



Planning Commission

AGENDA ITEM # B

Staff Report

September 8, 2021

PREPARED BY:

DIANA LOWRANCE, PROJECT PLANNER *DL*

APPROVED BY:

MARK HENDRICKSON, DIRECTOR

CONDITIONAL USE PERMIT No. CUP21-012- FRANCISCO ORNELAS - A request to establish an auto body repair and tire shop in an existing commercial building, located on the south side of State Route 59 at the intersection of Montgomery Street in the Snelling area, identified as Assessor's Parcel Number 043-241-016. The property is designated Snelling Rural Center – General Commercial land use in the General Plan and zoned C-2 (General Commercial). CEQA: Staff recommends that the Planning Commission find that the project can be found exempt from environmental review pursuant to Section 15301 Class 1 - "Existing Facilities" of the CEQA Guidelines.

SUPERVISORIAL DISTRICT: 4 – LLOYD PAREIRA

RECOMMENDATION(S):

- 1) Open/Close the public hearing;
- 2) Determine the project is exempt from environmental review pursuant to Section 15301 Class 1 "Existing Facilities" of the CEQA Guidelines; and,
- 3) Approve Conditional Use Permit CUP21-012 based on the findings included in the staff report and subject to the conditions of approval.

LOCATION MAP:



BACKGROUND:

Site Description

The project site is located on the south side of State Route 59 at the intersection of Montgomery Street in the Rural Center community of Snelling. The site is currently developed with a commercial building and is surrounded by a commercial use on the west, vacant commercial buildings on the

north and east, undeveloped land on the north, and undeveloped land and a single-family home on the south.

Surrounding Uses

	General Plan	Zoning	Current Land Use
On-Site:	General Commercial	C-2	Vacant Commercial
North:	General Commercial	C-2	Undeveloped/Vacant
South:	General Commercial	C-2	Undeveloped/ Single-family Home
East:	General Commercial	C-2	Vacant Commercial
West:	General Commercial	C-2	Gas Station

Prior Actions/Entitlements

- PLA04-017/CC05-019 adjusted the property lines of three contiguous parcels, resulting in adjusted parcel sizes of: Parcel No. 1 = .35 acres, Parcel No. 2 = .12 acres, and Parcel No. 3 = 4.73 acres.
- PPR07-010 allowed the establishment of a new and used boat sales and service, now closed.
- PPR18-001 allowed the establishment of an animal feed & supply store, now closed.

ANALYSIS

Project Description

The project is an auto body repair and tire shop in an existing vacant commercial building.

Consistency with Adopted Plans and Policies

1. General Plan

The General Plan contains the principle statement concerning the County's goals and desires concerning land use and is designed to serve as the basis for development decision making. The plan is considered the local "constitution" for physical development and, as a long-range planning document, and serves to direct the physical growth and development of the County.

The proposal can be found consistent with the following Goals and Policies of the Land Use Element of the General Plan:

Land Use Element

Goal LU-4

Provide for the continuation of areas designated for rural and agricultural support uses in a manner that minimized agricultural and environmental impacts while benefiting the surrounding agricultural community.

Policy LU-4.2 Development Criteria

Require uses within Rural Centers to be limited to:

- a) *Commercial uses that serve the daily convenience needs of the surrounding agricultural and rural areas;*

- b) *Agricultural supply and service businesses;*
- c) *Limited public facilities such as schools, fire stations, post offices, churches, granges, and veterans halls; and/or;*
- d) *Housing for agricultural workers at a minimum of one unit per acre.*

Rural Centers include areas with small concentrations of rural populations in relatively isolated parts of unincorporated Merced County. The proposed project can be found consistent with Goal LU-4 and policy LU-4.2 (a), above, as it is a business that directly serves the needs of the surrounding Rural Center of Snelling.

2. Zoning Code

The project site is zoned C-2 (General Commercial). The purpose of the C-2 General Commercial Zone is to provide areas for a wide variety of retail stores, entertainment establishments, offices, and service businesses that serve unincorporated urban communities or regional markets. Vehicle Repair Facilities are allowed in the C-2 (General Commercial) zone with the approval of a Conditional Use Permit.

3. California Environmental Quality Act (CEQA)

As the project is using an existing building, the project may be found exempt from environmental review pursuant to Section 15301 Class 1 “Existing Facilities” of the CEQA Guidelines.

4. Community Engagement

A. Preliminary Application Review Meeting

The project application was routed to applicable County departments for comment. Comments were received from the Department of Public Health Division of Environmental Health, the Department of Public Works Roads Division, the Department of Public Works Building and Safety Division, and the Fire Department and their conditions were included in the Conditions of Approval (Exhibit B).

