

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF APRIL 14, 2021

DRAFT

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of April 14, 2021, are available online at www.co.merced.ca.us/planning/plancomarchive.html.

I. CALL MEETING TO ORDER

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:00 a.m., on April 14, 2021, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Kurt Spycher – Chairman
 Commissioner Mark Erreca
 Commissioner Robert Acheson
 Commissioner Jack Mobley

Staff Present: Steven Maxey, Deputy Director
 Desiree Dobbs, Recording Secretary
 Tiffany Ho, Planner III
 Pam Rutledge-Navares, Planner II
 Mark Marshall, Planner I

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: Commissioner Fernando Aguilera

IV. APPROVAL OF MINUTES

MOTION: M/S MOBLEY/ACHESON AND CARRIED BY A VOTE OF 4-0, THE COMMISSION APPROVES THE MINUTES FROM THE MARCH 10, 2021 AND MARCH 24, 2021 MEETINGS.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT No. CUP20-016 / SITE PLAN DESIGN REVIEW No. SPR20-009 – CITY CENTER PLAZA – FAWAS ELTAREB - A request to construct a vehicle service station featuring four (4) fuel pumps and a 5,350 square foot convenience store/mini-mart and two (2) 2,275 square foot commercial shell buildings. The project site is located at the southeast corner of North Beachwood Drive and West Cabot Avenue in the Franklin-Beachwood area, identified as Assessor's Parcel Numbers (APN's) 057-010-010 and 057-310-012. The property is designated Franklin-Beachwood Urban Community – General Commercial land use in the General Plan and is zoned C-2 (General Commercial). CEQA: Staff recommends that the Planning Commission find that the project is exempt from environmental review pursuant to Section 15303(c) – "New Construction or Conversion of Small Structures" of the CEQA Guidelines. **TSH**

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RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Determine that the project can be found exempt from environmental review pursuant to Section 15303(c) – “New Construction or Conversion of Small Structures” of the CEQA Guidelines; and,
- 3) Approve Conditional Use Permit No. CUP20-016 and Site Plan and Design Review No. SPR20-009 based on the findings included in the staff report and subject to the recommended conditions of approval.

Planner Tiffany Ho presented the Staff Report and recommendations of approval dated April 14, 2021.

The public hearing opened at 9:09 a.m.

Chairman Spycher inquired if the (4) electric charging stations were a requirement for the applicants and whether charging stations will be rapid or Normal.

Planner, Tiffany Ho commented that clean air vehicle parking spaces are a requirement, however, charging stations are not a requirement and have been proposed by the applicants, defer to applicant and architect for additional project details.

Christine Lim, Architect with Golden Valley Engineering, commented that per California Green Building Code, there is a requirement to dedicate charging stations, amount required is determined by number of parking spaces provided. With an approximated 56 parking spaces, 4 spaces would be required. Christine Lim clarified that conduits are required, however, charging station installation is a provision.

Chairman Spycher inquired if charging will be built as part of the project or if they will only be established for future use.

Christine Lim, Architect with Golden Valley Engineering commented, defer to applicants for additional project for information.

The public hearing closed at 9:06 a.m.

MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15303(C) - “NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES” OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 14, 2021 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP20-016/SPR20-009 SUBJECT TO THE 23 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

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Conditions:

