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3073

WHEREAS, the Merced City Planning Commission at its regular meeting of September 7, 2016, held a public hearing and considered **Design Review #16-01**, initiated by Capital Rivers Commercial and the Vernal Group, on behalf of “J” Street Plaza Company, a California general partnership, property owner. This application involves a request to demolish the existing building and construct a new 2,791-square-foot fast-food restaurant with a drive-thru at the southwest corner of Martin Luther King, Jr. Way and 15th Street (1445 Martin Luther King, Jr. Way) within a Thoroughfare Commercial (C-T) Zone; also known as Assessor’s Parcel No. 031-241-030; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #16-20; 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 #16-24, and approve Design Review #16-01, 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 Dylina, and carried by the following vote:

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

PLANNING COMMISSION RESOLUTION #3073

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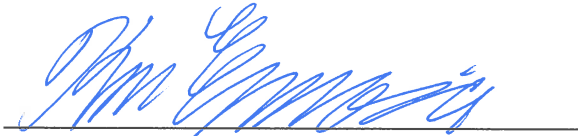
September 7, 2016

Adopted this 7th day of September 2016



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

n:\shared\planning\PC Resolutions\DR#16-01 1445 MLK Jr. Way (Popeye's)

Conditions of Approval
Planning Commission Resolution #3073
Design Review #16-01

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibits 2 and 3 (elevations), and Exhibit 4 (landscape plan) -- Attachments B, C, D, and E, 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. 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.
5. 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.

6. All 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 parcels.
7. The applicant shall work with the City’s Refuse Department to determine the proper location for a trash enclosure and if a recycling container will be required to comply with AB 341. The container(s) shall be enclosed within a refuse enclosure built to City Standards.
8. Bicycle racks (inverted-U-style) shall be provided at a minimum ratio equal to 5% of the vehicular parking spaces.
9. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$85,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards, installing street trees, and other relevant City of Merced/State/Federal standards and regulations.
10. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
11. The project shall comply with the requirements of the California Urban Level of Flood (200-year Flood) and all FEMA flood zone requirements, where applicable.
12. All necessary permits shall be obtained from Caltrans for any work done within the Caltrans right-of-way.
13. Appropriate turning radii shall be provided within the parking areas to allow for Fire Department and refuse truck access.
14. The project shall comply with all the Post Construction Standards required to comply with state requirements for the City’s Phase II MS-4 Permit (Municipal Separate Storm Sewer System).

15. All landscaping in the public right-of-way and on-site shall comply with State Water Resources Control Board Resolution No. 2015-0032 “To Adopt an Emergency Regulation for Statewide Urban Water Conservation” and the City’s Water Conservation Ordinance (Merced Municipal Code Section 15.42). Xeriscape or artificial turf shall be used in place of natural sod or other living ground cover. If turf is proposed to be installed in park-strips or on-site, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed. All irrigation provided to street trees, parking lot trees, or other landscaping shall be provided with a drip irrigation or micro-spray system.
16. All landscaping shall be installed prior to occupancy and shall thereafter be maintained in a healthy and aesthetic manner. Parking lot trees are required at a minimum rate of one tree per each six parking spaces. The type of shade trees used for parking lot trees shall be selected from the City’s approved tree list and meet the City’s minimum requirements of casting shade in the parking lot. Landscaping shall be installed as shown on Exhibit 4 (Attachment E of Staff Report #16-20), except as modified by these conditions.
17. All signing shall comply with the City’s Sign Ordinance. Signing on the building shall be calculated based on the tenant’s primary and secondary building frontage. One-square-foot of signing for each lineal foot of primary frontage and ½ square-foot of signing for each lineal foot of secondary frontage is allowed. The maximum sign area for the site shall not exceed 500 square feet. A freeway sign in compliance with Merced Municipal Code Section 17.36.810 is allowed. Any signs installed on the existing pylon sign on the adjacent property shall be in compliance with the agreement entitled “Pylon Signs Easement Declaration,” recorded as Document #41922 on November 19, 1998 (refer to Attachment G of Staff Report #16-20) and the City’s sign ordinance.
18. All mechanical equipment shall be screened from public view.
19. The premises shall remain clean and free of debris and graffiti at all times.
20. Outdoor seating is not shown on the site plan and is not approved with this application. Prior to any outdoor seating being installed, approval must be obtained by the Planning Department. Additional parking

spaces may be required if the total number of seats for the restaurant exceeds 48.

21. If it is determined that the access easement running east and west from Martin Luther King, Jr. Way to the western property line is still valid, plans submitted for building permit review shall show the easement area. If the easement is still valid, all improvements shall be located outside the easement area. In addition, plans shall show the right-of-way dedication at the corner of Martin Luther King, Jr. Way and 15th Street dedicated by the deed recorded as Document #2006-057480 in Merced County Records.
22. A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are prohibited.
23. Any music played over the outdoor speakers mounted to the building walls shall be kept to a minimum noise level so as not to travel outside the immediate area around the building.

n:\shared\planning\PC Resolutions: DR #16-01 Exhibit A