

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF APRIL 22, 2015

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of April 22, 2015, are available online at www.co.merced.ca.us/planning/plancomarchive.html.

I. CALL MEETING TO ORDER

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:00 a.m., on April 22, 2015, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Robert Acheson
 Commissioner Jack Mobley - Acting Chairman
 Commissioner Mark Erreca
 Commissioner Rich Ford
 Commissioner Greg Thompson

Staff Present: Mark Hendrickson, Development Services Director
 Kim Anderson, Recording Secretary
 Brian Guerrero, Planner III

Legal Staff: Thomas Ebersole, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. **CONDITIONAL USE PERMIT APPLICATION No. CUP15-004 AND ZONE CHANGE NO. ZC15-002 - Sterling Commercial Properties - To change the zoning designation of approximately 3.6 acres of a total 4.2 acre parcel from R-2 (Two-Family Residential) to C-2 (General Commercial) and to establish a commercial shopping center in two phases. The property is located on the southern corner of King Street and Stephens Street in the urban community of Delhi. The property is designated Mixed Use in the Delhi Community Plan and zoned R-2 (Two Family Residential) and C-2 (General Commercial). **BG****

Recommendations: The actions requested are to:

- 1) Recommend the Board of Supervisors find the project exempt from CEQA under Section 15332 – “In-Fill Development Projects” and Section 15183 – “Projects Consistent with a Community Plan or Zoning” based on the findings listed in the Staff Report;
- 2) Recommend the Board of Supervisors approve Zone Change No. ZC15-002 and Conditional Use Permit No. CUP15-004 based on the project findings and subject to the conditions of approval in the Staff Report.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated April 22, 2015.

Commissioner Thompson asked if the parcel (O'Reillys portion) has enough parking spaces to be in reliance with Phase II.

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Planner Brian Guererro said there is sufficient parking.

Commissioner Thompson suggested an added condition to include an agreement regarding the reciprocal parking and access.

The public hearing opened at 9:14 a.m.

Duane Andrews, Golden Valley Engineering, said the property owners have already talked and are in agreement. There is plenty of parking and he does agree with the added condition. He asked for the Commission to recommend approval to the Board of Supervisors.

Melvin Pace, property owner on King Street, said that they are in opposition to O'Reillys entrance from King Street. Stephens Street is a main street in Delhi. Kings street ending at Stephens because of the curve will need a street light at some point. They would like the Board to consider is not having an entrance from King Street into O'Reillys. They want the board to have curb gutter and sidewalk installed and a cleaning service with the Water & Sewer. Merced County cleans the catch basins. Would like that incorporated into the permit.

Planner Brian Guerrero, said that DPW determined that the entrance from King street is sufficient. The applicant has to pay a fee for when improvements are going to be made.

Ellen Pace, property owner on King Street, said her concern is the care of the property. She is not against the application.

Planner Brian Guerrero said the Department of Public Works has a detention basin at the south of the location and the applicant has permission to drain any stormwater runoff.

The public hearing closed at 9:25 a.m.

MOTION: M/S ERRECA - ACHESON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS TO EXEMPT CONDITIONAL USE PERMIT APPLICATION No. CUP15-004 AND ZONE CHANGE NO. ZC15-002 FROM CEQA.

MOTION: M/S THOMPSON - FORD, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE CONDITIONAL USE PERMIT APPLICATION No. CUP15-004 AND ZONE CHANGE NO. ZC15-002 WITH THE 12 PROJECT FINDINGS AND 34 CONDITIONS WITH THE ADDITION OF CONDITION #10 AS SET FORTH IN THE STAFF REPORT TO READ AS FOLLOWS:

Community and Economic Development Department

1. The Zone Change is granted to change the zoning designation of 3.6 acres between two parcels totaling 4.2 acres from R-2 (Two Family Residential) to C-2 (General Commercial).
2. The Conditional Use Permit No. CUP15-004 is granted to allow the development of a commercial shopping center on two parcels totaling 4.2 acres in two phases: Phase 1 will include O'Reilly's Auto Parts Store and Dollar Tree Store, 65 parking spaces and installation of the pedestrian plaza and associated landscape screening. Additionally, appropriate landscaping for the 65 parking spaces shall be installed during this phase. Phase 2 will include the shell buildings for future tenants and remaining parking spaces. These proposed shell buildings will be reviewed for zoning code consistency at the time of building permit submittal and any additional permits required on the proposed uses will be considered if necessary. Proposed uses allowed under this permit would include office space, commercial retail, restaurants, salons and barber shops and convenience stores. Other uses proposed may be subject to additional permitting.

