

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, November 8, 2017

Chairperson Dylina called the meeting to order at 7:03 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: *Sonia Alshami, Mary Camper, Travis Colby, Robert Dylina, Jeremy Martinez, Peter Padilla, and Kevin Smith

*Commissioner Alshami arrived at 7:43 p.m.

Commissioners Absent: None

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Attorney Flores, Planner Mendoza-Gonzalez, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S PADILLA-SMITH, and carried by unanimous voice vote (one absent), to approve the Minutes of October 11 and 18, 2017, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Conditional Use Permit #1219, initiated by Madira Land Convenience Store on behalf of Olivewood Shopping Center, LLC, property owner. This application involves a request to sell beer and wine for off-site consumption at Madira Land Convenience Store, generally located on the south side of Olive Avenue, approximately 400 feet east of Austin Avenue (at 1340 W. Olive Ave., Ste. #102), within Planned Development (P-D) #16 with a Regional/Community Commercial (RC) General Plan designation.

Planner MENDOZA-GONZALEZ reviewed the report. For further information, refer to Staff Report #17-13 Addendum.

Public testimony was opened at 7:08 p.m.

Speaker from the Audience in Favor:

RICK SINGH, Applicant, Atwater

No one spoke in opposition to the project.

Public testimony was completed at 7:09 p.m.

M/S SMITH-PADILLA, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #17-09, and approve Conditional Use Permit #1219, subject to the Findings and twenty (21) Conditions set forth in Staff Report #17-13 Addendum (RESOLUTION #3086):

AYES: Commissioners Camper, Colby, Martinez, Padilla, Smith, and Chairperson Dylina

NOES: None

ABSENT: Commissioner Alshami

ABSTAIN: None

- 4.2 Conditional Use Permit #1220, initiated by All Pro Bail Bonds, applicant for Paul and Socorro Gonzales, Trustees, property owners. This application involves a request to relocate an existing bail bond company (All Pro Bail Bonds) from 611 W. Main Street to 735 W. 22nd Street, generally located on the north side of W. 22nd Street, approximately 200 feet west of N Street, within an Office Commercial (C-O) Zone.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #17-15 Addendum.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened and closed at 7:12 p.m.

M/S COLBY-SMITH, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #17-11, and approve Conditional Use Permit #1220, subject to the Findings and nine (9) Conditions set forth in Staff Report #17-15 Addendum (RESOLUTION #3085):

AYES: Commissioners Camper, Colby, Martinez, Padilla, Smith, and Chairperson Dylina

NOES: None

ABSENT: Commissioner Alshami

ABSTAIN: None

- 4.3 Zoning Ordinance Amendment #17-01, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would replace Merced Municipal Code Section 20.44.170 (“Medical Marijuana and Cultivation”) with a new Section 20.44.170 (“Regulation of Commercial Cannabis Activities – Commercial Cannabis Business Permit Required”); amend Section 20.10.020 and Table 20.10-1 (“Commercial Zoning Districts”); amend Section 20.12.020 and Table 20.12-1 (“Industrial Zoning Districts”); and add Land Use Table 20.44-1 to regulate all commercial cannabis activities and cultivation for personal use in the City of Merced. In general, the regulations would allow Commercial Cannabis Businesses, including

cultivation, distribution, manufacturing, deliveries, and dispensaries/retail sales, in certain zones with a Commercial Cannabis Business Permit.

Development Services Director McBRIDE addressed the Commission and explained the reason for the meeting. Mr. McBRIDE then addressed the members of the public and gave an overview of the timeline in place for the Draft Ordinance. He announced that City staff and the consultants are present to answer questions regarding the draft ordinance from the Commission. In closing, Mr. McBRIDE addressed City staff and the consultants of SCI and acknowledged the hard work involved in bringing the Draft Ordinance together.

Planning Manager ESPINOSA reviewed the report on this item. For further information, refer to Staff Report #17-14 Addendum.

Public Testimony was opened at 7:38 p.m.

Speakers from the Audience in Favor:

SUSAN BOUSCAREN, Jack's Greenhouse, Merced

IVAN VAN ORTWICK, TLC, Los Angeles

ARTHUR HODGE, TLC, Los Angeles

MICHAEL WARDA, Turlock

DR. PRAPANNA RANDALL SMITH, Magic Show, LLC., Murphys

MARK YANDOW, Merced

No one spoke in opposition to the project.