B. Municipal Advisory Council (MAC)

The project is located within the jurisdiction of the Snelling MAC. The Snelling MAC considered this project at their regular meeting on Thursday, July 15, 2021. The Snelling MAC voted unanimously to recommend that the Planning Commission approve the project.

C. Public Notice

The proposed project was publicly noticed to property owners within 300 feet and published in the Merced Sun-star on August 27, 2021. No public comments were received prior to publication of this staff report.

CONCLUSION:

Conditional Use Permit No. CUP21-012 is a request to establish an auto body repair and tire shop in an existing commercial building. Staff has determined this proposal is consistent with the C-2 (General Commercial) zone and the Land Use Element of the 2030 Merced County General Plan.

Staff has also determined that the project is exempt from environmental review pursuant to Section 15301 Class 1 “Existing Facilities” of the CEQA Guidelines. Given these factors, staff recommends that the Planning Commission approve this Conditional Use Permit, subject to the attached conditions of approval.

RECOMMENDED COMMISSION ACTION:

Staff recommends that the Planning Commission approve Conditional Use Permit No. CUP21-012, based on the findings in the staff report and the recommended conditions of approval, by making the following motions:

A. CEQA Determination

MOTION: The Planning Commission determines that the project is exempt from environmental review pursuant to Section 15301 Class 1 “Existing Facilities” of the CEQA Guidelines.

B. Project Determination

MOTION:

The Planning Commission approves Conditional Use Permit No. CUP21-012 based on the Project Findings and subject to the proposed Conditions of Approval.

PROJECT FINDINGS (Zoning Code Section 18.116.040):

1. Conditional Use Permit No. CUP21-012 is a request to establish an auto body repair and tire shop in an existing commercial building located on the south side of State Route 59 at the intersection of Montgomery Street in the Snelling area.
2. The proposed use (an auto body repair and tire shop) is consistent with the General Commercial Land Use designation of the General Plan.
3. The proposed use, which can be classified as a “Vehicle Repair Facility,” is allowed in the C-2 (General Commercial) zone with the approval of a Conditional Use Permit.
4. The design, location, size and operating characteristics (as conditioned herein) are compatible with the allowed uses in the vicinity.
5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the County, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the vicinity of the proposed use.
6. The project site is physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle access and services and utilities.
7. The project site is served by highways and streets adequate in width and improvement to carry the type and quantity of traffic the proposed use would likely generate.

