



Board Agenda Item 7

DATE: June 18, 2024

TO: Board of Supervisors

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

SUBJECT: Appeal of Planning Commission's denial of Unclassified Conditional Use Permit Application No. 3751; Initial Study No. 8286 (Applicant/Owner/Appellant; C.V. Alliance, LLC)

RECOMMENDED ACTION(S):

1. **Consider Appeal of the Planning Commission's denial of Unclassified Conditional Use Permit Application No. 3751 proposing to allow a high intensity park with related improvements for special outdoor events on an approximately 3.3-acre portion of a 17.65-acre parcel in the RR (Rural Residential) Zone District.**
2. **If the Appeal is granted and the Planning Commission's denial of Unclassified Conditional Use Permit No. 3751 is overturned:**
 - a. **Adopt the Mitigated Negative Declaration prepared for Initial Study No. 8286 and approve the proposal subject to the proposed Mitigation Measures and Conditions of Approval; and**
 - b. **Make the required Findings specified in Fresno County Zoning Ordinance, Section 873(F) for approval of Unclassified Conditional Use Permit No. 3751; and**
 - c. **Adopt Resolution approving Unclassified Conditional Use Permit No. 3751, with Conditions of Approval and Project Notes.**

The subject parcel is located on the north side of Shields Avenue, approximately 642 feet east of N. Bryan Avenue, and 1,322 feet west of the City of Fresno (APN: 512-160-20) (6338 W. Shields Avenue).

This item was originally heard before your Board on April 23, 2024. At that hearing, after considering a request by the Applicants' representative for continuance and testimony provided by the public, your Board voted unanimously (5 - 0) to continue the item to a date uncertain. Following your Board's action to continue, the item was rescheduled, published, and re-noticed for today's hearing.

This item comes before your Board on appeal of the Planning Commission's denial of the subject application (5 to 0, three Commissioners absent and one Commission vacancy) at its December 14, 2023, hearing. Staff notes that the Zoning Ordinance requires your Board to determine, independent from the decision of the Planning Commission, whether the Unclassified Conditional Use Permit Application (UCUP) should be approved, approved with stated conditions, or denied. A copy of the Planning Commission's

action is included in Attachment A. The Planning Commission Staff Report is included as Attachment B. This item pertains to a location in District 1.

ALTERNATIVE ACTION(S):

If your Board is unable to make the required findings for granting UCUP No. 3751 and uphold the Planning Commission's denial, it would be appropriate to make a motion to deny the appeal, citing in its motion how the required findings cannot be made, and deny UCUP No. 3751.

FISCAL IMPACT:

There is no net County cost associated with the recommended actions. Pursuant to the County's Master Schedule of Fees, the Applicant/Owner/Appellant paid \$15,266.00 in land use processing fees to the County for the processing of subject land use application and \$508.00 to appeal the Commission's decision.

DISCUSSION:

At the December 14, 2023, Planning Commission hearing, the Owner/Applicant's representative provided testimony in support of the project stating the project is to provide for a family-meeting place for social events consisting of weddings, receptions, birthdays, anniversaries, and similar special outdoor events. Six members of the public provided testimony in opposition of the application stating that the project should be in an industrial or commercial area instead of a rural residential area, the owner is hosting parties and playing live music disrupting the peace and tranquility of the neighborhood, using high powered flood lights, and the use of alcohol during events will result in unsafe driving conditions and accidents on Shields Avenue. Furthermore, Shields Avenue is not built to accommodate additional traffic generated by the proposal.

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

1. *That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls 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 relates to streets and highways 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 effect on abutting property and surrounding neighborhood or the 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.*

After receiving staff's presentation and considering public testimony in support of and opposition to the subject application, the Planning Commission voted 5 to 0 to deny the application citing the inability to make Finding No. 3. On December 22, 2023, an appeal was filed by the Applicant of the Planning Commission's denial. The appeal stated the project was incorrectly described by project opponents and additional conditions and modifications to the project will be presented to the Board of Supervisors to further protect the community and allow the required findings to be made to grant the subject entitlement (UCUP 3751). A copy of the appeal is included as Attachment C.

At the April 23, 2024, Board Hearing, the Chairman permitted members of the public to speak on the proposal prior to considering a motion for continuance. Five individuals provided testimony in opposition to

the project citing concerns with noise, late night events, a concentration of event facilities in the area, water use, traffic and safety, and impacts to school age children.

If your Board is able to make the required Findings for granting UCUP No. 3751, it would be appropriate to make a motion to adopt the proposed resolution on file with the Clerk which adopts Mitigated Negative Declaration (Attachment D) prepared for the project based on Initial Study No. 8286, and uphold the appeal, stating the basis for making the required Finding and approving UCUP No. 3751 subject to the mitigation measures, conditions of approval, and project notes, included as Attachment E.

Staff recommends that if your Board approves the request, the following indemnification condition also be included in your motion:

The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of IS No. 8286 and UCUP No. 3751 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 approval of UCUP No. 3751, it would be appropriate to make a motion stating the reasons the Findings cannot be made and deny the appeal, thereby upholding the Commission's decision and denying the Conditional Use Permit.

REFERENCE MATERIAL:

BAI #12, April 23, 2024

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - E
On file with Clerk - Resolution
Additional Information

CAO ANALYST:

Salvador Espino