

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, September 21, 2016

Vice-Chairperson Dylina 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, Bill Baker, Robert Dylina, Peter Padilla, Kevin Smith, Kurt Smoot, and
*Chairperson McLeod

*Chairperson McLeod arrived at 7:05 p.m.

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Planner Mendoza-Gonzalez, Attorney Kim G. Flores, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S PADILLA-SMITH, and carried by unanimous voice vote, to approve the Minutes of September 7, 2016, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Conditional Use Permit #1214, initiated by Ferass Abu Ghaban and Abdullah Taleb, applicants for Promenade Center, Limited Partnership, property owners. This application involves a request to allow the sale of beer and wine for on-site consumption at the Bobcat Diner, located at 755 E. Yosemite Avenue, Suite H, at the Promenade Shopping Center within Planned Development (P-D) #48 with a Neighborhood Commercial (CN) General Plan designation.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #16-18.

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

Speaker from the Audience in Favor:

FERASS ABU GHABAN, applicant, Merced

No one spoke in opposition to the project.

Public testimony was closed at 7:17 p.m.

M/S COLBY-SMITH, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-26, and approve Conditional Use Permit #1214, subject to the Findings and fifteen (15) Conditions set forth in Staff Report #16-18 (RESOLUTION #3074):

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

NOES: None

ABSENT: None

ABSTAIN: None

- 4.2 Design Review #16-02, initiated by El Capitan Hotel Merced, LLC, property owner(s). This application involves a request to

rehabilitate an existing 33-room hotel at 1715 M Street and to construct a new four-story hotel (for a total of 100 rooms) with a restaurant and retail space at 611 and 613-621 W. Main Street, generally located at the northwest corner of M Street and Main Street, within a Central Commercial (C-C) Zone.

Planner MENDOZA-GONZALEZ reviewed the report. For further information, refer to Staff Report #16-19.

Public testimony was opened at 8:01p.m.

Speaker from the Audience in Favor:

JOHN MARTIN, applicant, Denver, CO

JEFF GOODWIN, architect, Oakland, CA

The applicant answered questions brought up by the Commission regarding parking and creating an unloading zone at the front of the hotel to alleviate traffic build up on Main Street.

The architect answered questions brought up by the Commission regarding the design of the hotel, specifically the red brick veneer.

No one spoke in opposition to the project.

Public testimony was completed at 8:19 p.m.

M/S PADILLA-SMOOT, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-27, and approve Design Review #16-02, subject to the Findings and twenty-eight (28) Conditions set forth in Staff Report # 16-19, deleting Condition #23 as follows (RESOLUTION # 3075):

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

~~“23. The developer shall replace the proposed brown brick veneer with red brick veneer that matches the brick used throughout Downtown sidewalks and street corner ramps. The bricks’ color~~

~~and texture shall be reviewed and approved by Planning staff during the building permit stage.”~~

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

NOES: None

ABSENT: None

ABSTAIN: None

4.3 Cancellation of October 5, and October 19, 2016, Planning Commission Meetings due to lack of items.

M/S DYLINA-COLBY, and carried by unanimous voice vote, to cancel the Planning Commission meetings of October 5, and October 19, 2016, due to lack of items.

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**

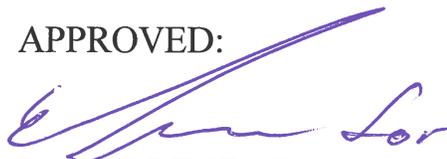
There being no further business, Chairperson McLEOD adjourned the meeting at 8:33 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



JILL McLEOD, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3074

WHEREAS, the Merced City Planning Commission at its regular meeting of September 21, 2016, held a public hearing and considered **Conditional Use Permit #1214**, initiated by Ferass Abu Ghaban and Abdullah Taleb, applicants for Promenade Center, Limited Partnership, property owners. This application involves a request to allow the sale of beer and wine for on-site consumption at the Bobcat Diner, located at 755 E. Yosemite Avenue, Suite H, at the Promenade Shopping Center within Planned Development (P-D) #48 with a Neighborhood Commercial (CN) General Plan designation; also known as Assessor's Parcel Numbers 231-180-003; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through E of Staff Report #16-18; 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 #16-26, and approve Conditional Use Permit #1214, 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 Smoot, and carried by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3074

Page 2

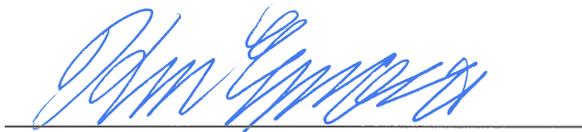
September 21, 2016

Adopted this 21st day of September 2016



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #3074
Conditional Use Permit #1214

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 #16-18.
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 applicable conditions set forth in Planning Commission Resolution #2685 for Conditional Use Permit #1033 previously approved for the *Promenade* shopping center.
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. Alcoholic beverages shall not be allowed outside the building. A future outdoor seating area with alcohol service may be allowed with approval from both the Site Plan Review Committee and Alcoholic Beverage Control.
9. The restaurant shall meet all applicable Merced County Health Department requirements.
10. The restaurant shall meet all applicable Alcoholic Beverage Control requirements.
11. This approval is for alcohol sales as an ancillary use to the primary restaurant only.
12. Request to operate as a nightclub, bar, or similar use shall require an additional review and approval from the Planning Commission (as required in the Zoning Ordinance).
13. 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 of the Conditional Use Permit (CUP) after a public hearing and following the procedures spelled out in the Merced Municipal Code.
14. Signs shall comply with the Master Sign Program for the Promenade Shopping Center.
15. Alcohol sales shall cease at 11:00 p.m. regardless of the business hours for the restaurant.