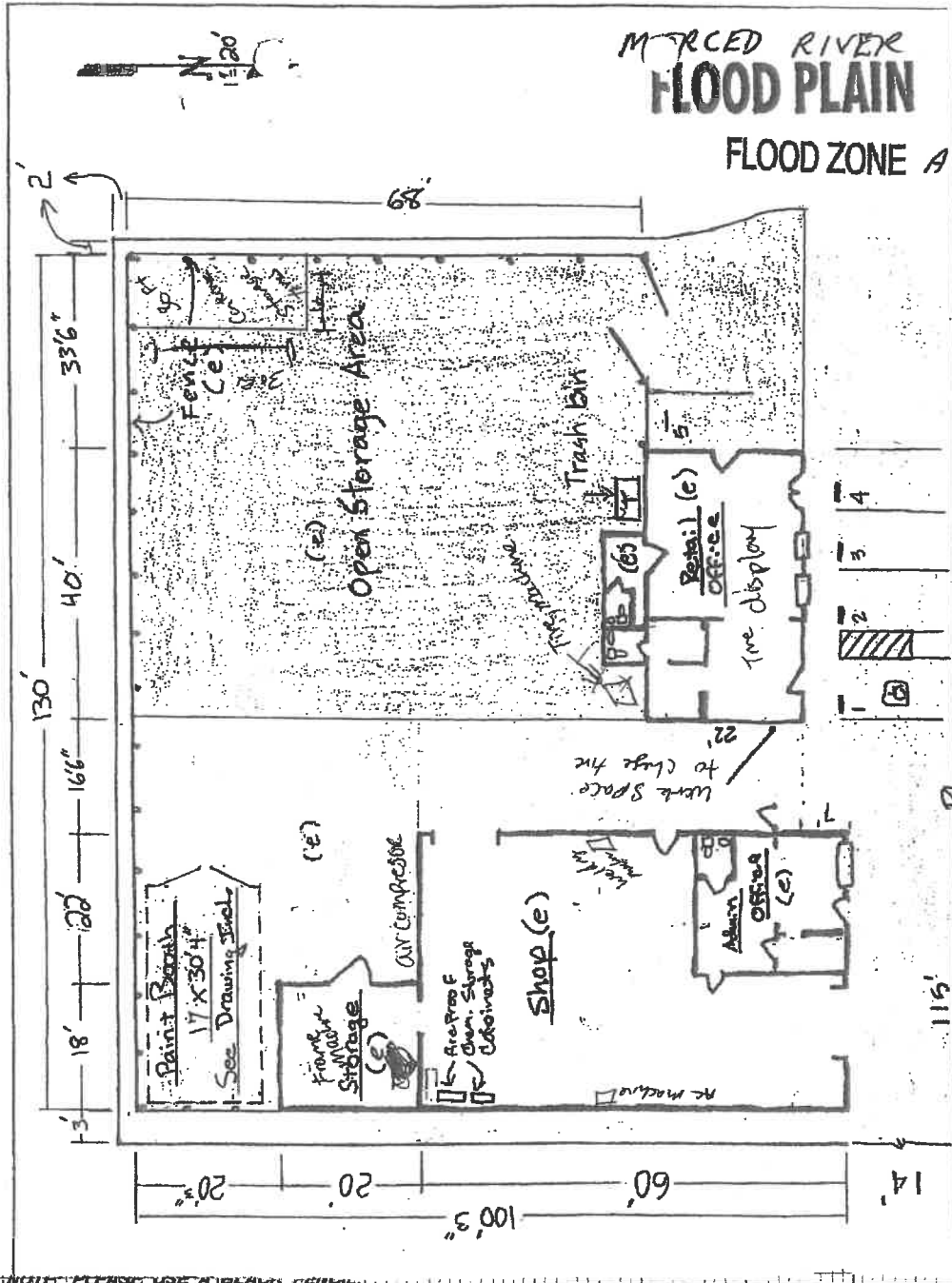
8. The project site is adequately served by sewer and private well.
9. The project, if operated in compliance with the approved Site Plan and the recommended conditions of approval, will not be a nuisance or detrimental to public health, safety and general welfare.
10. Notice of the application was sent to properties within 300 feet of the project site and published in the newspaper. No comments were received.
11. The project is subject to all applicable County, State and Federal regulations.

EXHIBITS

- A. Floor Plan
 - B. Conditions of Approval
- cc. Applicant: Francisco Ornelas

Concrete

Compacted gravel



PLOT PLAN

SCALE: 1" = _____

APPLICATION TYPE	NUMBER	A. P. N.	DATE
CONDITIONAL USE	21012	043-24-016	6/15/2021
PROPERTY OWNER/S	Joe Hemen properties LLC	DRAWING PREPARED BY Francisco Arnelas	
ADDRESS	18553 CA 54 Shelly CA	ADDRESS 532 N Santa Ana St 103 Banar CA	
TELEPHONE	209-514-6828	TELEPHONE 408-460-7546	
MERCED COUNTY PLANNING DEPARTMENT FORM 402 A			



**COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT**

EXHIBIT B

Mark J. Hendrickson
Director

Steve Maxey
Deputy Director

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Equal Opportunity Employer

**CONDITONAL USE PERMIT CUP21-012
CONDITIONS OF APPROVAL**

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 and the applicant's floor plan, attached hereto and incorporated herein by reference.
2. The applicant shall obtain and maintain a Merced County Business License from the Community and Economic Development Department prior to operating the auto body repair and tire shop.
3. Applicant/property owner shall comply with all Federal, State, and Local agency regulations.
4. 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.
5. 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

6. The structure must be in compliance with the current building codes and be issued a Certificate of Occupancy. The owner/applicant must have a licensed engineer evaluate the buildings construction, electrical, plumbing, disabled access, etc. for the proposed use and provide details of the results in writing. At that point, one of the following two options, below, will be required:
 - a. Option 1: Should items need to be corrected/repared, the applicant/owner must submit plans and any necessary calculations with an application for a building permit (Plans must be stamped and signed by licensed engineer).

- b. Option 2: Should no corrections be necessary, the report from the engineer detailing that must be submitted with a building permit application. Once a permit is issued the inspector will verify the information from the engineer on site and issue a Certificate of Occupancy.
7. Obtain a permit for the paint booth. Provide complete plans for the structure and a soils report. Alternatively, demolish and remove the paint booth under a demolition permit.

