



Board Agenda Item 12

DATE: August 7, 2018

TO: Board of Supervisors

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

SUBJECT: Initial Study No. 6986 and Unclassified Conditional Use Permit
Application No. 3501 (Applicant/Appellant: Alvaro Garcia)

RECOMMENDED ACTION(S):

1. **Consider Appeal of Planning Commission's denial of Unclassified Conditional Use Permit Application No. 3501 proposing to allow a high-intensity park, with related improvements for special events and meetings, on an approximately 5.4-acre portion of a 20-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District; and if the Appeal is granted,**
2. **Adopt Mitigated Negative Declaration prepared for Initial Study Application No. 6986, and determine that the required Findings specified in Fresno County Zoning Ordinance, Section 873(F) can be made for approval of a Conditional Use Permit.**

The subject property is located at the northwest corner of W. Clinton and N. Madera Avenues (State Route 145) approximately 2.3 miles north of the nearest city limits of the City of Kerman (SUP. DIST. 1) (2545 N. Madera Avenue, Kerman) (APN 015-410-03).

This item comes before your Board on appeal of the Planning Commission's denial of the subject application (5 to 4) at its January 11, 2018 hearing. Department of Public Works and Planning staff notes that the Zoning Ordinance requires your 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. Please note that the attached Planning Commission Staff Report incorrectly references Supervisorial District 4.

ALTERNATIVE ACTION(S):

If your Board is unable to make the required findings for granting Unclassified Conditional Use Permit (UCUP) No. 3501, a motion to deny the appeal and uphold the Planning Commission's decision, stating which findings cannot be made and the reasoning for the inability to make those findings, would be appropriate.

FISCAL IMPACT:

Pursuant to the County's Master Schedule of Fees, the Applicant/Appellant has paid \$14,928 in land use processing fees to the County for the Conditional Use Permit Application request. The Applicant/Appellant also paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The subject proposal entails establishment of a high-intensity park with related improvements for special events and meetings on an approximately 5.4-acre portion of a 20-acre parcel. As part of this proposal, an existing gymnasium building on the property will be converted into an event banquet hall. Other improvements include an outdoor entertainment area to be used in conjunction with the indoor venue, landscaping, and a walkway connecting the outdoor area with the banquet hall. Additionally, the 5.4-acre project site will be fenced. Access will be from N. Madera Avenue (State Route 145).

The subject property is located at the northwest corner of W. Clinton and N. Madera Avenues approximately 2.3 miles north of the City of Kerman (2545 N. Madera Avenue, Kerman) (APN 015-410-03). Surrounding land uses include orchards, field crops, and a few home sites containing single-family residences. The Planning Commission Staff Report dated January 11, 2018, attached as Attachment B provides additional project information.

Pursuant to Fresno County Zoning Ordinance Code, Section 873(F), in order for your Board to approve UCUP No. 3501, 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, 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 impact on abutting property and surrounding neighborhood or permitted use thereof.*
4. *That the proposed development is consistent with the General Plan.*

At the January 11, 2018 Planning Commission hearing, public testimony from the Applicant/Appellant and one speaker representing the Applicant/Appellant who presented testimony in favor of the proposal were considered. During the hearing, Commissioners expressed concerns regarding the lack of comprehensive planning for the project and outlined several issues/concerns related to the proposal. Those concerns included septic system adequacy, number of guests per event, hours of operation, conflicts with adjacent agricultural uses, security, and the applicant not possessing a liquor license to serve alcohol during events, as outlined on the attached Planning Commission Resolution.

At its hearing, the Commission provided two options to the Applicant/Appellant:

1. Work on the above-noted issues and return to the Commission at a subsequent hearing for the project to be considered by the Commission; or
2. Have the Commission render a decision based on the application presented before them.

The Applicant/Appellant chose the second option.

The speaker representing the Applicant/Appellant testified that the information contained in the Staff Report relating to the septic system, event hours, and building capacity load was based on many unknowns and was not fully understood at the time the project application was filed. The speaker further stated that the Applicant/Appellant agrees with the Commission regarding revising the proposal to terminate events by midnight.

A representative of the California Department of Transportation (Caltrans) was also present at the hearing and provided testimony stating that his agency has requested an irrevocable offer of dedication for the future widening of State Route 145, which was made a Condition of Approval for the Conditional Use Permit. He stated this is agency policy, but if not made a condition of approval by the County, then at a minimum there should be no improvements permitted within the ultimate right-of-way.

After receiving Department staff's presentation and considering public testimony from the Applicant/Appellant and a representative of the Applicant/Appellant, the Planning Commission approved a motion (5 to 4) to deny the project and its associated Mitigated Negative Declaration.

The Applicant filed an appeal on January 11, 2018, stating the appeal was filed to revise the application. No elaboration regarding project revisions were provided in the appeal.

Subsequent to the filing of the appeal, the Applicant/Appellant provided a revised Operational Statement for the project, included as Attachment C. The revised Operational Statement states that the proposed facility would operate on Fridays, Saturdays, and Sundays from 2:00 p.m. to 12:00 midnight, and limit attendees to between 50 to 250 per event. The Planning Commission expressed concern about the impact of this operation on adjacent farmland. In response, Department staff contacted the Agricultural Commissioner's Office, which has requested the recordation of a "Right-to-Farm" Notice (Ordinance Code, Section 17.04.100) for the property. The Applicant also submitted seven letters of support, included as Attachment D. Should your Board uphold the Applicant/Appellant's appeal and approve the project, staff recommends an additional condition requiring recordation of a "Right-to-Farm" Notice on the property, as noted below.

If your Board is able to make the required findings for granting approval of UCUP 3501, a motion to approve the appeal based on Department staff's analysis found in Attachment B, with the requirement that the facility be operated per the revised Operational Statement included as Attachment C (limiting events to Fridays, Saturdays and Sundays from 2:00 p.m. to 12:00 midnight), and to overturn the Planning Commission's denial of the project would be appropriate, stating in its motion to approve the manner in which your Board can make the required Findings and that your Board is adopting the Mitigated Negative Declaration prepared for Initial Study No. 6986 and approving the proposal subject to project Mitigation Measures and staff's recommended Conditions of Approval. The proposed Mitigated Negative Declaration prepared for Initial Study No. 6986 is included as Attachment E. Project mitigation measures and staff-recommended conditions of approval are included as Attachment F.

In addition, Department staff recommends inclusion of an additional Condition of Approval requiring the following:

- Prior to occupancy, the project proponent shall enter into an agreement with Fresno County incorporating the provisions of the "Right-to-Farm" Notice (Ordinance Code, Section 17.04.100) for acknowledgement of the inconveniences and discomfort associated with normal farm activities in the surrounding of the proposed development.

If your Board is unable to make the required findings for granting UCUP 3501, a motion to deny the appeal and uphold the Planning Commission's decision, stating which finding(s) cannot be made and the reasoning for the inability to make the finding(s), would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A-F

CAO ANALYST:

Sonia M. De La Rosa