



CITY OF VISALIA

City Council Hearing
January 21, 2025

Appeal of Planning Commission Denial of:
CUP 2024-29: Jack in the Box Amendment



Department Recommendation

- Receive staff presentation,
- Hold public hearing, and,
- Adopt Resolution No. 2024-52 denying the appeal and upholding the Planning Commission's denial.





Alternative Motions

1. Overturn the decision of the Planning Commission and approve Conditional Use Permit No. 2024-29, subject to the applicant constructing a three-foot tall block wall to border the entirety of the drive-thru lane to provide immediate screening and to install landscaping vegetation to screen the wall as the vegetation matures, the construction of the three foot block wall and additional landscaping will require the submittal of building plans for review and approval along with issuance of a building permit (see Attachment 5); or
2. Direct the applicant to conduct further outreach to the neighborhood; or
3. Continue the matter to a future City Council hearing.



Summary

The applicant is appealing the decision of the Planning Commission's denial to amend the hours of operation for a Jack in the Box fast-food restaurant

- Previously approved per Conditional Use Permit (CUP) No. 2021-22,
- Located at 1145 South Lovers Lane.
- The amendment request was to modify the operating hours from 5:00 a.m. to 12:00 a.m. (midnight), as originally conditioned by the Planning Commission, to 24-hours a day.
- The Planning Commission initially adopted the hours of operations after receiving public comment (in 2021) in opposition to the applicant's initial request to permit this fast-food restaurant to operate 24-hours a day.
- At the September 16, 2024, City Council meeting, the City Council heard from the applicant and one person from the public who opposed the requested amendment.
- Council requested the applicant and neighbor work together to find a solution that both parties could come to an agreement on and return once that agreement had been achieved.



Summary Continued

- Council requested the applicant and neighbor work together to find a solution that both parties could come to an agreement on and return once that agreement had been achieved.
- Since that time:
 - The applicant reached out to the neighbor to find an amicable solution for both parties and the applicant detailed that the neighbor has not been willing to find an amicable solution.
 - This led the applicant to suggest the planting of more landscape shrubbery along the drive-thru lane to better screen the lane and vehicle headlights.



LOCATION DESCRIPTION

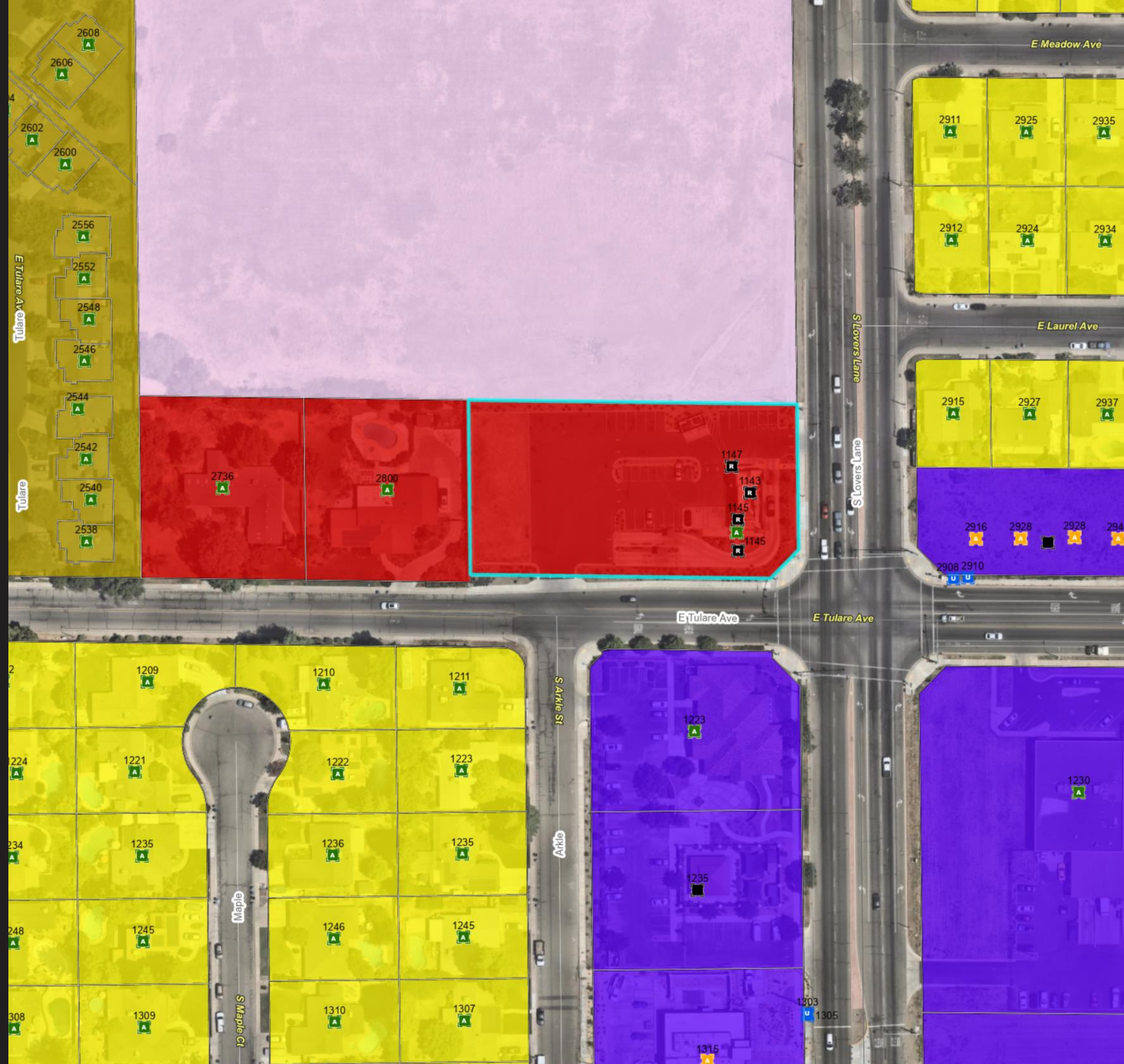
- Previous CUP No. 2021-22 was approved on August 23, 2021.
- Condition No. 10 was added limiting hours.
- Hours have been limited from 5:00AM to 12:00AM (midnight)





