

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JANUARY 23, 2019

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of January 23, 2019, 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 23, 2019, 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 Mark Erreca – Chairman
 Commissioner Robert Acheson
 Commissioner Fernando Aguilera

Staff Present: Mark Hendrickson, Director
 Kim Zinke, Recording Secretary
 Kristin McHaney, Recording Secretary
 Brian Guerrero, Planner III
 Brody Patterson, Planner I

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: Commissioner Jack Mobley
 Commissioner Kurt Spycher

IV. APPROVAL OF MINUTES

None

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT No. CUP18-007 – Franklin & Pauline Azevedo - To bring into conformance an existing 5th residence for an agricultural employee. The project site is located on the south side of Highway 152, 0.4 miles east of South Palm Avenue, identified by Assessor's Parcel Number (APN) 085-230-008. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). CEQA: Staff recommends the Planning Commission find that no further environmental review is required pursuant to Section 15302 of the CEQA Guidelines - "Replacement or Reconstruction". **BG**

RECOMMENDATION(S):

- 1) Open/Close the Public Hearing;
- 2) Determine the project can be found exempt from environmental review pursuant to Section 15302 - "Replacement or Reconstruction" of the CEQA Guidelines; and,
- 3) Approve Conditional Use Permit No. CUP18-007 based on the project findings and subject to the recommended conditions of approval.

Brian Guerrero, Planner III, presented the Staff Report and recommendations of approval dated January 23, 2019.

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

No one spoke in favor or opposition to this application.

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

MOTION: M/S ACHESON - AGUILERA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION DETERMINES THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15302 – “REPLACEMENT OR RECONSTRUCTION” OF THE CEQA GUIDELINES.

MOTION: M/S ACHESON - AGUILERA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 23, 2019, AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT NO. CUP18-007 SUBJECT TO THE 5 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. Conditional Use Permit No. CUP18-007 is granted to allow a 5th residence on an agriculturally zoned property
2. Applicant/property owner shall comply with all Federal, State, and Local agencies regulations.
3. 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 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.

County Counsel

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

FRANKLIN & PAULINE AZEVEDO 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.

Merced County Division of Environmental Health

5. The property owner shall apply for and obtain a state small water system (SSWS) permit from the Merced County Division of Environmental Health (MCDEH) prior to the final inspection of the replacement dwelling. Intense animal confinement on permeable surfaces shall not be allowed within 100 feet of the domestic well. Manure (liquid or dry) shall not be applied, stored, or accumulated within 100 feet of the well supplying the SSWS. No more than 24 persons shall be allowed to reside on the parcel without first obtaining a community public water system permit from the State Water Resources Control Board, Division of Drinking Water.

- B. ADMINISTRATIVE APPLICATION No. AA18-030 – Christina Reyes** - A request to operate a mobile Food Vendor Truck in the parking lot of Big Creek Lumber Co. The project site is located at the northeast corner of Stratofortess Drive & North Santa Fe Drive in the Atwater area, identified as APN 005-070-029. The property is designated Castle Airport Commercial land use and zoned SPZ (Special Planning Zone). CEQA: Staff recommends the Planning Commission find that no further environmental review is required pursuant to Section 15311(c) of the CEQA Guidelines - "Accessory Structures". **BG**

RECOMMENDATION(S):

- 1) Open/close the Public Hearing;
- 2) Determine the project is exempt from environmental review pursuant to Section 15311(c) - "Accessory Structures" of the CEQA Guidelines; and,
- 3) Approve AA18-0030 based on the findings and subject to the recommended conditions of approval.

Brian Guerrero, Planner III, presented the Staff Report and recommendations of approval dated January 23, 2019.

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

No one spoke in favor or opposition to this application.

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

MOTION: M/S ACHESON - AGUILERA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION DETERMINES THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15311(C) - "ACCESSORY STRUCTURES" OF THE CEQA GUIDELINES.

MOTION: M/S ACHESON - AGUILERA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 23, 2019, AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ADMINISTRATIVE APPLICATION NO. AA18-030 SUBJECT TO THE 20 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

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Conditions:

Merced County Community and Economic Development Department

1. Administrative Permit No. AA18-030 is granted to operate a semi-mobile food vendor on property consisting of an existing convenience store in accordance with the approved Plot Plan and Operational Statement. Minor Modifications may be approved by the Director upon submittal of an acceptable application.
2. For the purpose of conditions monitoring an inspection in the amount of **\$162** shall be required. This fee shall be paid with 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. The semi-mobile food vendor shall vacate the premises upon closing of the proposed hours of operation.
4. There shall be adequate trash receptacle adjacent to the semi-mobile food vendor.
5. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day.
6. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
7. Grease shall be disposed per requirement of the Division of Environmental Health.
8. No additional advertising sign except a sign attached to the semi-mobile food vendor.
9. A copy of administrative permit shall be kept with the operator at all times and shall not be transferable to another operator.
10. The applicant shall comply with all applicable County, State and Federal regulations. These regulations shall include, but not be limited to standards administered by the County Fire, Health, and Public Works Departments.