Community and Economic Development Department – Planning Division

1. Conditional Use Permit No. CUP20-016 is granted to allow for the construction of a vehicle service station featuring four (4) fuel pumps and a 5,350 square foot convenience store/mini-mart and two (2) 2,275 square foot commercial shell buildings.
2. The project site shall be developed, maintained, and operated in conformance with the approved plans and operational statement on file with the Community and Economic Development Department. Any variation from the approved plans shall be reviewed and approved by the Department prior to building permit issuance.
3. For the purpose of conditions monitoring, an inspection fee in the amount of **\$162.00** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of inspection.
4. Final landscape plans shall be submitted for review and approval by the Community and Economic Development Department prior to building permit issuance. The plans shall be prepared in compliance with the State Model Water Efficient Landscaping Ordinance (MWELo).
5. A seven-foot solid masonry wall shall be constructed along the length of the eastern property line and trees shall be provided every 40 feet along the wall to screen the commercial development from adjacent residential land uses.
6. The surface parking area shall be provided with canopy shade trees in planter islands, at a ratio of one tree for each six parking spaces.
7. All exterior lighting shall be designed and maintained in a manner so glare and reflections are contained within the boundaries of the property and shall be hooded and directed downward and away from adjoining properties and public rights-of-way.
8. Sign plans and permit applications shall be submitted for review and approval by the Community and Economic Development Department prior to building permit issuance for any sign.
9. No flags or pennants shall be allowed, with the exception of the flag of the United States of America or the State of California.
10. All trash enclosures shall be screened from view with solid masonry walls
11. with solid gates and landscaping, and shall be designed, constructed, and maintained in compliance with the Merced County Zoning Code and Franklin-Beachwood Community Plan.
12. All loading spaces and facilities shall be screened from public view with adequate landscaping.

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13. The applicant shall comply with all applicable Federal, State, and local regulations. These regulations shall include, but not be limited to, standards administered by the County Fire, Health, and Public Works Departments.

Public Works Department – Buildings & Safety Division

14. The applicant shall use an architect or engineer licensed by the State of California to draw the plans and provide any structural calculations for the proposed structure. The plans shall be submitted to the Building and Safety Division for approval. No construction shall begin until a permit is issued.
15. The applicant shall submit a soils/geotechnical report completed by a licensed geotechnical engineer.
16. No structures or buildings shall be constructed over property lines. A voluntary parcel merger shall be approved and recorded prior to issuance of any building permits.

Department of Public Health – Division of Environmental Health

17. Prior to operation, the applicant shall obtain a food facility permit from the Merced County Division of Environmental Health (MCDEH) and thereafter operate within the parameters of the permit and the applicable sections of the *California Retail Food Code* (California Health & Safety Code, Division 104, Part 7).
18. Prior to construction, the applicant shall obtain an underground storage tank permit from the MCDEH.

Public Works Department - Roads Division

19. Level 1 improvements shall be required, which include, but are not limited to, curb, gutter, sidewalk, street lights, utility relocation, right-of-way, and PUE dedication.
20. The applicant shall reconstruct roadways from centerline of the right-of-way to curb and gutter fronting Cabot Avenue and Beachwood Drive. The applicant shall verify with the Roads Division the roadway reconstruction does not conflict with County infill sidewalk projects.
21. All driveways shall be designed as commercial driveways. Truck exit driveways located on the southeast corner fronting Ashby Road shall be designed to be perpendicular to Ashby Road.
22. All storm water run-off shall be maintained on-site. Calculations or proposed basin or Low-Impact Development design systems, compliant with the Merced County Storm Drainage Design Manual and Merced County Code Chapter 9.53 shall be submitted to the Roads Division.

County Counsel

23. **INDEMNITY AND HOLD HARMLESS AGREEMENT:**

FAWAS ELTAREB and FOUR BROTHERS PROPERTIES, LLC have the contracted duty (hereinafter "the duty") to defend, indemnify and hold

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harmless the County of Merced, its Board of Supervisors, commissions, officers, employees, agents, and assigns (hereinafter "COUNTY") from any claim, action, or proceeding arising out of, or in connection with the COUNTY's approval of the project including, but not limited to, COUNTY's actions regarding related environmental determinations. This duty shall extend to any such claim, action, or proceeding against COUNTY to attack, set aside, void, or annul, an approval by COUNTY. This duty shall arise at the first claim, action, or proceeding against COUNTY. In the event that a claim, action, or proceeding is brought, COUNTY shall promptly notify FAWAS ELTAREB and FOUR BROTHERS PROPERTIES, LLC and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