Fire Department

- 8. Fire protection in accordance with CFC Section 507 is required. A water storage tank may be required.
- 9. Provide the fire department with a floor plan showing chemical and tire storage arrangements inside and outside the shop building.
- 10. A Knoxbox shall be required for emergency building access. Provide a Knox box for the buildings and a Knox Padlocks for the single gate or electric key override for the electric gate.
- 11. A fire extinguisher is required throughout the building and may increase in size based on the hazard type. Minimum 2A:20BC required. Review CFC Section 906 for additional size requirements.
- 12. Applicant shall maintain the building's address identification.
- 13. Trash Bin or large dumpsters are required to be a minimum of five (5) feet away from combustible building walls and eaves.
- 14. Additional Operational permits:
 - a. Hot work and high pile tire storage and Paint booth require a Merced County Fire Department Operational Permit.
 - b. An Air pollution control permit for the Paint Booth is required.

County Counsel

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

FRANCISCO ORNELAS 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.

**PLANNING COMMISSION
MERCED COUNTY**

In the matter of

RESOLUTION NO. 20-001

**ADOPTING REVISED STANDARD
CONDITIONS OF APPROVAL FOR MAJOR
SUBDIVISIONS, ADMINISTRATIVE PERMITS,
AND CONDITIONAL USE PERMITS**



WHEREAS, the Planning Commission and Planning and Community Development Department have been designated as the Planning Agency for the County by the Board of Supervisors; and

WHEREAS, the Planning Commission may hold public hearings and approve, conditionally approve, or deny applications for Major Subdivisions, Administrative Permits, and Conditional Use Permits; and

WHEREAS, the Planning Director as Hearing Officer may also hold public hearings to approve, conditionally approve, or deny applications for Administrative Permits; and

WHEREAS, the local building industry, applicants, the Planning Commission, County Staff, and the general public have benefited from the adoption of Standard Conditions of Approval applied to all Major Subdivisions, Administrative Permits, and Conditional Use Permits in Planning Commission Resolution No. 97-1; and

WHEREAS, these Standard Conditions of Approval have also provided for more expedited processing of development applications by eliminating the need for individually specified measures to mitigate potential environmental impacts; and

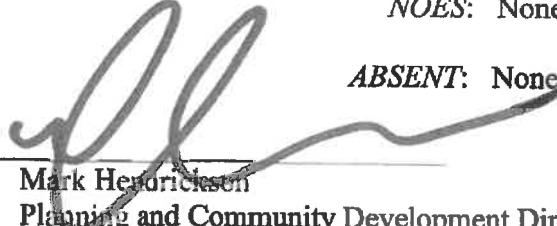
WHEREAS, the Board of Supervisors adopted a new completely revised Zoning Code on October 22, 2019;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby adopts the attached revised list of Standard Conditions of Approval to replace Planning Commission Resolution No. 97-1 at a regular meeting held on January 22, 2020, by the following vote:

AYES: Chairman Mobley, Commissioner Aguilera, Commissioner Acheson, Commissioner Spycher, Commissioner Erreca

NOES: None

ABSENT: None

By 
Mark Hendrichsen
Planning and Community Development Director
Secretary of the Planning Commission

MERCED COUNTY PLANNING COMMISSION
STANDARD CONDITIONS OF APPROVAL

A. Major Subdivisions:

1. The Final map, meeting all Zone Code and Public improvements requirements, shall be recorded within two (2) years of the Planning Commission approval date as required by the Merced County Subdivision Code, unless a Development Agreement between the County and the Developer is executed prior to expiration of the tentative map, in which case the tentative map may be extended for a period of time provided for in the Agreement but not beyond the duration of the Agreement.
2. The applicant shall satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 – Improvement Requirements of the Merced County Code which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street lighting, storm drainage system and underground or relocate utilities and irrigation facilities.
3. All lot and street grading shall be completed prior to the issuance of any building permits. The developer shall enter into an agreement with Public Works that no occupancy shall take place until such time as all improvements are completed.
4. The developer shall comply with Title 17 Subdivisions, Chapter 17.44 – Local Recreational Park Land Space and/or Fee Obligation. Payment of all cash fees shall be prior to, or concurrently with, the recording of the Final Map.
5. Any existing irrigation well shall be abandoned according to County standards.

B. Administrative Permits and Conditional Use Permits

1. The uses under this Permit shall be located, developed, and operated in a manner as described on the approved plot plan, sections, and elevations. The Planning Director may approve minor modifications.
2. All development on the project property shall be constructed and thereafter maintained and operated in accordance with the conditions of the permit.
3. The application shall comply with all applicable regulations administered by the County. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning and Public Works Departments.
4. If the Administrative or Conditional Use Permit is not implemented within one year, it shall expire and become void. The Planning Director may extend the Permit if a request is filed by the applicant prior to its expiration (Zoning Code Section 18.130.080 – Time Extensions).
5. If the use authorized by the Administrative or Conditional Use Permit is abandoned or discontinued for over one year, the Planning Department may initiate revocation proceedings at a public hearing before the body that originally approved the permit (Zoning Code Sections 18.152.030 – Revocations; 18.152.040 – Findings to Modify or

Revoke; and 18.152.050 – Hearing and Notice Required).