County Counsel

11. INDEMNITY AND HOLD HARMLESS AGREEMENT:

CHRISTINA REYES 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.

Department of Public Works, Building and Safety Division

12. Any extension cords used for power to the truck shall be rated for outdoor use, protected from damage if in a vehicle route of travel, and be one continuous run from the power source to the truck.

Merced County Fire Department Prevention Bureau

13. Approved vehicle access for firefighting shall be provided.
14. Fire extinguishers with a minimum size 2A:10BC shall be available.

Merced County Division of Environmental Health

15. The semi-mobile food operator shall maintain a current stationary mobile food facility permit issued by MCDEH.
16. The semi-mobile food vehicle shall be located within 200 feet travel distance of an MCDEH-approved toilet and permanent hand washing station. The food vehicle staff shall have access to this restroom at all times the vehicle is parked on-site.
17. The mobile food facility operator shall keep on the mobile food facility a current, valid document from the restroom owner indicating the days and times the restrooms are available and granting permission for the mobile food vendor staff to use the restrooms.
18. The mobile food facility shall not obtain any water from the premises, nor shall any wastewater from the food facility be drained to any on-site septic system, on-site community sewer connection, or to the ground surface. No solid waste (trash, etc.) from the mobile food facility shall be disposed on the parcel.
19. The mobile food facility shall immediately cease operating if the water supply to the restrooms fails, there is no soap, paper towels, or toilet paper, the sewer connection fails, or the restrooms become unavailable.
20. The mobile food facility must report to its approved commissary at least once every day for cleaning, discharge of waste water, re-stocking water and food, and all other required functions.

- C. **8TH EXTENSION APPLICATION No. EXT18-043 TO MAJOR SUBDIVISION APPLICATION No. MAS05-006 – “Red Rock Industrial Park” – Vegalab, Inc.:** A request to extend the expiration date of the approved tentative map for Major Subdivision Application No. MAS05-006 for 1 year, FROM: December 21, 2018 TO: December 21, 2019. The project site is located on the west side of North Arboleda Drive, 400 feet south of East Highway 140, identified as Assessor's Parcel Number (APN) 061-033-007. The property is designated Tuttle Rural Center – Industrial land use in the General Plan and zoned M-1 (Light Manufacturing). CEQA: Staff recommends that the Planning Commission find that no further environmental review is required pursuant to Section 15162 of the CEQA Guidelines - “Subsequent EIRs and Negative Declarations.” **BP**

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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; and,
- 3) Approve Extension Application No. EXT18-043 based on the findings identified in the Staff Report and subject to the proposed conditions of approval.

Brody Patterson, Planner I, presented the Staff Report and recommendations of approval dated January 23, 2019.

The public hearing opened at 9:15 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:15 a.m.

MOTION: M/S ACHESON - AGUILERA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION DETERMINES NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO SECTION 15162 - “SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS” OF THE CEQA GUIDELINES.

MOTION: M/S ACHESON - AGUILERA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 23, 2019, AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES 8TH EXTENTION APPLICATION NO. EXT18-043 SUBJECT TO THE 4 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. The Tentative Map for Major Subdivision Application No. MAS05-006 shall expire on December 21, 2019, unless an extension request is applied for.
2. The current Extension Application No. EXT18-043 shall comply with all conditions of approval as required by the previously approved Minor Subdivision No. MS05-006 and any previously approved discretionary extensions (EXT07-026 and EXT08-031).
3. The Applicant shall work with the Merced County Division of Environmental Health (MCDEH) to reconfigure the parcel lines on the Final Map to come into compliance with current setback requirements for the wells and septic systems.

County Counsel

4. INDEMNITY AND HOLD HARMLESS AGREEMENT:

TUTTLE CROSS DOCK, 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

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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, Director, welcomed returning Planner, Tiffany Ho, back to the staff.

The joint Board of Supervisor/Planning Commission workshop on the Zoning Code Update is rescheduled for February 26, 2019 at 1:30pm.

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

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