

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JANUARY 13, 2021

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of January 13, 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 January 13, 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
 Kristin McHaney, Recording Secretary
 Brody Patterson, Planner I
 Diana Lowrance, Planner III

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: None

IV. APPROVAL OF MINUTES

MOTION: M/S ACHESON - ERRECA AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE NOVEMBER 4, 2020 MEETING.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. MINOR SUBDIVISION APPLICATION No. MS20-019 – GRISSOM FAMILY LAND & CATTLE – A request to divide an approximate 371 acre parcel into 2 parcels, resulting in parcel sizes of: Parcel 1 = 193 acres and a Remainder Parcel of 178 acres, on property generally located southeast of the intersection of Arburua Road and Angustura Road in the Los Banos area, identified as Assessor's Parcel Number (APN) 090-020-013. The property is designated Foothill Pasture land use in the General Plan and is zoned A-2 (Exclusive 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" and Section 15183 – "Projects Consistent with a Community Plan or Zoning" of the CEQA guidelines. DL

RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Find that the project meets the requirements of CEQA guidelines Section 15183 – “Projects Consistent with a Community Plan or Zoning.”;
- 3) Determine no further environmental review is required pursuant to Section 15162 – “Subsequent EIRs and Negative Declarations” of the CEQA guidelines; and,
- 4) Approve Minor Subdivision Application No. MS20-019 based on the findings included in the staff report and subject to the recommended conditions of approval.

Planner Diana Lowrance presented the Staff Report and recommendations of approval dated January 13, 2021.

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

Duane Andrews, Golden Valley Engineering, spoke in support of project and requested the Commission approve the project.

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

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION FINDS THAT THE PROJECT MEETS THE REQUIREMENTS OF THE CEQA GUIDELINES SECTION 15183 – “PROJECTS CONSISTEN WITH A COMMUNITY PLAN OR ZONING”.

MOTION: M/S ERRECA – ACHESON, AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION DETERMINED NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO SECTION 15162 – “SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS” 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 JANUARY 13, 2020 AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MS20-019 SUBJECT TO THE 6 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 the 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.

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4. A note shall be placed on the face of the parcel map stating that any new residences will be subject to the review and approval of a Conditional Use Permit from the County, as per General Plan Policy AG-3.12 and Merced County Zoning Code Section 18.10.040 N, or as otherwise permitted by the County subject to the current policies in place at the time of the request.
5. Prior to parcel map recording, the applicant is to provide the Community & Economic Development Department with a recorded access ("Access") agreement between the owners of the two properties. The access agreement is intended to provide access to Parcel 1 from Arburua Road, via the Remainder parcel. If Parcel 1 and the Remainder parcel will be owned by the same party at the time of map recording, a note shall be placed on the parcel map indicating that an access agreement, providing access to Parcel 1 from Arburua Road, via the Remainder parcel, will be required at the time of sale of either parcel. The access easement shall be indicated on the map.

County Counsel

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

GRISSOM FAMILY LAND & CATTLE, LP 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.

- B. ZONE VARIANCE APPLICATION No. ZV20-002 / MINOR SUBDIVISION APPLICATION No. MS20-018 – ADAN PEREZ -** A request to vary from the minimum A-1 (General Agricultural) zone parcel size and divide an 8.5 acre parcel into two parcels, resulting in parcel sizes of: Parcel 1 = 2.85 acres and Parcel 2 = 5.63 acres. The project site is located on the south side of W. Peach Avenue, 640 feet west of N. Robin Avenue in the Livingston area, identified as Assessor's Parcel Number (APN) 047-240-017. The property is designated Agricultural land use 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 based on the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the attached CEQA Section 15162 Findings and Analysis. **BP**

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

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- Program Environmental Impact Report and the attached CEQA Section 15162 Findings and Analysis;
- 3) Consider Zone Variance Application No. ZV20-002 and either: determine that the project meets the required findings for variance based on the findings in the staff report and approve Zone Variance Application No. ZV20-002; OR determine that the project does not meet the required findings for variance and deny Zone Variance Application No. ZV20-002; and,
 - 4) If the Planning Commission approves Zone Variance Application No. ZV20-002, approve Minor Subdivision Application No. MS20-018 based on the applicable findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Planner Brody Patterson presented the Staff Report and recommendations of approval dated January 13, 2021.

The public hearing opened at 9:13 a.m.

Duane Andrews, Golden Valley Engineering, spoke in support of project and requested the Commission approve the project.

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

MOTION: M/S MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINED NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO SECTION 15162 “SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS” OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY – ACHESON, AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION DETERMINED THAT THE PROJECT MEETS THE REQUIRED FINDINGS FOR VARIANCE BASED ON THE FINDINGS IN THE STAFF REPORT AND APPROVE ZONE VARIANCE APPLICATION NO. ZV20-002.

MOTION: M/S MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 13, 2020 AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MS20-019 SUBJECT TO THE 6 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.

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3. 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.

Merced County Department of Public Works, Roads Division

4. Right-of-Way dedication is required to fulfill the 60' ultimate right-of-way for Peach fronting the property. Peach Avenue has an existing 40' right-of-way. The owners shall dedicate an additional 10' of right-of-way along the Peach Avenue frontage of the property, to be indicated on the final parcel map.

Merced County Department of Public Works, Building and Safety Division

5. A new well shall be installed on Proposed Parcel 1 to serve the existing agricultural equipment repair building prior to recordation of the final parcel map.

County Counsel

6. INDEMNITY AND HOLD HARMLESS AGREEMENT:

ADAN PEREZ 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

Mark Hendrickson wished Commissioners and staff a happy New Year and good health.

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:17 a.m.