- B. MINOR SUBDIVISION APPLICATION No. MS21-004 – BHUPINDER SAHOTA - A** request to create 5 acre homesite parcel from a 39.4 acre parcel, and combine the remaining acreage with an adjacent 39 acre parcel, creating a 73.4 acre parcel. The project is located at the southwest corner of N. Monte Cristo Avenue and W. Mercedes Avenue in the Livingston area, identified as Assessor's Parcel Numbers (APN's): 140-190-016 and 140-190-020. The property is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission determine that no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines. **PN**

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines based on the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the attached CEQA Section 15162 Findings and Analysis; and,
- 3) Approve Minor Subdivision Application No. MS21-004 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Planner Pam Navares presented the Staff Report and recommendations of approval dated April 14, 2021.

The public hearing opened at 9:14 a.m.

No one spoke in favor of or opposition to proposed project.

The public hearing closed at 9:14 a.m.

MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15162 – "SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS" OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AORIL 14, 2021 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR

SUBDIVISION No. MS21-004 SUBJECT TO THE 7 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant shall comply with all applicable Local, State and Federal regulations.
3. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 20-001, attached hereto and incorporated herein by reference.
4. A note shall be placed on the face of the parcel map stating that any new residences will be subject to review and approval of a Conditional Use Permit from the County, as per General Plan Policy AG-3.12, or as otherwise permitted by the County subject to the current policies in place at the time of the request.
5. The 5.0-acre homesite parcel shall be removed from the Agricultural Preserve prior to recording the Parcel Map.

Merced County Public Works Department/Roads Division

6. Right of Way dedication is required to fulfill the 60-foot ultimate right-of-way for Monte Cristo Avenue fronting the property. Monte Cristo Avenue has an existing 50-foot right-of-way; the owners shall dedicate an additional 5 feet of right-of-way along Monte Cristo Avenue.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

BHUPINDER SAHOTA shall have the contracted duty (hereinafter "the duty") to defend, indemnify and hold harmless the County of Merced, its Board of Supervisors, commissions, officers, employees, agents, and assigns (hereinafter "COUNTY") from any claim, action, or proceeding arising out of, or in connection with the COUNTY's approval of the project including, but not limited to, COUNTY's actions regarding related environmental determinations. This obligation shall extend to any such claim, action, or proceeding against COUNTY to attack, set aside, void, or annul, an approval by COUNTY. This duty shall arise at the first claim, action, or proceeding against COUNTY. In the event that a claim, action, or proceeding is brought, COUNTY shall promptly notify the applicant and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law

- C. **MINOR SUBDIVISION APPLICATION No. MS21-003 – MARY SOUZA AND MANUEL VIEIRA** - A request to subdivide a portion of a 19.43 acre parcel into one (1) 1.32 acre home-site parcel and combine the remainder 18.11 acres with an adjacent 38.4 acre

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parcel, creating a 56.5 acre parcel. The project site is located at the southeast corner of W. Bell Drive and N. Sultana Avenue, adjacent to the Livingston area, identified as Assessor's Parcel Numbers (APNs) 056-220-001 and 056-220-002. The property is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission determine that no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines. **MM**

RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Determine no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines based on the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the attached CEQA Section 15162 Findings and Analysis; and,
- 3) Approve Minor Subdivision No. MS21-003 based on the findings identified in the staff report and subject to the recommended conditions of approval.

Planner Mark Marshall presented the Staff Report and recommendations of approval dated April 14, 2021.

The public hearing opened at 9:20 a.m.

No one spoke in favor of or opposition to proposed project.

The public hearing closed at 9:20 a.m.

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15162 – "SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS" OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 14, 2021 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. MS21-003 SUBJECT TO THE 5 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicants shall comply with all applicable Local, State and Federal regulations.
3. A CUP shall be required for any new residence on either of the newly created parcels, unless otherwise permitted by the County subject to the current policies in place at the time of the request.