PROJECT SITE ZONING

 Neighborhood Commercial





Lovers LN
1100 S

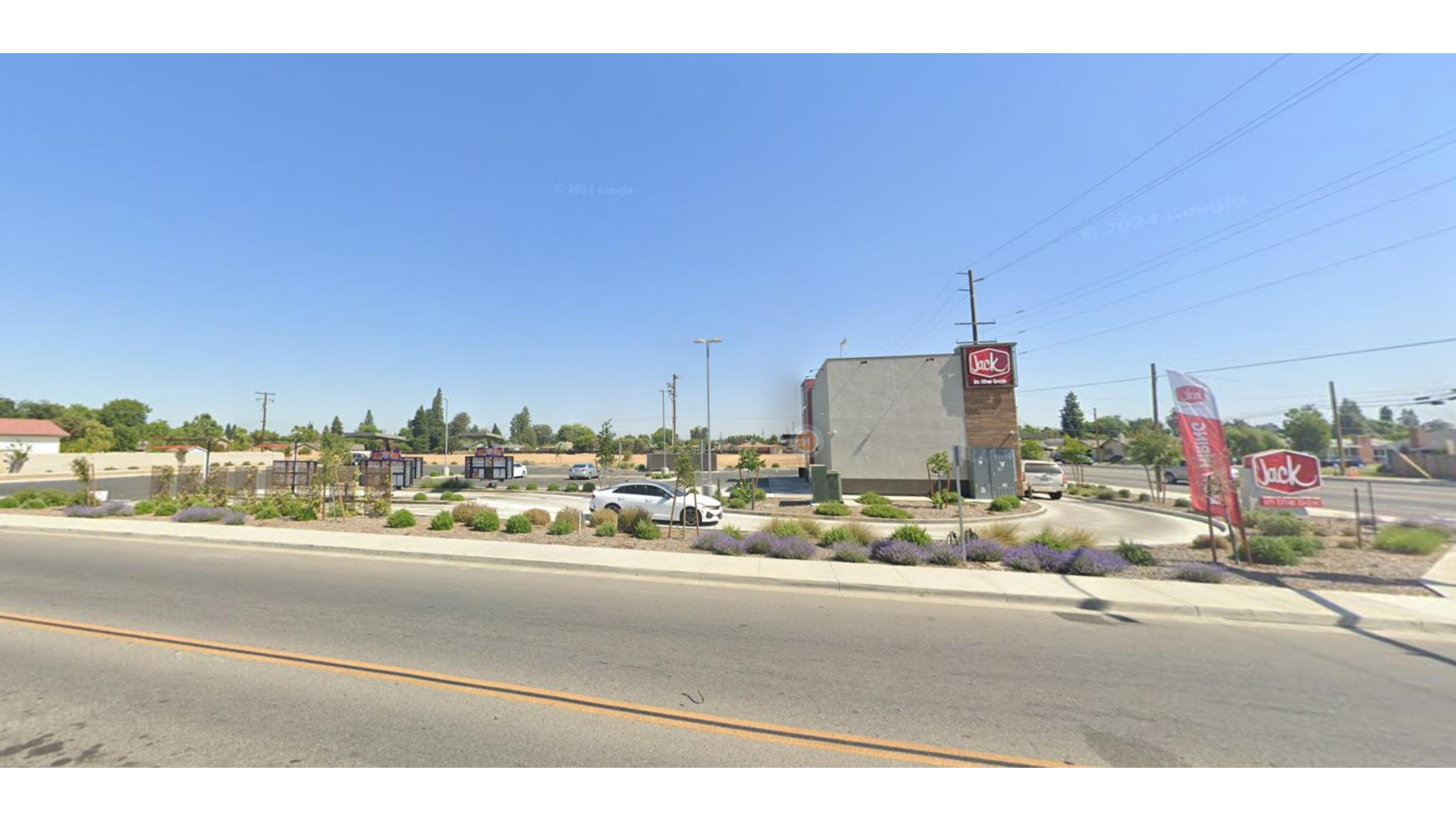
ONE WAY

back
in the box



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Background and Discussion

- On August 23, 2021, CUP No. 2021-22 was presented to the Planning Commission requesting to permit the development of approximately 1.12-acres of C-N zoned property with a 1,315 square foot Jack in the Box restaurant.
 - The fast-food restaurant was designed with only a walk-up window and drive-thru lane; with no indoor dining provided.
 - Fast food restaurant uses, with a drive-thru lane, are considered a “permitted use” in the C-N zone subject to the drive-thru performance standards established in Section 17.32.162 of the Visalia Municipal Code (VMC).
 - A Conditional Use Permit was warranted based on the drive-thru not complying with subsection B(1) of the above reference section, in which the drive-thru lane is within 250 feet of a residence and/or residentially zoned property.
- The applicant clarified, during the public hearing, that the fast-food restaurant was seeking to operate 24-hours a day.
 - Fast-food facilities are not limited to specific operating hours in the Municipal Code but would have to comply with the Noise Ordinance (VMC Chapter 8.36).
 - None of the other Jack in the Box restaurants in Visalia operate with limited hours.
- The Planning Commission deliberation on the 24-hour operation request, concluded that it would be appropriate for the applicant to reconsider requesting 24/7 operational hours once more commercial development came to the site which may provide additional buffers to the nearby residential homes.
- The Planning Commission, understanding the concern, opted to include Condition No. 10 limiting the hours of operation from 5:00 A.M. to 12:00 P.M. (midnight).
- Construction of the Jack in the Box restaurant was completed on September 21, 2022. The applicant had inquired with staff on multiple occasions to amend the hours of operation condition. Through these discussions, staff encouraged the applicant to operate for at least a year and then consider an amendment to the approved entitlement.

Background and Discussion Cont.

- On August 12, 2024, CUP No. 2024-29 was heard before the Planning Commission.
 - This amendment request was seeking to expand the restaurant's hours of operation to 24-hours a day.
 - The applicant provided a narrative and letter to the Commission in Planning Commission in support of their request to modify the hours of operation for the Jack in the Box fast-food restaurant.
 - The applicant attributed their success of operating a business in compliance with all City codes due to the management structure in which the business is operated.
 - Additionally, the applicant identified that *"the need to operate 24/7 is directly tied to the increased minimum wage requirement by the State"*.
