



# Board Agenda Item 8

---

DATE: February 22, 2022

TO: Board of Supervisors

SUBMITTED BY: Steve E. White, Director  
Department of Public Works and Planning

SUBJECT: Appeal Planning Commission's Denial of Classified Conditional Use Permit No. 3655 (Applicant/Appellant: Daulat Sandhue)

RECOMMENDED ACTION(S):

1. **Consider appeal of Planning Commission's denial of Classified Conditional Use Permit Application No. 3655, proposing to allow a Rural Commercial Center consisting of a convenience store/fast-food restaurant, a gasoline fueling facility (fuel island canopy with gasoline pumps), and related improvements on an approximately 1.78-acre portion of a 4.99-acre parcel in the RR (Rural Residential, two-acre minimum parcel size) Zone District; and**
2. **If the Appeal is granted and the Planning Commission's denial of Classified Conditional Use Permit Application No. 3655 is overturned:**
  - a. **Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared based on Initial Study No. 7665 with the recommended Mitigation Measures and Conditions of Approval with inclusion of an additional Condition of Approval that the appellant indemnify the County for any legal costs; and**
  - b. **Make the required Findings specified in Section 873(F) for approval of the Classified Conditional Use Permit Application No. 3655; and**
  - c. **Adopt a Resolution approving Classified Conditional Use Permit Application No. 3655 to allow convenience store/fast-food restaurant, a fuel island canopy with gasoline pumps, and related improvements.**

**The project site is located on the northwest corner of W. Belmont and N. Cornelia Avenues approximately 2,190 feet south of the nearest city limits of the City of Fresno (APN: 312-390-13).**

The request before your Board is an appeal of the Planning Commission's denial of the subject application based on a motion to deny the item (7 to 0 with 1 Commissioner recused and one vacancy) at its December 16, 2021 hearing. The Zoning Ordinance requires the Board to determine, independent from the decision of the Planning Commission, whether the application should be approved, approved with stated conditions, or disapproved. A copy of the Planning Commission's action is included as Attachment A. This item pertains to a location in District 1.

ALTERNATIVE ACTION(S):

If your Board is unable to make the required Findings for granting the request, you may make a motion to deny the appeal and uphold the Planning Commission's decision (stating the manner in which the Findings cannot be made).

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. Pursuant to the County's Master Schedule of Fees, the Applicant/Appellant paid \$9,462.00 in land use processing fees for the CUP application. The Applicant/Appellant also paid \$508.00 in fees to appeal the Planning Commission's denial.

DISCUSSION:

Pursuant to Zoning Ordinance Section 873(F), in order to approve CUP 3655, the following Findings must be made:

1. *That the site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, wall and fences, parking, loading, landscaping and other features required by this Division, to adjust said use with land and uses in the neighborhood.*
2. *That the site for the proposed use related to streets and highways is adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.*
3. *That the proposed use will have no adverse impact on abutting property and surrounding neighborhood or permitted use thereof.*
4. *That the proposed development is consistent with the General Plan.*
5. *That the conditions stated in the resolution are deemed necessary to protect the public health, safety, and general welfare.*

The Planning Commission Staff Report dated December 16, 2021, (Attachment B) provides additional information on the basis for making the Findings for the proposed project.

Background

Approval of the application would permit a convenience store/fast-food restaurant, a fuel island canopy with gasoline pumps, and related improvements on an approximately 1.78-acre portion of a 4.99-acre parcel in the RR (Rural Residential, two-acre minimum parcel size) Zone District as a Rural Commercial Center. The project site is located on the northwest corner of W. Belmont and N. Cornelia Avenues approximately 2,190 feet south of the nearest city limits of the City of Fresno. Staff Notes that approval of the CUP and Site Plan Review comprises the Master Plan for the Rural Commercial Center.

At its December 16, 2021 public hearing the Planning Commission considered staff's report to the Commission, staff's presentation, testimony from the Applicant and his representative in favor of the proposal disagreed with staff's recommendation, and a petition from supporters of the project. There was also testimony in opposition (seven speakers) to the application and letters were presented to the Commission in opposition to the application citing that there are two similar commercial uses located within two miles of the project site, the project will attract more commercial uses in the area, lead to greater noise, additional traffic congestion, air pollution, increased water usage, and increased crime in the area. Also presented was a petition gathered on-line in opposition to the project. The letters and petitions of support of and in opposition to the proposal along with one letter in opposition received after the Planning Commission meeting are included as Attachment C.

After receiving public testimony, a motion was made to deny the application per the recommendation made

in the Staff Report citing that Finding No. 4 relating to project consistency with Policy LU-E, Criteria c. d. and f, cannot be made as there is an existing commercial use within two miles of the proposal. The motion passed on a vote of seven to zero with one Commissioner recused.

The Applicant/Appellant filed a Notice of Appeal of the Planning Commission's decision on December 29, 2021. No specific reasons for appeal were provided except that the Applicant/Appellant is requesting approval of the proposed gas station and convenience store/fast-food restaurant on the property. The appeal document has been included as Attachment F.

Conclusion

If your Board is able to determine that the required Findings for granting approval of CUP No. 3655 can be made, your Board may adopt the draft resolution, on file with the Clerk, to grant the appeal approving Conditional Use Permit No. 3655, and adopt the Mitigated Negative Declaration (Attachment D) prepared for the project based on Initial Study No. 7664 subject to the proposed Mitigation Measures and Conditions of Approval as listed in the Planning Commission Staff Report (Attachment B), and also included as Attachment E.

Additionally, staff recommends inclusion of a Condition requiring that:

*The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of CUP No. 3655, and provide security in an amount determined by the County for any such legal costs incurred. The agreement and payment of security shall be due unless the litigation period has expired, in which case the requirements for the indemnification agreement and security shall be considered null and void.*

If your Board is unable to make the required findings for granting CUP No. 3655, your Board may make a motion to deny the appeal and uphold the Planning Commission's denial of Conditional Use Permit Application 3655.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - F  
On file with Clerk - Resolution

CAO ANALYST:

Ron Alexander