

**MERCED COUNTY PLANNING COMMISSION  
MINUTES FOR MEETING OF JUNE 23, 2021**

**DRAFT**

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of June 23, 2021, are available online at [www.co.merced.ca.us/planning/plancomarchive.html](http://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 June 23, 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  
   Commissioner Fernando Aguilera

Staff Present:                      Mark Hendrickson, Director  
   Steve Maxey, Deputy Director  
   Diana Lowrance, Planner III  
   Tiffany Ho, Planner III  
   Mark Marshall, Planner I

Legal Staff:                        Jeff Grant, Deputy County Counsel

Commissioners Absent:        None.

**IV. APPROVAL OF MINUTES**

**MOTION: M/S MOBLEY- ERRECA AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE MAY 26, 2021 MEETING.**

**V. CITIZEN COMMUNICATIONS**

None

**VI. PUBLIC HEARINGS**

**A.      CONDITIONAL USE PERMIT NO. CUP21-008 - APEX ENERGY SOLUTIONS LLC - A request to establish a 3.0 MW battery energy storage facility on a (maximum) two (2) acre portion of a 16.8-acre parcel. The project site is located on the west side of South Aubrey Avenue, approximately .25 miles north of the intersection of Carmellia and Aubrey Avenues in the Dos Palos area, identified as APN No. 089-020-075. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission find that the project is exempt from environmental review pursuant to Section 15303 – “New Construction or Conversion of Small Structures” of the CEQA Guidelines. **DL****

**RECOMMENDATION(S):**

1)    Open/close the public hearing;

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- 2) Determine the project is exempt from environmental review pursuant to Section 15303– “New Construction or Conversion of Small Structures”; and,
- 3) Approve Conditional Use Permit No. CUP21-008 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Planner Diana Lowrance presented the Staff Report and recommendations of approval dated June 23, 2021.

The public hearing opened at 9:05 a.m.

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

The public hearing closed at 9:05 a.m.

**MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15303 – “NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES” OF THE CEQA GUIDELINES.**

**MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JUNE 23, 2021 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP21-008 SUBJECT TO THE 14 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Merced County Community and Economic Development Department

Planning Division

1. The facility shall operate in a manner that is consistent with the project description in the staff report, the applicant’s site plan and elevations, attached hereto and incorporated herein by reference.
2. The 3.0 MW battery energy storage facility shall not occupy more than .87 acres (38,000 square feet) of the 16.8 acre parcel.
3. No solar photovoltaic (PV) modules shall be allowed on the project site or on the remaining parcel area without County approval.
4. Applicant/property owner shall comply with all Federal, State, and Local agency regulations.
5. For the purpose of condition monitoring, an inspection fee in the amount of **\$162** shall be required. This fee shall be paid within 30 days of the approval of the project. Should additional inspections be required, inspection time shall be billed to the applicant/property owner at the established hourly rate at the time of the inspection. This permit will not be considered valid until the conditions monitoring fee has been paid.

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6. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 20-001, attached hereto (Attachment A) and incorporated herein by reference.

Building and Safety Division

7. Plans shall be prepared by an architect or engineer licensed in the state of California and shall include structural calculations for the proposed facility. The plans shall be submitted to the Buildings Division for approval and a permit before any construction can begin. We require submittals to consist of one (1) set of all plans and calculations/reports in an electronic format (either CD/Disk or flash drive).
8. California requires that all proposed non-residential structures must first obtain a soils/geotechnical report completed by a licensed geotechnical engineer. That report must be reviewed by the design engineer to incorporate any mitigation measures into the design drawings.

Fire Department

9. A Knoxbox shall be required for container access and padlocks for emergency access through gates.
10. Site identification (address) and Map. Site Map shall be posted to ID all emergency operation locations and provide an emergency contact phone number.
  - a. NFPA 704 or other placarding may be required to ID hazards.
11. All weather access shall be provided to within 150 feet of all buildings to the satisfaction of the Merced County Fire Department. Access may require FD turnaround if access requires a driveway greater than 150 feet.
12. Battery storage shall meet requirements in CFC section 1206.
  - a. Site will require a Hazard Mitigation Analysis (which may prompt additional requirements).
  - b. Analysis shall be reviewed and approved by the fire code official.

