

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF SEPTEMBER 8, 2021

DRAFT

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of September 8, 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 September 8, 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
 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 August 25, 2021 MEETING.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT NO. CUP21-013 AND SITE PLAN REVIEW NO. SPR21-005 -MATTU - A request to establish a truck parking yard (for a maximum of 45 trucks), an industrial warehouse facility in existing structures, and to evaluate whether the physical site improvements are consistent with the Zoning Code on property located on the south east corner of E. Childs Avenue and S. Tyler Road in the Merced City Planning Area, identified as Assessor's Parcel Number (APN) 259-150-042. The property is designated HC (Heavy Commercial) land use in the City of Merced General Plan and is zoned M-2 (General Manufacturing). **DL**

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"; and,

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- 3) Approve Conditional Use Permit No. CUP21-013 and Site Plan Review No. SPR21-005 based on the findings included in the staff report and subject to the proposed conditions of approval.

Planner Diana Lowrance presented the Staff Report and recommendations of approval dated September 8, 2021.

The public hearing opened at 9:10 a.m.

Steve Maxey, Deputy Director commented that a letter was received on September 7, 2021, he provided an overview of the comment letter and the author's objection to the project. In response to the letter, Mr. Maxey commented that there would be no impacts in excess of thresholds established by County policy or followed by County, and that the project will legalize existing use of the project site. Mr. Maxey recommended adding the following findings to the CEQA determination:

- 1) The proposed project as indicated in the operational statement would not generate trips in excess of 110 ADT standard as suggested by OPR, particularly for existing facilities.
- 2) The proposed project would not exceed thresholds established by San Joaquin Valley Air Pollution Control District, in their adopted small project analysis levels.
- 3) No other unusual circumstances related to this site would reasonably necessitate further environmental review.

Aracely Gonzalez, Policy Advocate with Leadership Council for Justice and Accountability spoke against the project stating the affordable housing project adjacent [sic] to the project site, has not been considered in the County's presentation. Ms. Gonzalez asked the Planning Commission to consider the impact the project will have on the disadvantaged community.

Mr. Maxey commented that the County partnered with the City on the affordable housing project and states that the project site is located just over one thousand feet away from the housing development, the distance does not trigger a sensitive receptor analysis, per APCD's typical policies.

The public hearing closed at 9:17 a.m.

Commissioner Mobley inquired about length of time the truck parking has been present, whether the City would have done an analysis prior to determining the site for affordable housing and if there have been other complaints about the truck site, such as citations.

Planner Diana Lowrance commented that exact length of time is unknown but commented the site is not new.

Mr. Maxey commented that he had no immediate knowledge of recent complaints of the site or use and further commented that the publicly funded project received funding from greenhouse reduction dollars and that projects funded by those programs typically consider proximity of hazardous material and nearby air quality impacts.

MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT IS EXEMPT FROM ENVIRONMENTAL REVIEW SUBJECT TO SECTION 15301 – “EXISTING FACILITIES” OF THE CEQA GUIDELINES AND THE FINDINGS PRESENTED BY MR. MAXEY IN HIS COMMENTS.

MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED SEPTEMBER 8, 2021 AND MAKES THE 14 PROJECT FINDINGS SET FORTH IN THE STAFF

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REPORT AND APPROVES CONDITIONAL USE PERMIT NO. CUP21-013 AND SITE PLAN REVIEW NO. SPR21-005 SUBJECT TO THE 18 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Department

1. Conditional Use Permit No. CUP21-013/SPR21-0058 is granted to establish a truck parking yard (for a maximum of 45 trucks) and an industrial warehouse facility (for the use of the applicant) in existing structures.
2. The applicant understands that leasing the warehouse structures to others may trigger additional Building and Safety requirements in addition to separate Merced County Business Licenses.
3. 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.
4. No individual shall remain in a vehicle for overnight occupancy (e.g. “sleeper” trucks).
5. Applicant/property owner shall comply with all Federal, State, and Local agencies’ regulations.
6. For the purpose of condition monitoring, an inspection fee in the amount of \$243 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 the inspection.
7. All on-site lighting shall be stationary, directed away from adjoining properties and public rights-of-way, and physically shielded by an opaque material to prevent direct view of the light source from neighboring properties, Childs Avenue, or Tyler Road.
8. The applicant shall obtain and maintain a Merced County business license from the Community and Economic Development Department for the Truck Parking/warehouse facility.
9. The project is subject to the provisions for Conditional Use Permits found in Planning Commission Resolution No. 20-001, incorporated herein and attached as Attachment A.

Merced County Fire Department

10. Address Identification. New and existing buildings shall have approved address numbers, building number or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property (CFC 505.1).
11. Fire Department Access. Fire access shall be maintained in accordance with CFC Sec. 503 (503.1.2).
 - a. A knoxbox for access to the buildings is required.
 - b. Knox Padlocks for gates or electric key override for electric gates is required.
12. Occupancy Type: (Repair Shop commercial Vehicles, Tire Storage, High pile storage of other commodities)

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- b. Provide a Floor plan showing tire storage arrangements (inside and outside shop building), if applicable.
- 13. Fire Extinguishers will be required throughout the buildings and increase in size based on the hazard type. Minimum 2A:20BC required. Review CFC 906 for additional size requirements.
- 14. Hot work and high pile require Fire Department Operational Permit. Contact Fire Department for additional information.

Merced County Department of Public Health – Division of Environmental Health (MCDEH)

- 15. Paving is not allowed over leach lines.
- 16. Parking of any kind is not allowed on the leach line area.
- 17. Parking is not allowed on the septic tank, unless the tank, riser, and lids are traffic rated.

County Counsel

18. INDEMNITY AND HOLD HARMLESS AGREEMENT:

GURMAN MATTU 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

- B. CONDITIONAL USE PERMIT NO. CUP21-012 - 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 APN 043-241-016. The property is designated Snelling Rural Center - General Commercial land use in the General Plan and is zoned C-2 (General Commercial). **DL**

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"; and,
- 3) Approve Conditional Use Permit No. CUP2-012 based on the findings included in the staff report and subject to the proposed conditions of approval.

Planner Diana Lowrance presented the Staff Report and recommendations of approval dated September 8, 2021.

The public hearing opened at 9:22 a.m.

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

The public hearing closed at 9:22 a.m.

MOTION: M/S MOBLEY- ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINED THE PROJECT IS EXEMPT FROM ENVIRONMENTAL REVIEW SUBJECT TO SECTION 15301 – “EXISTING FACILITIES” 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 SEPTEMBER 8, 2021 AND MAKES THE 11 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT NO. CUP21-012 SUBJECT TO THE 15 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 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:
 - c. Hot work and high pile tire storage and Paint booth require a Merced County Fire Department Operational Permit.
 - d. 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.

VII. COMMISSION ACTION ITEM (S)

None

VIII. DIRECTOR'S REPORT

None

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IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:23 a.m.