



Legislation Details (With Text)

File #: 21-0664 **Name:** CUP 3657; IS 7705 (Appeal of PC Denial - Religious Facility)

In control: Public Works & Planning

On agenda: 8/24/2021 **Final action:** 8/24/2021

Enactment date: **Enactment #:** Resolution No. 21-249

Title: Consider appeal of Planning Commission's denial of Classified Conditional Use Permit Application No. 3657, proposing to allow a religious facility with related improvements on an approximately 1.52-acre portion of a 5.02-acre parcel in RR (Rural Residential, two-acre minimum parcel size) Zone District; and if Appeal is granted and Planning Commission's denial of Classified Conditional Use Permit Application No. 3657 is overturned: a. adopt a Mitigated Negative Declaration based on Initial Study No. 7705 with recommended Mitigation Measures and Conditions of Approval; and b. make required Findings specified in Section 873(F) for approval of Classified Conditional Use Permit Application No. 3657 as recommended in Staff Report to Planning Commission; and c. adopt Resolution approving Classified Conditional Use Permit Application No. 3657 for a religious facility, with Conditions of Approval

Sponsors:

Indexes:

Code sections:

Attachments: 1. Agenda Item, 2. Attachments A - E, 3. Resolution No. 21-249, 4. Additional Information

Date	Ver.	Action By	Action	Result
8/24/2021	1	Board of Supervisors	approved as amended	Pass

DATE: August 24, 2021

TO: Board of Supervisors

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

SUBJECT: Initial Study No. 7705 and Classified Conditional Use Permit No. 3657
(Applicant/Appellant: Govinder K. Singh)

RECOMMENDED ACTION(S):

- 1. Consider appeal of Planning Commission's denial of Classified Conditional Use Permit Application No. 3657, proposing to allow a religious facility with related improvements on an approximately 1.52-acre portion of a 5.02-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. 3657 is overturned:**
 - a. Adopt a Mitigated Negative Declaration based on Initial Study No. 7705 with the recommended Mitigation Measures and Conditions of Approval.**
 - b. Make the required Findings specified in Section 873(F) for approval of the Classified**

Conditional Use Permit Application No. 3657 as recommended in Staff Report to the Planning Commission; and

c. Adopt Resolution approving Classified Conditional Use Permit Application No. 3657 for a religious facility, with Conditions of Approval.

The subject property is located on the west side of N. Brawley Avenue approximately 435 feet north of its intersection with W. Olive Avenue and 1,864 feet south of the nearest city limits of the City of Fresno (1501 N. Brawley Avenue, Fresno) (APN 312-112-26) (Sup. Dist. 1).

The subject request before your Board is an appeal of the Planning Commission's denial of the subject application based on the failure of a motion to approve the item (3 to 5, one Commissioner absent) at its June 10, 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 Permit, a motion may be made to deny the appeal and uphold the Planning Commission's decision. Alternatively, your Board may approve the request with additional or modified conditions of approval other than those recommended by Staff.

FISCAL IMPACT:

There is no increase in 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 Conditional Use Permit (CUP) Application request. 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 3657, the following Findings must be made:

1. That the site for the propose 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 June 10, 2021, (Attachment B) provides additional information on the proposed religious facility and related improvements, including staff's analysis. In its action, the project was deemed denied by the Planning Commission with no reasons provided.

Background

The subject parcel is located on the west side of N. Brawley Avenue approximately 435 feet north of its intersection with W. Olive Avenue and 1,864 feet south of the nearest city limits of the City of Fresno. The subject proposal entails the development of a religious facility with related improvements on an approximately 1.52-acre portion of a 5.02-acre parcel in the RR (Rural Residential, two-acre minimum parcel size) Zone District.

At the June 10, 2021 public hearing, the Planning Commission considered staff's report to the Commission along with late correspondence from the California Department of Fish & Wildlife (Attachment C), staff's presentation, and testimony from the Applicant's representative. There was no testimony in opposition to the application and no discussion regarding the late correspondence from the California Department of Fish and Wildlife. A motion was made to approve the application, which failed and was deemed a denial. (Planning Commission Resolution No. 12887- see Attachment A).

The Applicant/Appellant filed the appeal of the Planning Commission's decision on June 21, 2021 on the basis that the denial was contrary to staff's recommendation, and the Commission failed to determine that the required Findings could not be made. No statement was made by the Planning Commission as a basis for not making the Findings, the motion made did not contain any such statement, but the motion to approve received an inadequate number of supporting votes to move forward. The Applicant supports staff's recommendation that the project should be approved subject to the mitigation measures and conditions of approval.

If your Board is able to make the required Findings for granting approval of CUP No. 3657 as recommended in the Staff Report to the Planning Commission, your Board may adopt the draft resolution to grant the appeal, approve Conditional Use Permit No. 3657, and adopt the Mitigated Negative Declaration prepared for the project based on Initial Study No. 7705 (Attachment D) subject to the proposed Mitigation Measures and Conditions of Approval (Attachment E) as listed in the Planning Commission Staff Report (Attachment B).

If your Board is unable to make the required findings for granting CUP No. 3657, your Board may make a motion to deny the appeal and uphold the Planning Commission's decision to deny Conditional Use Permit Application 3657.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - E
On file with Clerk - Resolution

CAO ANALYST:

Ron Alexander