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3. The application shall comply with all applicable regulations administered by local, state, and federal government.
4. Applicant shall install Opaque-Screen Type A landscaping consistent with Section 18.38.040 of the Zoning Code and must be maintained on an ongoing basis to screen visual contact with the parking area at the corner of King Street and Stephens Street. Additionally, the landscaping shall be consistent with the requirements set forth in Section 4.7 of the Delhi Community Plan.
5. The developer (Sterling Commercial Properties and/or subsequent property owners) shall install and maintain the pedestrian plaza located on the northern corner of proposed Parcel 2 from Minor Subdivision No. MS15-003. The applicant will work with the Community and Economic Development Department to ensure the architectural theme and design of the pedestrian plaza is consistent with the Delhi Community Plan and the Merced County Zoning Code.
6. The applicant shall install a minimum 7-foot tall masonry wall along the southwestern property line and a section of the southeastern property line from the southernmost portion of the property line to where the zone of the adjacent parcels change from R-3 to C-2.
7. The applicant shall submit a site plan for the entire site identifying all existing structures, proposed shell buildings, landscaping, setbacks, parking spaces and the masonry wall for County review and comment prior to implementation of Phase II.
8. Trash enclosures shall be installed consistent to Section 18.44.030 of the Merced County Zoning Code.
9. Any future signs proposed shall be approved by the Community and Economic Development Department, and shall be designed in compliance with Zone Code Section 18.28.020.E. and the Delhi Community Plan Downtown Delhi Section (Section 4.4.4 of the Delhi Community Plan).
10. The owners of proposed Parcel 1 and proposed Parcel 2 shall enter into a reciprocal parking access agreement to ensure that both businesses have sufficient parking shared between the two parcels.

County Counsel

11. STERLING COMMERCIAL PROPERTIES must indemnify, defend and hold harmless, the County of Merced, its Board of Supervisors, commissions, officers, employees, agents and assigns (hereinafter "County") from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, expert witness and consultant fees and other costs and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the approval, modification, denial, or the exhaustion of administrative appeals associated with Zone Change No. ZC15-002 and Conditional Use Permit No. CUP15-004 ("project") whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of STERLING COMMERCIAL PROPERTIES. The liability of STERLING COMMERCIAL PROPERTIES for indemnity under this term and condition shall apply, regardless of fault, to any acts or omissions, willful misconduct, or negligent conduct of any kind, on the part of STERLING COMMERCIAL PROPERTIES, its employees, subcontractors, agents, and officers. The duty shall extend to any allegation or claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first notice of filing a lawsuit, claim, petition, or allegation of liability against County. STERLING COMMERCIAL PROPERTIES will on request and at its expense, defend any action suit or

proceeding arising hereunder. This term and condition shall not be limited to any claim, petition, demand, liability, judgment, award, interest, attorney's fees, expert or consultant witness fees, legal research fees, staff and administrative costs, administrative record costs, materials, and costs and expenses of whatsoever kind or nature, that may arise at the time of project approval, modification, or denial, but shall also apply to all such claims and the like, after project approval, modification, denial, or the exercise or exhaustion of administrative appeals, including but not limited to actions arising from public interest, land use and environmental legal actions. Attorney's fees shall include any and all attorney's fees but not be limited to attorney's fees and staff time incurred by the offices of County counsel. County shall have full discretion to select legal counsel of its own choosing to represent County, at a cost not exceeding the prevailing and reasonable rates for counsel practicing environmental and land use law in the State of California, or practicing any other area of law that the County determines the claim may reasonably require. This term and condition for indemnification shall be interpreted to the broadest extent permitted by law.

Building Division

12. The applicant must hire an architect or engineer licensed in the state of California to draw the plans and provide structural calculations for all proposed structures. The plans must be submitted to the Building Division for approval and a permit before any construction can begin. Submittals must consist of:
 1. 2 sets of plans and 2 sets of calculations/reports on paper.
 2. 1 set of all plans and calculations/reports in an electronic format (either on CD/Disk, flash driver or email.)
13. California requires that all proposed non-residential structures must first obtain a soils report completed by a licensed geotechnical engineer. That report must be reviewed by the design engineer to incorporate any mitigating measures into the design drawings.

Environmental Health

14. The septic tank serving the existing building must be destroyed under permit issued by MCDEH, at the time of the building demolition.

Fire Department

15. ADDRESS IDENTIFICATION:
New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their back-ground. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. **(CFC 505.1)**
16. FIRE DEPARTMENT ACCESS:
All driveways accessing the parcel shall be surfaced with an approved all weather driving surfacing material. Shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. **(CFC Sec. 503)**

Fire apparatus access roads shall have an unobstructed width of not less than 20 feet except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches. **(CFC 503.2.1)**

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17. FIRE FLOW REQUIREMENTS:
All projects shall meet the fire flow requirements as per California Fire Code. In addition, all options shall be approved by this office.

507.1 Required water supply. *An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction.*

Public Works/Roads Division

18. The Merced County Department of Public Works offers the following comments:
- a. The Stephens Street frontage needs to be designed to conform to County Standard ST-Letteau. The developer will be required to build curb, gutter, sidewalk and pavement widening. The curb and gutter shall be designed to accommodate U-Turns on Stephens Street at King Street. Construction of the raised center median is not feasible at this time; the raised center median will be constructed at a future time by the County using funds to be paid by the applicant as part of the Delhi Bridge and Major Thoroughfare fee program. The driveway serving the project site along Stephens Street will be restricted to right-in, right-out only when the center median is constructed.
 - b. The entire King Street frontage of the project site shall be reconstructed by the project developer to accommodate heavy trucks associated with the project.
 - c. LED streetlighting required along roadways.
 - d. The County has a storm drainage system located at the southeast corner of the project site. There is sufficient capacity in the storm drainage basin to accommodate this project.
 - e. This project will be subject to the Regional Transportation Impact Fee (RTIF) program and to the Delhi Bridge and Major Thoroughfare (BMT) fee.
19. The applicants have received approval from the Department of Public Works to use the adjacent storm drainage detention basin. The applicant will need to form (or annex their property into) a storm drainage maintenance zone of benefit to pay for the ongoing cost of maintaining the County's storm drainage system that will serve the property.

