

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, January 18, 2017

Vice-Chairperson Dylina called the meeting to order at 7:01 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Travis Colby, Robert Dylina, Peter Padilla, and Kevin Smith

Commissioners Absent: Bill Baker (unexcused) and Kurt Smoot (excused) (one vacancy)

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

1. **APPROVAL OF AGENDA**

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

2. **MINUTES**

M/S SMITH-COLBY, and carried by unanimous voice vote (two absent, one vacancy), to approve the Minutes of November 9, 2016, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Vacation #16-01, initiated by Shelley Cox on behalf of Yosemite and G, LLC, to abandon a 2.18-acre storm drain basin and a 0.95-acre storm drain easement, generally located east of G Street and approximately 390 feet north of Yosemite Avenue.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #17-02.

M/S COLBY-SMITH, and carried by the following vote, to find that the proposed Vacation (to abandon a 2.18-acre storm drain basin and a 0.95-acre storm drain easement located east of G Street and approximately 390 feet north of Yosemite Avenue), is consistent with the *Merced Vision 2030 General Plan*.

AYES: Commissioners Colby, Padilla, Smith, and Vice Chairperson Dylina

NOES: None

ABSENT: Commissioners Baker and Smoot (one vacancy)

ABSTAIN: None

- 4.2 Conditional Use Permit #1215, initiated by Jammu & Kashmir Inc. on behalf of Kashmir Rentals, LLC, property owner(s). This application involves a request to modify an existing beer and wine Alcoholic Beverage Control License (Type 20) to include the sale of general alcohol for off-site consumption (Type 21) for Jessi's Market, generally located on the south side of E. 13th Street, approximately 100 feet west of E Street (at 110 E. 13th Street), within a General Commercial (C-G) Zone.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #17-03.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened and closed at 7:17 p.m.

M/S COLBY-SMITH, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #16-32, and

approve Conditional Use Permit #1215, subject to the Findings and twenty (20) Conditions set forth in Staff Report #17-03 (RESOLUTION #3076):

AYES: Commissioners Colby, Padilla, Smith, and Vice Chairperson Dylina

NOES: None

ABSENT: Commissioners Baker and Smoot (one vacancy)

ABSTAIN: None

- 4.3 Conditional Use Permit #1216, initiated by Tongtoua Yang on behalf of Kajla Mahinder Singh, property owner. This application involves a request to increase the number of card tables for the Merced Poker Room (from 4 to 12) and to allow their employees to participate in gaming activities. The subject site is generally located on the south side of 15th Street, approximately 225 feet west of Martin Luther King, Jr. Way (at 1459 Martin Luther King, Jr. Way, Suites, 4, 5, and 6), within a Thoroughfare Commercial (C-T) zone.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #17-01.

Public testimony was opened at 7:33 p.m.

Speaker from the Audience in Favor:

JARHETT BLONIN, on behalf of the applicant, Sacramento

JARHETT BLONIN, in addition to requesting the increase from 4 to 12 card tables, requested that the Commission allow Merced Poker Room to use the remaining 4 unallocated tables as temporary tables in the event of a tournament at the card room. The Commission explained to the representative that his question was better suited for the State and would take further research.

Speaker from the Audience in Opposition:

TAWNI VARGAS, Poker Flats Casino, Merced

Public testimony was closed at 7:41 p.m.

Commissioner COLBY suggested a continuance for Conditional Use Permit #1216 to the next regularly scheduled Planning Commission meeting of February 22, 2017, to allow the Commission the opportunity to review both applications (from Merced Poker Room and Poker Flats Casino) simultaneously during one meeting and make a more educated decision on the division of the additional card tables.

M/S PADILLA-COLBY, and carried by the following vote, to continue the public hearing to the Planning Commission meeting of February 22, 2017:

AYES: Commissioners Colby, Padilla, Smith, and Vice Chairperson Dylina

NOES: None

ABSENT: Commissioners Baker and Smoot (one vacancy)

ABSTAIN: None

[Secretary's Note: At 7:54 p.m., Commissioner PADILLA left the dais.]

4.4 Election of Planning Commission Chairperson and Vice-Chairperson

Due to a lack of a quorum late in the meeting, the Planning Commission was unable to take action on this item.

The Commission will address this item at the next regularly scheduled Planning Commission meeting of February 22, 2017.

4.5 Cancellation of February 8, 2017, Planning Commission Meeting due to lack of items.

Due to a lack of a quorum late in the meeting, the Planning Commission was unable to take action on this item.

6. **ADJOURNMENT**

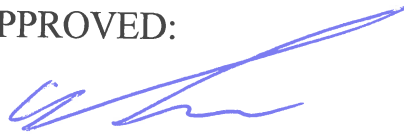
Due to lack of a quorum, the meeting was adjourned at 7:56 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINEA, Vice-Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3076

WHEREAS, the Merced City Planning Commission at its regular meeting of January 18, 2017, held a public hearing and considered **Conditional Use Permit #1215**, initiated by Jammu & Kashmir Inc. on behalf of Kashmir Rentals, LLC, property owner(s). This application involves a request to modify an existing beer and wine Alcoholic Beverage Control License (Type 20) to include the sale of general alcohol for off-site consumption (Type 21) for Jessi's Market, generally located on the south side of E. 13th Street, approximately 100 feet west of E Street (at 110 E. 13th Street), within a General Commercial (C-G) Zone; also known as Assessor's Parcel Number 035-031-004; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through G of Staff Report #17-03; 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 #16-32, and approve Conditional Use Permit #1215, 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 Colby, Padilla, Smith, and Vice Chairperson
Dylina
NOES: None
ABSENT: Commissioners Baker and Smoot
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3076

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January 18, 2017

Adopted this 18th day of January 2017



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

n:\shared\planning\PC Resolutions: CUP#1215 Jessi's Market (110 E. 13th Street)

Conditions of Approval
Planning Commission Resolution #3076
Conditional Use Permit #1215

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) -- Attachment B of Staff Report #17-03, 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 or wine 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 11:00 p.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 and wine) shall not be more than 6 cooler spaces (typical of those found in a grocery store or convenience market) or 176 square feet. The display of liquor shall be located behind the cashier and not exceed 60 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 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 containers shall be sold as part of a pack or carton.
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.

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