

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF MAY 08, 2019

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of May 8, 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 May 8, 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 Jack Mobley
 Commissioner Fernando Aguilera

Staff Present: Steve Maxey, Deputy Director
 Kim Zinke, Recording Secretary
 Kristin McHaney, Recording Secretary
 Diana Lowrance, Planner III
 Pam Navares, Planner II
 Jimena Olaguez, Code Compliance Technician

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: Commissioner Kurt Spycher

IV. APPROVAL OF MINUTES

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4-0, THE COMMISSION APPROVES THE MINUTES FROM THE MEETING OF APRIL 10, 2019.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. **MINOR SUBDIVISION No. MS19-001 - "Life Place Church" / Bob Allen - A request to subdivide an 18-acre parcel resulting in parcel sizes of: Parcel 1 = 1.21 acres, Parcel 2 = 1 acre, Parcel 3 = 1 acre, Parcel 4 = 1 acre and a remainder parcel of 13.85 acres. The property is located at the southwest corner of West Belcher Avenue and North Franklin Road in the Merced area, identified as Assessor's Parcel Number (APN) 005-150-005 and designated Agricultural-Residential land use in the General Plan and is zoned A-R (Agricultural-Residential). Staff recommends the Planning Commission find the project exempt from environmental review pursuant to Section 15315 of the CEQA Guidelines - "Minor Land Divisions". **JO****

RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Determine 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 Application No. MS19-001 based on the findings identified

MERCED COUNTY PLANNING COMMISSION
Minutes – May 08, 2019
Page 2

in the Staff Report and subject to the proposed conditions of approval.

Code Compliance Technician Jimena Olaguez presented the Staff Report and recommendations of approval dated May 08, 2019.

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

Duane Andrews, Golden Valley Engineering, expressed concern regarding the wording of condition of approvals #4. .

Steve Maxey, Deputy Director suggested modification of condition to read “Prior to recordation of the map, or as soon as possible thereafter, at the discretion of the Community and Economic Development Director, parcel 4 shall be connected to community water service, both wells on the parcel shall be destroyed under permit from MCDEH, and the septic system shall include a nitrogen-reducing advanced treatment unit.”

Duane Andrews agreed to the revised wording.

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

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THAT THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15315 – “MINOR LAND DIVISIONS” OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MAY 08, 2019 AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MS19-001 SUBJECT TO THE 15 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

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 County, State and Federal regulations.
3. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 97-1.

Merced County Department of Public Health

4. Prior to recordation of the map, or as soon as possible thereafter, at the discretion of the Community and Economic Development Director, parcel 4 shall be connected to community water service, both wells on the parcel shall be destroyed under permit from MCDEH, and the septic system shall include a nitrogen-reducing advanced treatment unit.
5. Each of the three undeveloped 1-acre parcels shall be provided water only by a community public water system connection. A permit to drill a well will not be issued without written approval of the public water system. See attached comments.

MERCED COUNTY PLANNING COMMISSION

Minutes – May 08, 2019

Page 3

Merced County Fire Department/Fire Prevention Bureau

6. All driveways accessing the parcel(s) shall be surfaced with an approved all weather driving surface material and shall be maintained to support loads of fire apparatus unobstructed per CFC Sec. 503 and 503.2.1.
7. Approved locks shall be installed on gates or similar barriers where required by the fire code official (CFC 506)
8. The project shall meet fire flow requirements as per California Fire Code. In addition, all options shall be approved by this office.
9. Applicant must have approved water supply. See attached comments.

Merced County Public Works/Roads Division

10. Pursuant to Chapter 16.08 of the Merced County Code, the Applicant shall install Level 1 improvements along W. Belcher Avenue. No curb, gutter, sidewalk is required, however, the Applicant must widen the pavement and improve the shoulder along Belcher Ave. This improvement may require existing overhead utility lines be relocated. All improvements shall be constructed prior to the recordation of the map. Alternatively, a deferment agreement may be executed prior to the recordation of the map with an acceptable security.
11. Right-of-Way dedication is required to be shown on the parcel map as follows:
 - a. N. Franklin Road (80 ft. RIW) - The Applicant shall dedicate an additional 10ft.
 - b. W. Belcher Avenue (60 ft. RIW) - The Applicant shall dedicate an additional 10 ft.
 - c. 10ft. Public Utility Easement along W. Belcher Avenue.
12. Applicant shall install one (1) street light and annex into the adjacent Street Lighting Maintenance Zone of Benefit.
13. Applicant shall pay Bridge and Major Thoroughfare area of benefit impact fees.
14. Applicant shall comply with the County's MS4 Storm Water Permit, Order No. 2013-0001-DWQ. Applicant shall implement site design, source control, runoff reduction and storm water treatment as describe in E.12 of the permit. See attached comments.