- Staff supported the request of the applicant, on the basis that the project site and operator have operated in good standing over the past year without any issues reported to the Neighborhood Preservation / Code Enforcement Division.
- During the public comment period, the Planning Commission received verbal and written comments detailing concern with the request for extended hours of operation as it would have an adverse impact on neighboring sensitive land uses.
- During the Planning Commission's deliberation, a majority of the Commissioners noted the request to operate 24-hours a day would pose incompatibility issues with the existing residential uses in close proximity.
- Commissioners also identified that other sites in the City operating 24-hours a day are not as closely located to sensitive land uses, having other commercial buffers between them and neighboring residences.
- Based on issues stated by the Planning Commission, the Commission denied the CUP amendment by a 5-0 vote. A copy of the Planning Commission staff report is attached to this report as Attachment 2.

Appeal Analysis

- The Planning Commission's discussion, which ultimately lead to their recommendation to deny the project, focused on the project's inconsistency with the surrounding residential uses.
- Several of the Planning Commissioners stated that the proposed amended hours of operation to a 24-hour drive thru-use is not compatible with adjacent residential land uses because the project's proximity to sensitive land uses, and requested intensification of operating hours, will have a direct impact to the neighboring residential uses by interfering with the enjoyment of properties in the existing neighborhoods that are adjacent or nearby the project site, and would therefore be materially injurious to properties or improvements in the vicinity. In addition, none of the conditions proposed would have the effect of eliminating the injurious effect of the project on the neighboring properties
- The Planning Commission denied Conditional Use Permit No. 2024-29, Pursuant to Section 17.38.110, Subsection A of the Zoning Ordinance of the City of Visalia.
 - It was determined that the proposed use is not consistent with the policies and intent of the General Plan and Zoning Ordinance.
 - The request to amend the existing Jack in the Box operating hours to 24-hour is not compatible with the existing residential character of existing neighborhoods to the west, southwest, and east of the site and none of the conditions proposed will have the effect of eliminating the inconsistency within the surrounding area.
 - It is within the purview of the Planning Commission to deny a Conditional Use Permit if the Commission feels that the project does not meet the required findings.



RECOMMENDATION

Staff Recommends

Deny the approval and upholding the Planning Commission's denial of Conditional Use Permit No. 2024-29

Alternative Motion

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QUESTIONS



Wall Location





Lovers LN
1100 S

ONE WAY

back
in the box



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