

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, February 21, 2018

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: Sonia Alshami, Mary Camper, Travis Colby, Robert Dylina, and Jeremy Martinez

Commissioners Absent: Peter Padilla, (one vacancy)

Staff Present: Planning Manager Espinosa, Chief Deputy City Attorney Fincher, Planner Mendoza-Gonzalez, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S COLBY-ALSHAMI, and carried by unanimous voice vote (one absent, one vacancy), to approve the Minutes of February 7, 2018, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Modification to Conditional Use Permit #1180, initiated by Narkesh Kumar, on behalf of Promenade Center, Limited Partnership, property owner. This application involves a request to modify an existing beer and wine Alcoholic Beverage Control License to include the sale of liquor for on-site consumption for Turmeric Indian Cuisine, located within the Promenade Shopping Center at 731 E. Yosemite Avenue, Suite C. In addition, the applicant is requesting approval to serve alcohol outdoors within a fenced area with seating. The subject site is generally located at the northwest corner of Yosemite Avenue and Paulson Road, with a zoning classification of Planned Development (P-D) #48 and a General Plan designation of Neighborhood Commercial (CN).

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #18-04.

Public Testimony was opened at 7:15 p.m.

Speaker from the Audience in Favor:

NARKESH KUMAR, Applicant, Merced

No one spoke in opposition to the Project.

Public Testimony was completed at 7:17 p.m.

M/S COLBY-MARTINEZ, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-05, and approve a Modification of Conditional Use Permit #1180, subject to the Findings set forth in Staff Report #18-04, the nine (9) Conditions in Staff Report #13-06, and the ten (10) Conditions set forth in Staff Report 18-04 (RESOLUTION #3017):

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

NOES: None

ABSENT: Commissioner Padilla, (one vacancy)

ABSTAIN: None

4.2 Conditional Use Permit #1223, initiated by Ali A. Muheyaddin, on behalf of Sandra L. Anderson, Trustee, property owner. This application involves a request to allow an automotive shop (providing major repairs) at 1844 and 1846 Parsons Avenue, generally located on the east side of Parsons Avenue, approximately 150 feet south of Yosemite Parkway, within a Thoroughfare Commercial (C-T) Zone.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #18-05.

Public testimony was opened at 7:28 p.m.

Speaker from the Audience in Favor:

ALI A. MUHEYADDIN, Applicant, Merced

No one spoke in opposition to the Project.

Public testimony was completed at 7:34 p.m.

M/S CAMPER-ALSHAMI, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-06, and approve Conditional Use Permit #1223, subject to the Findings and twenty-eight (28) Conditions set forth in Staff Report #18-05 (RESOLUTION #3090):

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

NOES: None

ABSENT: Commissioner Padilla, (one vacancy)

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**

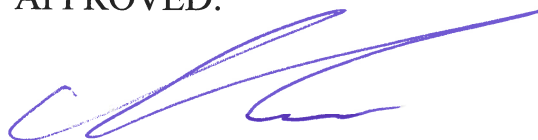
There being no further business, Chairperson DYLINA adjourned the meeting at 7:36 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINA, Chairperson
Merced City Planning Commission

Amended by PC
on 2/21/2018.
See page 3.

**CITY OF MERCED
Planning Commission**

Resolution #3017

WHEREAS, the Merced City Planning Commission at its regular meeting of March 6, 2013, held a public hearing and considered **Conditional Use Permit #1180**, initiated by Davinder Rai, applicant for Pearson Scott, property owner. This application involves a request to allow beer and wine to be sold for on-site consumption within a restaurant (Indian Cuisine) at 731 E. Yosemite Avenue, Suite C, generally located at the northwest corner of Paulson Road and Yosemite Avenue within a Planned Development (P-D) #48 with a Neighborhood Commercial (C-N) designation; also known as Assessor's Parcel No. 231-180-004; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through D of Staff Report #13-06; 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 #13-02, and approve Conditional Use Permit #1180, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Madayag, seconded by Commissioner Amey, and carried by the following vote:

AYES: Commissioners McCoy, Williams, Madayag, Amey, and Chairperson Colby

NOES: None

ABSENT: None (two vacancies)

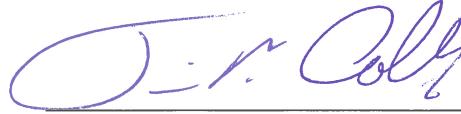
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3017

Page 2 of 3

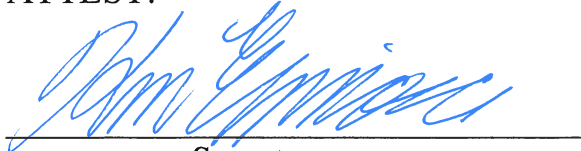
March 6, 2013 /February 21, 2018

Adopted this 6th day of March 2013



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

PLANNING COMMISSION RESOLUTION #3017

Page 3 of 3

March 6, 2013/ February 21, 2018

February 21, 2018: At their regularly scheduled meeting of February 21, 2018, the Merced City Planning Commission considered Modification to Conditional Use Permit#1180 and Environmental Review #18-05.