San Joaquin Valley Air Pollution Control District

20. Future development may require further environmental review and mitigation. Referral documents for those projects should include a project summary detailing, at minimum, the land use designation, project size, and proximity to sensitive receptors and existing emission sources.
21. Individual development projects would be subject to District Rule 9510 (Indirect Source Review) if upon full build-out the project would include or exceed any one of the thresholds provided in the comment letter dated March 24, 2015.
22. Any applicant subject to District Rule 9510 is required to submit an Air Impact Analysis (AIA) application to the District no later than applying for final discretionary approval, and to pay any applicable off-site mitigation fees before issuance of the first building permit.
23. Particulate Matter 2.5 microns or less in size (PM2.5) from under-fired char broilers (UFCs) pose immediate health risk. .

The District will amend Rule 4692 (Commercial Charbroiling) in 2016, with a 2017 compliance date, to add emission control requirements for UFCs. Installing char broiler emissions control systems during construction of new facilities is likely to

result in substantial economic benefit compared to costly retrofitting.

Therefore the District strongly recommends that new restaurants that will operate UFCs to install emission control systems during the construction phase. To ease the financial burden for Valley businesses that wish to install control equipment before it is required, the District will offer incentive funding during the time leading up to the 2016 amendment. Restaurants with UFCs may be eligible to apply for funding to add emission control systems. Please contact the District at (559) 230-5858 for more information.

24. Individual development projects may also be subject to the following District Rules: Regulation VIII (Fugitive PM 10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).
25. The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly to contact the District's Small Business Assistance Office at (559) 230-5888. Current District rules can be found online at www.valleyair.org/rules/1ruleslist.htm.

Turlock Irrigation District

26. The subject parcel is a member of Improvement District (ID) 52, the Delhi State Land Settlement. District Standards require that properties that will no longer irrigate or have direct access to water must apply for abandonment of the parcel(s) from the improvement district(s). Developed property adjoining irrigated ground must be graded so that finished grading elevations are at least 6 inches higher than irrigated ground. A protective berm must be installed to prevent irrigation water from reaching non-irrigated properties. Stub-end streets adjoining irrigated ground must have a berm installed at least 12" above the finished grade of the irrigated parcel(s).
27. An irrigation pipeline belonging to Improvement District 52 runs from south to north across the eastern portion of the subject property. It will be necessary for the developer to submit plans detailing the existing irrigation facilities, relative to the proposed site improvements, in order for the District to determine specific impacts and requirements.
28. The District shall review and approve all maps and plans for the project. Any improvements to this property which impact irrigation facilities shall be subject to the District's approval and meet all District standards and specifications. If it is determined that irrigation facilities will be impacted, the applicant will need to provide irrigation improvement plans and enter into an Irrigation Improvements Agreement for the required irrigation facility modifications. There is a District Board approved time and material fee associated with this review.
29. Work on irrigation facilities can only be performed during the non-irrigation season which typically runs from November 1, through March 1, but can vary.
30. If the pipeline is to be relocated in a new alignment, then irrigation improvement plans, an Irrigation Improvements Agreement and a 25-foot irrigation easement centered on the pipeline must be executed before the District approves a final map.
31. In order for the District to accept the necessary easements, this statement should appear on the acceptance documents:

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Certificate of Acceptance

This is to certify that the interest in real property conveyed by this map to the Turlock Irrigation District, a governmental agency, and to the named improvement districts of the District (if any) are hereby accepted by the undersigned officer on behalf of the Board of Directors of the Turlock Irrigation District pursuant to authority conferred by Turlock Irrigation Rule RL 0340.001 adopted on January 2, 1990 and revised December 18, 2001.

Please refer to the comment letter dated March 18, 2015 for the appropriate signature blocks.

- 32. A 10-foot Public Utility Easement must be dedicated along all street frontages. If it will be a joint trench, that includes the relocated irrigation pipe, then a 15-foot PUE is required.
- 33. The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at the developer's expense.
- 34. Coordinate with Turlock Irrigation District regarding utility placement in order to comply with setback requirements from the existing irrigation line that traverses the site.

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

Mark Hendrickson said the Board of Supervisors approved the Annual Progress Report related to the Merced County General Plan and the report was sent to the Governor's Office of Planning and Research and Housing and Community Development as required by Government Code Section 65400.

The project Minor Subdivision Application No. MS15-001 – Norman Montague – was on the Planning Commission agenda on March 11th and was continued on that date. The applicant had recently withdrawn his application, so this item will not be at any future Planning Commission hearings.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:26 a.m.