CITY OF MERCED
Planning Commission

Resolution #3075

WHEREAS, the Merced City Planning Commission at its regular meeting of September 21, 2016, held a public hearing and considered **Design Review #16-02**, initiated by El Capitan Hotel Merced, LLC, property owner(s). This application involves a request to rehabilitate an existing 33-room hotel at 1715 M Street and to construct a new four-story hotel (for a total of 100 rooms) with a restaurant and retail space at 611 and 613-621 W. Main Street, generally located at the northwest corner of M Street and Main Street, within a Central Commercial (C-C) Zone; also known as Assessor's Parcel No. 031-133-008; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #16-19; 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 #16-27, and approve Design Review #16-02, 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 Baker, Colby, Dylina, Padilla, Smith, Smoot,
and Chairperson McLeod
NOES: None
ABSENT: None
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3075

Page 2

September 21, 2016

Adopted this 21st 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#16-02 El Capitan Hotel (611 & 613-621 W. Main St.)

Conditions of Approval
Planning Commission Resolution # 3075
Design Review #16-02

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (floor plans), Exhibit 3 (elevations) -- Attachments B, D, and F of Staff Report #16-19, 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, 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.
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 modifications shall meet or exceed the building codes in effect at the time of building permit application submittal. New codes are in effect January 1, 2017.
7. The development shall meet all applicable Fire Department requirements which include, but are not limited to, installing a fire control room, Fire Department connect, and a fire pump.
8. The applicant shall work with the City's Engineering and Fire Departments to determine if the exterior fire escapes on the El Capitan Hotel Annex are structurally safe. The exterior fire escapes may need to be removed if required by the City's Engineering and Fire Departments.
9. All structures extending over the public right-of-way shall require encroachment permits (including balconies, overhangs, and signs).
10. The applicant shall obtain approval from the City's Engineering Department to widen City streets to create customer loading zones on Main Street and M Street. Customer loading, especially of luggage, is also encouraged off the alley or Main Street, not M Street.
11. The applicant shall obtain approval from the Merced County Association of Governments (MCAG) Transit Joint Powers Authority to relocate the existing bus turn-out along M Street to accommodate a customer loading zone.
12. 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.
13. 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).
14. The developer shall work with the City Engineer to determine the requirements for storm drainage on the site. The developer shall provide all necessary documentation for the City Engineer to evaluate the storm drain system. All storm drain systems shall be installed to meet City Standards and state regulations.

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, or other landscaping shall be provided with a drip irrigation or micro-spray system.
16. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
17. The proposed restaurant shall meet all applicable Merced County Health Department requirements.
18. 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.
19. The applicant shall work with the City’s Refuse Department to determine the location and method for refuse service. In addition, the applicant shall work with the City’s Refuse Department to determine if a recycling container will be required to comply with AB 341.
20. All signing shall comply with the City’s Sign Ordinance. 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. Freestanding or A-frame signs are not allowed.
21. Future exterior remodels or major site modifications shall require design review approval from the Planning Commission or their designated review board.
22. Exterior painting and minor exterior modifications shall require staff level design review.
23. Approval of this request does not allow the hotel or restaurant to operate as a bar or night club per MMC 20.04.075 and 20.04.315 (code

references subject to change under new Zoning Code). Bars and night clubs are considered conditional uses and shall require conditional use permit approval from the Planning Commission.

24. The applicant shall provide proof of a parking agreement during the building permit stage to meet the parking requirements for all uses above the ground floor (approximately 38 parking spaces). The parking agreement shall comply with MMC Section 20.58.370.C., unless the Zoning Ordinance is amended to allow other means of satisfying parking requirements. Payment of in-lieu fees per MMC 20.58.510 may also be acceptable.
25. Anti-graffiti coating shall be applied to the building's exterior to curb graffiti. The applicant shall maintain a clean and respectable appearance of the building at all times, and any graffiti or other vandalism done to any building or future accessory structure shall be rectified or repaired within a reasonable amount of time.
26. 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 roads, sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.
27. Any missing or damaged improvements along the property frontage shall be installed/repared to meet City Standards. Any improvements that don't meet current City Standards shall be replaced to meet all applicable standards.

n:\shared\planning\PC Resolutions: DR #16-02 Exhibit A