WHEREAS, the Merced City Planning Commission concurs with Findings A through E of Staff Report #18-04; 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 #18-05, and approve a Modification of Conditional Use Permit #1180 with the addition of ten (10) Conditions, numbers 10 through 19 in the Amended Conditions of Approval set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner COLBY, seconded by Commissioner MARTINEZ, and carried by the following vote:

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

NOES: None

ABSENT: Commissioner Padilla, (one vacancy)

ABSTAIN: None

**Amended Conditions of Approval
Planning Commission Resolution #3017
Conditional Use Permit #1180**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) -- Attachment B of Staff Report #13-06, 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. 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.
8. 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), the City of Merced, and other regulatory agencies.
9. The business shall operate as a “bona-fide” restaurant at all times. Per the Municipal Code, a bona-fide restaurant is required to serve a full-menu during all hours of operation.
10. 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.
11. The outdoor seating/dining area shall be enclosed by a minimum 3-foot-tall wrought-iron fence. The fence shall delineate the outdoor seating area from the remainder of the shopping center. No alcoholic drinks shall be allowed outside the fenced area.
12. If a gate is installed, it shall remain unlocked during business hours. Entrance into the outdoor seating area shall be kept open at all times during hours of operation.
13. Signs shall be posted on the fence stating “No Alcohol Allowed Outside This Area.” The signs shall be a maximum of 1 square foot and shall be posted on each side of the outdoor dining area in an area visible to customers.
14. No temporary signs shall be attached to the wrought-iron fence. All temporary signs shall be approved and a “Temporary Sign Permit” shall be obtained prior to installation.
15. Any umbrellas placed in the outdoor seating area shall be of color that matches or compliments the building color, and shall not have any type of advertisement.

16. An employee shall monitor the outdoor seating area at all times when alcohol is being served.
17. Alcohol sales in the outdoor seating area shall end no later than 10:00 p.m. Alcohol sales within the restaurant shall end no later than 11:00 p.m., indifferent of the restaurant's hours of operation.
18. This approval is for alcohol sales as an ancillary use to the primary restaurant only.
19. Request to operate as a nightclub, bar, or similar use shall require an additional review and approval from the Planning Commission.

n:shared:planning:PC Resolutions:CUP#1180 Exhibit A

CITY OF MERCED
Planning Commission

Resolution #3090

WHEREAS, the Merced City Planning Commission at its regular meeting of February 21, 2018, held a public hearing and considered **Conditional Use Permit #1223**, initiated by Ali A. Muheyaddin, on behalf of Sandra L. Anderson, Trustee, property owner. This application involves a request to allow an automotive shop (providing major repairs) at 1844 and 1846 Parsons Avenue, generally located on the east side of Parsons Avenue, approximately 150 feet south of Yosemite Parkway, within a Thoroughfare Commercial (C-T) Zone; also known as Assessor's Parcel Number 061-390-025 and 061-390-026; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through G of Staff Report #18-05; 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 #18-06, and approve Conditional Use Permit #1223, 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 ALSHAMI, and carried by the following vote:

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

NOES: None

ABSENT: Commissioner Padilla, (one vacancy)

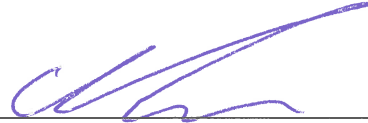
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3090

Page 2

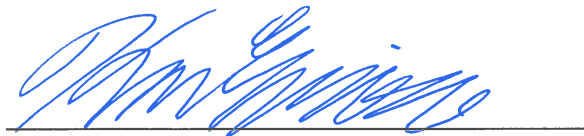
February 21, 2018

Adopted this 21st day of February 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 3090
Conditional Use Permit #1223