Merced County Department of Public Works

13. Applicant shall construct a paved rural driveway approach for access fronting on Aubrey Avenue; an encroachment permit will need to be issued from Merced County Department of Public Works.

County Counsel

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

APEX ENERGY SOLUTIONS LLC 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 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

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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.

- B. MAJOR SUBDIVISION/ZONE VARIANCE APPLICATION NO. MAS20-003/ ZV21-001 - “QUAIL HOLLOW ESTATES - PHASE 5” - GATEWAY HOMES INC - A** request to subdivide an existing 10.92 acre parcel into a 47 lot residential subdivision; and a variance request to deviate from the required 15-foot rear setback for proposed lots 41 and 42, to deviate from the maximum “depth to width ratio” of 3 to 1 for proposed lot 22, and to deviate from the minimum 100-foot parcel depth for proposed lots 41 and 42. The project site is located at the southeast corner of West Walnut Avenue and North Cypress Avenue in the Winton Community, identified as APN No. 147-070-052. The property is designated Winton Urban Community - Low Density Residential land use in the General Plan and is zoned R-1 (Single Family Residential Zone). CEQA: Staff recommends that the Planning Commission find that the project is exempt from environmental review pursuant to Section 15183 – “Projects Consistent with a Community Plan or Zoning” of the CEQA Guidelines. **DL**

**RECOMMENDATION(S):**

- 1) Open/close the public hearing;
- 2) Determine the project is exempt from environmental review pursuant to section 15183 – “Projects Consistent with a Community Plan or Zoning” of the CEQA Guidelines; and,
- 3) Approve Major Subdivision No. MAS20-003 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Planner Diana Lowrance presented the Staff Report and recommendations of approval dated June 23, 2021.

The public hearing opened at 9:00 a.m.

Rod Hawkins, Civil Engineer with Hawkins and Associates, spoke in favor of the project with suggested review and revision to condition number 12, detailing length of time for park maintenance.

Diana Lowrance, Project Planner commented that the condition is created to allow the Public Works Department to reduce the time of park maintenance

Chairman Spycher asked if this amendment can be made now or if the amendment will need to return to the board.

Jeff Grant, County Counsel, commented that the commission can amend the condition or they can provide for determination by the Public Works department. If the Commission recommends that Public Works determine the standard amount of time that the maintenance occurs, the condition can be amended to state the amount of time is not to exceed two years but may be reduced to one year by Public Works, if deemed appropriate.

Steve Maxey, Deputy Director recommended that staff leave the condition as written, that County commits to working with the developer to ensure they pay only what their fair share represents.

The public hearing closed at 9:36 a.m.

**MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15183 – “PROJECTS CONSISTENT WITH A COMMUNITY PLAN OR ZONING” OF THE CEQA GUIDELINES**

**MOTION: M/S ACHESON-MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15305 – “MINOR ALTERATIONS IN LAND USE LIMITATIONS” OF THE CEQA GUIDELINES BASED IN THE FINDINGS IN THE STAFF REPORT.**

**MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JUNE 23, 2021 AND MAKES THE 11 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MAS20-003/ZV21-001 SUBJECT TO THE REVISED CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning & Community Development Department

