

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF JULY 28, 2021**

 **DRAFT**

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of July 28, 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 July 28, 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  
   Tiffany Ho, Planner III  
   Mark Marshall, Planner I  
   Desiree Dobbs, Recording Secretary

Legal Staff:                        Jeff Grant, Deputy County Counsel

Commissioners Absent:        None.

**IV. APPROVAL OF MINUTES**

**MOTION: M/S MOBLEY- ACHESON AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE JUNE 23, 2021 MEETING.**

**V. CITIZEN COMMUNICATIONS**

None

**VI. PUBLIC HEARINGS**

**A.      CONDITIONAL USE PERMIT No. CUP21-007 / SITE PLAN DESIGN REVIEW No. SPR21-002 - BALTAZAR MENDOZA - A request to establish a used car dealership. The project site is located on the northeast side of North Ashby Road, 500 feet west of North Fern Street, in the Merced area, identified as Assessor's Parcel Number (APN) 057-390-064. The property is designated Franklin-Beachwood Urban Community - General Commercial in the General Plan and zoned C-2 (General Commercial). CEQA: Staff recommends that the Planning Commission find the project exempt from environmental review pursuant to Section 15301 – "Existing Facilities" and Section 15304 – "Minor Alterations to Land" 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 15301 – “Existing Facilities” and Section 15304 – “Minor Alterations to Land” of the CEQA Guidelines; and,
- 3) Approve Conditional Use Permit No. CUP21-007 and Site Plan and Design Review No. SPR21-002 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 July 28, 2021.

The public hearing opened at 9:07 a.m.

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

The public hearing closed at 9:07 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 15301 – “EXISTING FACILITIES” AND SECTION 15304 – “MINOR ALTERATIONS TO LAND” 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 JULY 28, 2021 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP21-007 & SITE PLAN REVIEW SPR21-002 SUBJECT TO THE 13 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Community and Economic Development Department – Planning Division

1. Conditional Use Permit No. CUP21-007 and Site Plan Design Review No. SPR21-002 are granted to establish a used car dealership.
2. 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.
3. All on-site vehicle repair and service is prohibited. The Director may grant a Modification to the permit to allow for on-site vehicle repair and service within a fully enclosed structure, accessory to the operation, subject to the Merced County Zoning Code standards.
4. 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 require approval of an application to modify CUP21-007 and SPR21-002.
5. Final landscape plans shall be submitted for review and approval by the Community and Economic Development Department within 90 days of approval. The plans shall be prepared in compliance with the State Model Water Efficient Landscaping Ordinance (MWELO).

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6. A six-foot fence with slats shall be erected along the length of the rear and eastern side property line and bushes which shall be a minimum of 10 feet tall at maturity shall be provided every 10 feet along the fence to screen the commercial development from adjacent residential land uses, within 90 days of approval.
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. Any new sign copy shall be submitted for review and approval by the Community and Economic Development Department prior to building permit issuance.
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 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.
11. 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 - Roads Division

12. The applicant shall construct a well-defined Class 2 driveway approach fronting Ashby Road from the property line to edge of pavement.

### County Counsel

#### **INDEMNITY AND HOLD HARMLESS AGREEMENT:**

13. BALTAZAR MENDOZA, CHARLES M KONOPKA, and CHARLES H & KAY H SONG AS TRUSTEES OF THE SHAWN H SONG IRREVOCABLE TRUST DATED DECEMBER 24 2004 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 BALTAZAR MENDOZA, CHARLES M KONOPKA, and CHARLES H AND KAY H SONG 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. MS21-009 – MARGIE BIRDSSELL** - A request to subdivide a 14 acre parcel into three parcels for estate planning purposes, resulting in parcel sizes of: Parcel 1 = 1.21 acres, Parcel 2 = 5.55 acres, and Parcel 3 = 6.76 acres. The is property located on the north end of Highway 33, 1,300 feet south of Carmellia Avenue adjacent to the Dos Palos area, identified as APN 013-030-012. The property is designated Low Density Residential land use in the General Plan and is zoned R-1 (Single-Family Residential). CEQA: Staff recommends that the Planning Commission determine the project is exempt from environmental review pursuant to Section 15315 -

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“Minor Land Divisions” 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 15315 – “Minor Land Divisions” of the CEQA Guidelines; and,
- 3) Approve Minor Subdivision No. MS21-009 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 July 28, 2021.

The public hearing opened at 9:12 a.m.

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

The public hearing closed at 9:12 a.m.

**MOTION: M/S ERRECA- 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 15315 - “MINOR LAND DIVISIONS” OF THE CEQA GUIDELINES.**

**MOTION: M/S ERRECA- ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JULY 28, 2021 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MS 21-009 SUBJECT TO THE 8 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. The applicants shall secure encroachment permits for road access from the City of Dos Palos prior to recordation of the parcel map.

City of Dos Palos Public Works

4. Access to Proposed Parcel 3 is granted as temporary, pending an agreement with the City of Dos Palos, and only at the intersection of Fir Avenue and Loraine Street.
5. The temporary driveway access may not be offset from Loraine Street and should be in line with Loraine Street.
6. The applicant shall enter into a written agreement with the City of Dos Palos that any future subdivision development of more than one unit on the Parcel 3 property would include construction of the Western half of Fir Avenue within Parcel 3, currently a half street outside Parcel 3, including storm drainage, AND, full intersection development at Loraine Street.

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7. The applicant may have to obtain a right-of-way, easement or property control of that portion of the Loraine/Fir intersection that is not in Parcel 3 as needed.

County Counsel

**INDEMNIFICATION AND HOLD HARMLESS AGREEMENT:**

8. MARGIE LEE BIRDSELL, FRANKLIN W. JOHN (“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.

**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 9:13 a.m.