6. A solid waste/recycling storage enclosure shall be provided and designated on the plot plan, for development, in all Urban Community areas. Solid waste/recycling storage areas shall conform to the standards in Zoning Code Chapter 18.46 – Solid Waste and Recycling Materials Storage, subject to approval of the Planning Department.
7. The project site shall be maintained in a neat and orderly manner at all times.
8. All signs shall be subject to the standards in Chapter 18.44 – Sign Regulations of the Zoning Code.
9. A Sign Permit application shall be submitted to the Department in compliance with Chapter 18.44.060 – Application and Review of Sign Permits prior to the installation of any sign.
10. No use shall be permitted which creates dust, dirt, mud, fumes, odors, vibrations, heat, glare or electrical disturbances beyond the boundaries of the project site (Zoning Code Chapter 18.40 – Performance Standards).
11. Project site emissions shall comply with the San Joaquin Valley Air Pollution Control District (SJVAPCD) standards.
12. All exterior lighting shall be designed and maintained in a manner so that glare and reflections are contained within the boundaries of the subject parcel. Exterior lighting shall be hooded and directed downward and away from adjoining properties and public rights-of-way. (Zoning Code Section 18.40.070 – Outdoor Lighting).
13. Three copies of landscape and irrigation plans for landscaping shown on the plot plan or required as conditions of approval shall be submitted for review and approval of the Planning Director in accordance with the standards in Chapter 18.36 - Landscaping of the Zoning Code prior to the issuance of building permits.
14. Landscaping and irrigation in compliance with the approved plans shall be installed prior to Final inspection or issuance of a Certificate of Occupancy by the County Building Division.

C. All Discretionary Permits and Subdivision Maps

1. The applicant shall inform in writing all contractors and subcontractors for the project of the potential discovery of significant archaeological and historical resources below the ground surface in the project area. If any cultural resources are found or disturbed during project activities, all work must be halted within the area and the Merced County Planning Department and a qualified archaeologist must be contacted to evaluate the find.
2. If the construction site has been disturbed (cleared, graded or excavated) and is to remain inactive for a period of three or more months, it shall be seeded with an annual grass and watered until growth is evident. If after disturbing, the site is inactive for three or more months during the dry period (June-October), as an alternative to seeding, a soil-binding dust palliative, such as Hemicellulose extract (wood molasses) solution, may be applied.

If seeded, grass shall be mowed (not disced under) to a maximum height of four inches for fire control. Grasses do not need to be maintained in a green/growing condition. Mowing should occur before the grass dries out to avoid fires that may result from blades striking rocks (Zoning Code Section 18.40.030 B).

3. During clearing, grading, earth-moving and other site preparation activities and all construction:
 - a. Exposed earth surfaces shall be watered as needed, whenever needed, in order to prevent dust from leaving the project site on that phase of the project presently under development.
 - b. Mud and dirt carried from the development onto adjacent roadways shall be cleaned-up daily.
 - c. Litter and debris shall be cleaned-up daily to prevent it from leaving the project site and littering adjacent properties. (Zoning Code Section 18.40.030 B)
4. The applicant shall ensure that construction hours shall be limited to the daytime hours between 7:00 a.m. and 6:00 p.m., and all construction equipment shall be properly muffled and maintained. (Zoning Code Section 18.40.050 E).
5. Drainage. Parking areas shall be designed to dispose of accumulated rain water the project site. Runoff shall be disposed of subject to approval of the County Department of Public Works in one of the following ways:
 - a. Uniform on-site percolation over widespread area.
 - b. Use of on-site detention or retention basin.
 - c. Off-site drainage to community drainage system. (Zoning Code Section 18.38.140 C)
6. The Planning Director, or his/her authorized designee(s) may enter at all reasonable times any building, structure, or premise for the purpose of carrying out any activity required or authorized by the provisions of Title 17 (Subdivisions) or 18 (Zoning) of the County Code. Upon request, the Planning Director or his/her authorized designee(s), shall provide adequate identification (Zoning Code Section 18.154.040 - Inspections).
7. The project shall be developed in accordance with the Conditions of Approval including any conditions related to Site Plan and Design Review (Zoning Code Section 18.122.060).