1. A Final Map shall be recorded within two years of the Planning Commission approval date as required by the Merced County Subdivision Code, unless a written request for an extension is submitted to the Department prior to the expiration date (or as otherwise provided for in the Subdivision Map Act) and an extension is approved by the Planning Commission. The Final Map shall be recorded with 47 single-family residential lots.
2. Resolution No. 20-001. The project shall comply with the standard conditions of approval for Major Subdivisions as listed in the Planning Commission Resolution No. 20-001, Attachment A (to the Conditions of Approval).
3. Per Section 18.34.060 (B) (3) of the Zoning Code, the project’s masonry walls along the Walnut and Cypress Avenue frontages shall be screened at least 50 percent at the time the landscaping reaches maturity. Landscaping may include bushes, vines, and/or trees or a combination thereof.
4. The cul-de-sac on Meadowlark Court shall be constructed with a paseo that allows pedestrian access to Cypress Avenue. The paseo should include wrought iron, a block wall, and landscaping or a combination of materials.
5. The Walnut Avenue right-of-way shall be 40 feet from centerline, per condition No. 16 for Major Subdivision Application No. 02-011 – Quail Hollow Estates (Planning Commission Minutes from March 26, 2003).
6. At least one (1) tree shall be planted within the front yard setback of each residential parcel.
7. The project’s exterior home elevations and plans are subject to Site Plan and Design Review pursuant to Chapter 18.122 (Site Plan and Design Review) of

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the Zoning Code to determine consistency with the Residential Design Guidelines in Section 9.2 (Residential Design Guidelines) of Chapter 9 (Community Design) of the Winton Community Plan.

8. For the purpose of condition monitoring, an inspection fee in the amount of \$486.00 is required. This fee shall be paid within 30 days of the Planning Commission approval date. Should additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of the inspection.
9. Park Site Improvement. The owner/applicant shall either build out the park site consistent with the requirements for neighborhood parks in Section 6.2.2 (Neighborhood Parks) of the Winton Community Plan or work with the Public Works Department and the Community and Economic Development Department to determine the necessary amount of in-lieu fee(s) to construct the neighborhood park. If the County can identify another source of funds (e.g., prior fees paid by the subdivider of MAS02-011) specifically intended for the development of the neighborhood park in Quail Hollow Estates, the amount of in-lieu fees may be offset. Any agreed upon In-lieu fee(s) for neighborhood park development shall be paid prior to recording the Final Map.
10. Park Site Design. If constructed by the owner/applicant, the design of the park site is subject to the approval of both the Community and Economic Department and the Public Works Department. Park design shall be consistent with Section 6.2.2 (Neighborhood Parks) of the Winton Community Plan.
11. Park Site Maintenance. The park site and all landscaped areas (provided by the developer in areas to be dedicated) shall be maintained through a park maintenance zone of benefit and/or landscape maintenance zone of benefit, community facilities district, or other appropriate funding mechanism as determined by the Public Works Department. The owner/applicant shall provide all documentation and pay all fees associated therewith.
12. Initial Park Maintenance Costs. The developer shall provide payment for the estimated cost to maintain the park site for a minimum of two years, prior to recording the Final Map. The estimated maintenance cost(s) shall be determined by the Public Works Department.
13. Timing of Park Development. If constructed by the owner/applicant, the park site shall be fully developed prior to occupancy of the last home site in Phase 5.

Public Works/Road Division. Additional Public Works conditons attached and incorporated herein as Attachment B.

14. The project shall be subject to the current Regional Transportation Impact Fee (RTIF) for Single-family Homes. The fee was established by Ordinance 1859; payment of the fee will be due with each building permit application.
15. The project shall be subject to the current Law Enforcement Facilities Impact Fee established by Resolution No. 2004-149; payment of the fee will be due with each building permit application.

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16. The project shall be subject to the current Fire Facilities Impact Fee established by Resolution No. 2004-149; payment of the fee will be due with each building permit application.
17. The project shall be subject to the current Winton Bridge and Major Thoroughfare Area of Benefit fee, established by Resolution No. 2008-122; payment of the fee will be due with each building permit application.
18. Streetlights to be installed shall use LED fixtures and have an equivalent lumen rating as compared to the HPS fixtures listed in County Standards.