Public testimony was completed at 7:54 p.m.

Commissioner PADILLA suggested the Commission discuss including the Light Industrial zones under the allowed locations for dispensaries.

Commissioner SMITH stated that he was for the inclusion of the Light Industrial zones; however, he was against allowing dispensaries in the Neighborhood Commercial (C-N) and Commercial Office (C-O) zones.

M/S PADILLA-MARTINEZ, and carried by the following vote, to recommend to the City Council adoption of a Categorical Exemption regarding Environmental Review #17-10, and approval of Zoning Ordinance Amendment #17-01, modified as follows (RESOLUTION #3087):

- An addition to the Land Use Table 20.44-1 to allow cannabis dispensaries/retail sales in the Light Industrial (I-L) zone.

AYES: Commissioners Alshami, Camper, Martinez, Padilla, and Chairperson Dylina

NOES: Commissioner Smith

ABSENT: None

ABSTAIN: Commissioner Colby

4.4 Cancellation of November 22, 2017, December 20, 2017, and January 3, 2018, Planning Commission Meetings due to the Holidays.

M/S PADILLA-ALSHAMI, and carried by the following vote, to cancel the Planning Commission meetings of November 22, 2017, December 20, 2017, and January 3, 2018.

AYES: Commissioners Alshami, Camper, Colby, Martinez, Padilla, Smith, and Chairperson Dylina

NOES: None

ABSENT: None

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**

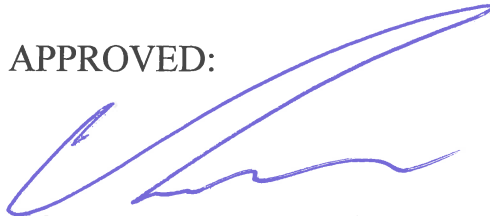
There being no further business, Chairperson DYLINA adjourned the meeting at 8:05 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINA, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3085

WHEREAS, the Merced City Planning Commission at its regular meeting of November 8, 2017, held a public hearing and considered **Conditional Use Permit #1220**, initiated by All Pro Bail Bonds, applicant for Paul and Socorro Gonzales, Trustees, property owners. This application involves a request to relocate an existing bail bond company (All Pro Bail Bonds) from 611 W. Main Street to 735 W. 22nd Street, generally located on the north side of W. 22nd Street, approximately 200 feet west of N Street, within an Office Commercial (C-O) Zone; also known as Assessor's Parcel Number 031-172-012; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through G of Staff Report #17-15 Addendum; 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 #17-11, and approve Conditional Use Permit #1220, 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 Smith, and carried by the following vote:

AYES: Commissioners Camper, Colby, Martinez, Padilla, Smith, and Chairperson Dylina

NOES: None

ABSENT: Commissioner Alshami

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3085

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November 8, 2017

Adopted this 8th day of November 2017



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #3085
Conditional Use Permit #1220

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan/floor plan) - Attachment B of Staff Report #17-15 Addendum, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) 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, 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. 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. Temporary freestanding or A-frame signs are not allowed.
8. All business activities at this location shall be conducted within the building space.
9. All lighting on site shall be shielded or oriented in a way that does not allow "spillover" onto adjacent lots in compliance with the California Energy Code requirements. Any lighting on the building, parking lot lighting, or signage shall be oriented to shine downward and not spillover onto adjacent parcels.

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CITY OF MERCED
Planning Commission

Resolution #3086

WHEREAS, the Merced City Planning Commission at its regular meeting of November 8, 2017, held a public hearing and considered **Conditional Use Permit #1219**, initiated by Madira Land Convenience Store on behalf of Olivewood Shopping Center, LLC, property owner. This application involves a request to sell beer and wine for off-site consumption at Madira Land Convenience Store, generally located on the south side of Olive Avenue, approximately 400 feet east of Austin Avenue (at 1340 W. Olive Ave., Ste. #102), within Planned Development (P-D) #16 with a Regional/Community Commercial (RC) General Plan designation; also known as Assessor's Parcel Number 058-230-023; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through G of Staff Report #17-13 Addendum; 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 #17-09, and approve Conditional Use Permit #1219, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Smith, seconded by Commissioner Padilla, and carried by the following vote:

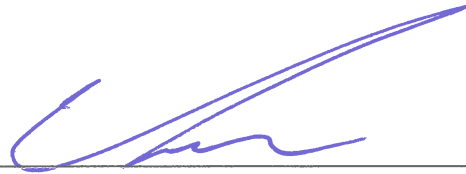
AYES: Commissioners Camper, Colby, Martinez, Padilla, Smith, and Chairperson Dylina
NOES: None
ABSENT: Commissioner Alshami
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3086

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November 8, 2017

Adopted this 8th day of November 2017



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 3086
Conditional Use Permit #1219

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) -- Attachment C of Staff Report #17-13 Addendum, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
3. 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.
4. 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.

5. Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
6. All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
7. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
8. 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.
9. The proprietor and/or successors in interest and management shall be prohibited from advertising or promoting beer & wine and/or distilled spirits on the building or in the windows. No self-illuminated advertising for beer or wine shall be permitted.
10. No beer shall be displayed or stored outside of the cooler areas.
11. No display or sale of beer or wine shall be made from an ice tub.
12. Employees on duty between the hours of 9 p.m. and 11 p.m. shall be at least 21 years of age to sell alcohol.
13. Alcohol sales shall cease by 12:00 a.m. regardless of the business hours for the store in general.
14. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws, and other nuisance-related issues.
15. The area within the convenience market dedicated to the display and sale of alcoholic beverages beer shall not be more than 3 cooler spaces (typical of those found in a grocery store or convenience market) or 65 square feet. The area dedicated to the display and sale of wine on free-standing shelves or coolers shall not exceed 40 square feet.
16. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and

EXHIBIT A

OF PLANNING COMMISSION RESOLUTION #3086

in conformance with the procedures outlined in the Merced Municipal Code.

17. No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine cooler containers shall be sold as part of a pack or carton. However, wine containers that are 750 ml or larger may be sold as single-serving containers.
18. The business shall comply with all applicable requirements from the Merced County Health Department.
19. Prior to obtaining a license from the Alcoholic Beverage Control to sell alcohol, the business (for the convenience market) shall obtain approval for a Finding of Public Convenience or Necessity from the Merced City Council.
20. 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.
21. A permanent tamper-proof outdoor trash receptacle shall be installed near the main entrance to the convenience market.

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CITY OF MERCED
Planning Commission

Resolution #3087

WHEREAS, the Merced City Planning Commission at its regular meeting of November 8, 2017, held a public hearing and considered **Zoning Ordinance Amendment #17-01**, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would replace Merced Municipal Code Section 20.44.170 (“Medical Marijuana and Cultivation”) with a new Section 20.44.170 (“Regulation of Commercial Cannabis Activities – Commercial Cannabis Business Permit Required”); amend Section 20.10.020 and Table 20.10-1 (“Commercial Zoning Districts”); amend Section 20.12.020 and Table 20.12-1 (“Industrial Zoning Districts”); and add Land Use Table 20.44-1 to regulate all commercial cannabis activities and cultivation for personal use in the City of Merced. In general, the regulations would allow Commercial Cannabis Businesses, including cultivation, distribution, manufacturing, deliveries, and dispensaries/retail sales, in certain zones with a Commercial Cannabis Business Permit; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through X of Staff Report #17-14 Addendum; 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 recommend to City Council adoption of a Categorical Exemption regarding Environmental Review #17-10, and approval of Zoning Ordinance Amendment #17-01, as set forth in Attachment A of Staff Report #17-14 Addendum, modified as follows:


An addition to the Land Use Table 20.44-1 to allow cannabis dispensaries/retail sales in the Light Industrial (I-L) zone.

Upon motion by Commissioner Padilla, seconded by Commissioner Martinez, and carried by the following vote:

AYES: Commissioners Alshami, Camper, Martinez, Padilla, and Chairperson Dylina
NOES: Commissioner Smith
ABSENT: None
ABSTAIN: Commissioner Colby

November 8, 2017

Adopted this 8th day of November 2017



Chairperson, Planning Commission
of the City of Merced, California

ATTEST:



Secretary