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (floor plan), and Exhibit 3 (elevations) - Attachment B, Attachment C, and Attachment D of Staff Report #18-05, 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. 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 and other relevant City of Merced/State/Federal standards and regulations.
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. Fire lanes shall be kept clear at all times. (A fire lane with a 25-foot width as referenced on the site plan may require striping at the building permit stage, if deemed necessary by the City's Fire Department).
9. All signing shall comply with the City's Sign Ordinance. Sign 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. Flags, pennants, temporary freestanding signs, inflatable signs, or A-frame signs are not allowed. Should the applicant/business owner violate these signing restrictions, the City reserves the right to revoke the Conditional Use Permit for a used car lot and major repairs on this site per the revocation procedures in the Merced Municipal Code.
10. Parking lot trees shall be provided at a ratio of one tree for every 6 parking spaces (for customer parking only, not applicable to auto display parking). These trees shall be installed per the City's Parking Lot Landscape Standards, shall be a minimum of 15- gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list).
11. The applicant shall provide sufficient lighting for the parking lot and vehicle display areas. Lighting shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots in compliance with the

EXHIBIT A

OF PLANNING COMMISSION RESOLUTION #3090

California Energy Code requirements. Any lighting on the building shall be oriented to shine downward and not spill-over onto adjacent parcels.

12. Auto service repairs shall include services needed to prepare vehicles for sale and the labor shall be conducted away from the public view, inside a screened or enclosed structure. Repair activities shall be limited to those found in the City's "Minor Repair" and "Major Repair" categories (as defined by Merced Municipal Code Section 20.90.020 – Vehicle Repair and Maintenance, Minor and Merced Municipal Code Section 20.90.020 – Vehicle Repair and Maintenance, Major) and shall be subject to Building, Fire, and County Environmental Health Department requirements. All storage of auto-related waste products shall be located away from the public view within a structure.
13. Plans for Building Permits shall be drawn by a licensed professional (e.g. an architect or engineer).
14. The proposed paint booth shall have a fire suppression system.
15. All necessary permits shall be obtained from the San Joaquin Valley Air Pollution Control District prior to obtaining a business license.
16. The applicant shall work with the City's Water Quality Control Division (and other pertinent departments as determined by the WQC Division) and comply with all requirements for this type of business and obtain all proper permits prior to opening for business. Said requirements may include, but are not limited to, ensuring that all items are stored in secondary containments, installing sand separators, installing grease interceptors, and installing floor drains.
17. The applicant shall work with the Merced County Health Department and comply with all requirements for this type of business prior to obtaining a business license or building permit.
18. The applicant shall work with the City's Fire Department to ensure that a Hot Permit is obtained for welding activities. A list of hazardous chemicals used in the conduct of business shall be provided to the Fire Department prior to opening for business.
19. Non-operable vehicles shall require a No Exposure Certificate from the State Water Resource Control Board. Non-operable vehicles shall either be stored inside the automotive repair shop or enclosed within a non-transparent fenced area. Should the applicant choose to install a fenced area, the materials, colors, and location of the fence shall be reviewed

and approved by the Planning Department.

20. Display vehicles shall not be located on the sidewalk and shall comply with the City's vision corner triangle regulations (MMC 20.30.030).
21. The applicant shall work with the City's Refuse Department to determine the exact location for a refuse enclosure. 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. If it is required, the container shall be enclosed within a refuse enclosure built to City Standards. Prior to pouring the concrete for the refuse enclosure, the contractor shall contact the Refuse Department at 209-385-6800 to arrange an inspection by Refuse Department staff to verify the location and angle of the enclosure.
22. The parking lot layouts shall comply with all applicable City Standards.
23. The applicant shall install street trees and an irrigation system within the right-of-way adjacent to the project site, as required by the City's Engineering Department. A landscape and irrigation plan shall be submitted to the Engineering Department for approval prior to the issuance of Building/Fire permits. All landscaping shall be installed prior to the business opening; details on requirements to be worked out Engineering Department to ensure compliance with water conservation regulations based on recent State directives.
24. All display vehicles shall be washed and cleaned periodically to maintain a clean appearance, but in a manner that reduces the amount of water used and recycles as much water as possible, such as using automated car washes or other such facilities.
25. The premises shall remain clean and free of debris and graffiti at all times.
26. The applicant shall provide a minimum of 9 parking spaces for the automotive repair shop and a minimum of 3 parking spaces for the used car lot.
27. The applicant shall either provide proof of a cross-access agreement or apply for a lot merger to merge Assessor's Parcel Numbers 061-390-025 and 061-390-026, prior to issuance of a building permit.
28. The colors used for the exterior of the automotive repair shop, paint

booth, and office shall be of a neutral type approved by Planning staff during the building permit stage.

29. The garage door on the west elevation (facing Parsons Avenue) shall be screened from public view with landscaping or with a non-transparent fence that is reviewed and approved by Planning staff during the building permit stage.

n:\shared\planning\PC Resolutions: CUP #1223 Exhibit A