### Merced County Fire Department

19. CFC 501.3 Construction documents. Construction documents for proposed fire apparatus access, location of fire lanes, and construction documents and hydraulic calculations for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.
20. CFC 503.2.4 Turning radius. The required turning radius of a fire apparatus access road shall be determined by the fire code official. Provide adequate cul-de-sac diameter for fire apparatus.
21. CFC 507.5.1 Where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official. Exceptions: For Group R-3 and Group U occupancies, the distance requirement shall be 600 feet (183 m). Confirm hydrant spacing to be within 600 feet.
22. APPLICANT RESPONSIBILITY. It shall be the responsibility of the applicant to ensure that the construction documents include all of the fire protection requirements and the shop drawings are complete and in compliance with the applicable codes and standards. CFC 105.4.3.
23. APPROVED DOCUMENTS. Construction documents approved by the fire code official are approved with the intent that such construction documents comply in all respects with this code. Review and approval by the fire code official shall not relieve the applicant of the responsibility of compliance with the code. CFC 105.4.4
24. CFC 505.1 Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102 mm) high with a minimum stroke width of 1/2 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

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25. CFC 505.2 Street or road signs. Streets and roads shall be identified with approved signs. Temporary signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles. Signs shall be of an approved size, weather resistant and be maintained until replaced by permanent signs.

26. County Counsel

INDEMNITY AND HOLD HARMLESS AGREEMENT. GATEWAY HOMES, INC. 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 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. CONDITIONAL USE PERMIT APPLICATION CUP21-010 – GURPREET SINGH -**  
A request to operate a semi-truck and RV storage service, on a property located at the north side of N. Ashby Road and a quarter mile west of N. Fern Street. The project site is located in the Franklin-Beachwood area, identified as Assessor's Parcel Numbers APN(s) 057-390-054 and 057-390-053. The property is designated 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 15332 - "In-Fill Development Projects" of the CEQA Guidelines. **MM.**

**RECOMMENDATION(S):**

- 1) Open/close public hearing;
- 2) Determine the project is exempt from environmental review pursuant to Section 15332 – "In-Fill Development Projects" of the CEQA Guidelines; and,
- 3) Approve Conditional Use Permit No. CUP21-010, 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 June 23, 2021.

The public hearing opened at 9:43 a.m.

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

The public hearing closed at 9:43 a.m.

**MOTION: M/S MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT CAN BE FOUND EXEMPT FROM FURTHER ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15183 – "PROJECTS CONSISTENT WITH A COMMUNITY PLAN OR ZONING" OF THE CEQA GUIDELINES.**



**MOTION: M/S ACHESON-MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JUNE 23, 2021 AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. CUP21-010 SUBJECT TO THE 14 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Merced County Community and Economic Development Department

1. Conditional Use Permit CUP21-010 authorizes a semi-truck and recreational vehicle storage service facility service.
2. Semi-truck and recreational vehicle traffic shall be limited to a total of fifteen (15) trips cumulative trips per 24-hour period.
3. The applicant shall comply with all applicable Local, State and Federal regulations.
4. A solid masonry wall shall be constructed along the rear property line to screen the proposed project site from the adjacent residential uses.
5. The proposed project site shall conform to all landscaping, screening and fencing requirements as stipulated by the Merced County Zoning Code 18.36.050, and shown on the approved site plan, and all site improvements shall be maintained for both safety and community aesthetic value.
6. Exterior lighting shall be designed and maintained in a manner so that glare and reflections are contained within the boundaries of the subject parcel and shall be hooded and directed downward and away from adjoining properties and public rights-of-way.
7. The use of blinking, flashing, or unusually high-intensity or bright lights is prohibited. All lighting fixtures shall be appropriate to the use they are serving, in scale, intensity, and height.
8. The location of all signs shall comply with the building, electrical, and fire prevention codes of the County, and the location of all signs shall comply with the setbacks required by the zone, per Merced County Zoning Code 18.44.150.
9. No vehicles shall idle on the project site for a duration longer than five minutes within a one hour period. Idling or stored vehicles shall not use horns, radios, or other noise-generating devices unless required for safety reasons. Any vehicle lights shall be used in a manner so as to avoid projection of light onto neighboring properties.
10. No individual shall remain in a vehicle for overnight occupancy (e.g. "sleeper" trucks).