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4. Any new non-habitable structure must be ancillary to the existing commercial agricultural use of the newly reconfigured Parcel 2 and is subject to the applicable design and permit requirements.

County Counsel

5. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT:

MANUEL VIEIRA and MARY SOUZA (“Applicants”) have the contracted duty (hereinafter “the duty”) to defend, indemnify and hold harmless the County of Merced, its Board of Supervisors, commissions, officers, employees, agents, and assigns (hereinafter “COUNTY”) from any claim, action, or proceeding arising out of, or in connection with the COUNTY’s approval of the project including, but not limited to, COUNTY’s actions regarding related environmental determinations. This duty shall extend to any such claim, action, or proceeding against COUNTY to attack, set aside, void, or annul, an approval by COUNTY. This duty shall arise at the first claim, action, or proceeding against COUNTY. In the event that a claim, action, or proceeding is brought, COUNTY shall promptly notify Applicants and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

- D. CONDITIONAL USE PERMIT APPLICATION No. CUP21-003 – JOSE PEREZ - A** request to legalize two (2) existing additional residences for family members, on a property located at the southwest corner of W. Second Avenue and N. Feather Way, adjacent to the Delhi area, identified as Assessor’s Parcel Number APN(s) 046-220-001 and 046-220-002. The property is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission find that the project is exempt from environmental review pursuant to Section 15301 - "Existing Facilities" of the CEQA Guidelines. **MM**

RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Determine that the project can be found exempt from environmental review pursuant to Section 15301 - "Existing Facilities" of the CEQA Guidelines; and,
- 3) Approve Conditional Use Permit No. CUP21-003 based on the findings included in the staff report and subject to the proposed conditions of approval.

Planner Mark Marshall presented the Staff Report and recommendations of approval dated April 14, 2021.

The public hearing opened at 9:26 a.m.

No one spoke in favor of or opposition to proposed project.

The public hearing closed at 9:26 a.m.

MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15301 – “EXISTING FACILITIES” OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 14, 2021 AND MAKES THE 8 PROJECT

FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP21-003 SUBJECT TO THE 7 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. Conditional Use Permit CUP21-003 authorizes a boundary line adjustment that shifts the two existing residences located on Parcel 1 to Parcel 2, resulting in five existing residences total on modified Parcel 2.
2. A final property line adjustment map shall be recorded within two (2) years of the approval date, as required by the Merced County Subdivision Code.
3. The applicant shall comply with all applicable Local, State and Federal regulations.
4. A Conditional Use Permit or CUP modification shall be required for any new residence on either parcel, unless otherwise permitted by the County subject to the current policies in place at the time of the request.
5. Any new non-habitable or habitable structure must be ancillary to the existing agricultural use of either parcel and is subject to the applicable design and permit requirements.
6. Right-of-Way dedication is required to fulfill the 60' ultimate right-of-way for Pinewood Street, Sycamore Street and Second Avenue fronting the property. Sycamore Street and Second Avenue have an existing 40' right-of-way, the owners shall dedicate an additional 10' of right-of-way along the Sycamore Street and Second Avenue frontages of the property. An additional 30 feet of right of way will need to be dedicated fronting Pinewood Street.

County Counsel

7. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT:

JOSE PEREZ ("Applicant") has the contracted duty (hereinafter "the duty") to defend, indemnify and hold harmless the County of Merced, its Board of Supervisors, commissions, officers, employees, agents, and assigns (hereinafter "COUNTY") from any claim, action, or proceeding arising out of, or in connection with the COUNTY's approval of the project including, but not limited to, COUNTY's actions regarding related environmental determinations. This duty shall extend to any such claim, action, or proceeding against COUNTY to attack, set aside, void, or annul, an approval by COUNTY. This duty shall arise at the first claim, action, or proceeding against COUNTY. In the event that a claim, action, or proceeding is brought, COUNTY shall promptly notify Applicant and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

VII. COMMISSION ACTION ITEM (S)

None

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VIII. DIRECTOR'S REPORT

None

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:27 a.m.