Merced County Public Works Roads Division

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11. Applicant shall comply with the County's MS4 Storm Water Permit, Order No. 2013-0001-DWQ. Applicant is constructing more than 5,000 square feet of new impervious surface and must implement site design, source control, runoff reduction and storm water treatment as described in the permit. If there are existing storm water facilities, Applicant shall provide a calculation indicating the facilities have sufficient volume to compensate for the increased impervious surface.

Merced County Building Division

12. The new electric gate will require a permit prior to installation.
13. The block wall will require a permit prior to construction. Drawings and calculations will be required from a California licensed engineer. This will also require a geotechnical/soils report. They must obtain this report prior to designing the wall so the engineer can ensure that all measures identified in the report for construction are incorporated in their design.

County Counsel

**14. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT:**

GURPREET SINGH ("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.

- D. **CONVEY AND COMBINE MINOR SUBDIVISION No. MS21-006 - BETTENCOURT/ FOREBAY FARMS** - A request to section off a 2.9-acre homesite parcel and convey the remaining acreage to an adjacent parcel to create a 51.2-Acre parcel, then after to section off a 4.1-acre homesite parcel and convey the remaining acreage to an adjacent parcel. The resulting parcel sizes would be: Parcel 1 = 2.9 acres, Parcel 2 = 4.1 acres, and Remainder Parcel = 47.1 acre. The project site is located at the southwest corner of West American Avenue and North Griffith Avenue in the Hilmar area, identified as Assessor's Parcel Numbers (APNs) 045-160-072, 045-160-073 and 045-160-045. The property is designated Agricultural land use in the General Plan and 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. **TSH**

**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

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- Guidelines based on the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the attached CEQA Guidelines Section 15162 Findings and Analysis; and,
- 3) Approve Minor Subdivision Application No. MS21-006 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Planner Tiffany Ho presented the Staff Report and recommendations of approval dated June 23, 2021.

The public hearing opened at 9:50 a.m.

Norman Allinder, representing Forbay Farms, spoke in favor of the project.

The public hearing closed at 9:51 a.m.

**MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 5 - 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 BASED ON THE ANALYSIS IN THE 2030 MERCED COUNTY GENERAL PLAN PROGRAM ENVIRONMENTAL IMPACT REPORT AND THE ATTACHED CEQA GUIDELINES SECTION 15162 FINDINGS AND ANALYSIS.**

**MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JUNE 23, 2021 AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MS 21-006 SUBJECT TO THE 6 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

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. A note shall be placed on the face of the parcel map stating that the right to seek additional housing on the newly created parcels has been waived and 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.
4. Prior to recordation of the parcel map, the applicant shall provide a recorded well access ("Shared Well") agreement between the property owner(s) of the remainder parcel and proposed Parcel 2 and an easement shall be indicated on the recorded parcel map.
  - a. If the parcels will be owned by the same property owner(s) at the time

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- of map recording, a note shall be placed on the parcel map indicating that a Shared Well agreement will be required at the time of sale.
- b. If the applicant obtains a well permit from the County Division of Environmental Health and a new well is drilled to serve proposed Parcel 2 prior to map recordation, a Shared Well Agreement will not be required.

County Department of Public Works, Roads Division

- 5. Right-of-Way dedication is required to fulfill the 60-foot ultimate right-of-way for the following roads fronting the proposed parcels:
  - a. American Avenue has an existing 40-foot right-of-way. The owners shall dedicate an additional 10 feet of right-of-way along American Avenue.
  - b. Griffith Avenue has an existing 40-foot right-of-way. The owner shall dedicate an additional 10 feet of right-of-way along Griffith Avenue.
  - c. Bloss Avenue has an existing 40-foot right-of-way. The owner shall dedicate an additional 10 feet of right-of-way along Bloss Avenue.

County Counsel

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

DARREN J BETTENCOURT, DARREN BETTENCOURT AS TRUSTEE OF THE DAVID J BETTENCOURT CREDIT TRUST, and FOREBAY FARMS, LLC ("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 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 Applicants 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

**VIII. DIRECTOR'S REPORT**

None

**IX. COMMISSIONERS COMMENTS**

None

**X. ADJOURNMENT**

There being no further business, the meeting adjourned at 9:51 a.m.