County Counsel

15. **INDEMNITY AND HOLD HARMLESS AGREEMENT:**
LIFE PLACE CHURCH/BOB ALLEN 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. **ADMINISTRATIVE APPLICATION No. AA19-011 – Juan Uriostegui** - A request to operate a Semi-Mobile Food Vendor (taco truck) on property with an existing church. The project site is located on the west side of N. Winton Way, approximately 205 feet north of W. Gertrude Ave in the Winton area, identified as Assessor's Parcel Number (APN) 147-180-035. The property is designated Winton Urban Community - General Commercial land use in the General Plan and zoned C-2 (General Commercial). CEQA: Staff

MERCED COUNTY PLANNING COMMISSION

Minutes – May 08, 2019

Page 4

recommends that the Planning Commission find the project exempt from environmental review pursuant to Section 15311 of the CEQA Guidelines – “Accessory Structures”. **DL**

RECOMMENDATION(S):

- 1) Open/close the Public Hearing;
- 2) Determine the project is categorically exempt from environmental review pursuant to Section 15311 - "Accessory Structures" of the CEQA Guidelines; and,
- 3) Approve Administrative Application No. AA19-011 based on the findings identified in the Staff Report and subject to the proposed conditions of approval.

Planner Diana Lowrance presented the Staff Report and recommendations of approval dated May 08, 2019.

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

No one spoke in favor or opposition of this application.

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

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15311 – “ACCESSORY STRUCTURES” OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MAY 08, 2019 AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ADMINISTRATIVE APPLICATION No. AA19-011 SUBJECT TO THE 21 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Department

1. Administrative Permit No. AA19-011 is granted to operate a semi-mobile food vendor on property consisting of an existing church 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 be removed from the front of the church and stored at a location that is not visible from the street or off-site during all hours outside of approved operating hours.
4. There shall be adequate trash receptacles 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.

MERCED COUNTY PLANNING COMMISSION

Minutes – May 08, 2019

Page 5

6. The vehicle shall be self-contained for potable water, wastewater, and power. Electrical connections to adjacent businesses may be permitted if approved by the county building division.
7. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
8. Grease shall be disposed per the requirements of the Division of Environmental Health.
9. No additional advertising signage is permitted, except a sign attached to the semi-mobile food vendor.
10. A copy of the administrative permit shall be kept with the operator at all times and shall not be transferable to another operator.
11. 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.

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.

County Counsel

21. INDEMNITY AND HOLD HARMLESS AGREEMENT:

JUAN URIOSTEGUI has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of JUAN URIOSTEGUI. JUAN URIOSTEGUI liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of JUAN URIOSTEGUI, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. JUAN URIOSTEGUI will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following Project approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law

- C. MINOR SUBDIVISION APPLICATION No. MS19-003 – Alan Sano** - A request to create a homesite parcel by removing a 1.69 acre portion of an existing 31.5 acre parcel and combining the remaining 29.81 acres with an adjacent parcel, creating a 49.21 acre parcel. The project site is located on the north side of Bailey Avenue, at the intersection of Buhach Road in the Atwater area, identified as Assessor's Parcel Numbers (APNs): 215-122-009 and 215-122-010. The property is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission determine no further environmental review is required pursuant to Section 15162 of CEQA Guidelines – "Subsequent EIRs and Negative Declarations". **DL**

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine that no further environmental review is required pursuant to Section 15162 – "Subsequent EIRs and Negative Declarations" of the CEQA

MERCED COUNTY PLANNING COMMISSION

Minutes – May 08, 2019

Page 7

Guidelines based upon the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the attached CEQA Section 15162 Findings and Analysis (Exhibit C); and,

- 3) Approve Minor Subdivision Application No. MS19-003 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 date May 08, 2019.

The public hearing opened at 9:18 a.m.

No one spoke in favor or opposition of this application.

The public hearing closed at 9:18 a.m.

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION NO FURTHER ENVIRONMENTAL REVIEW 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 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MAY 08, 2019 AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MS19-003 SUBJECT TO THE 5 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

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 County, State and Federal regulations.
3. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 97-1.
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, or as otherwise permitted by the County subject to the current policies in place at the time of the request.

County Counsel

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

PETER ALAN SANO have the contracted duty (hereinafter "the duty") to

MERCED COUNTY PLANNING COMMISSION

Minutes – May 08, 2019

Page 8

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.

- D. 2nd EXTENSION APPLICATION No. EXT19-004 to MINOR SUBDIVISION APPLICATION No. MS16-001 - Jadwinder Tung** - A request to extend the expiration date of the tentative map for Minor Subdivision No. MS16-001 for one year FROM: May 11, 2019 TO: May 11, 2020. The project site is located on the north side of West Bloss Avenue approximately 1,800 feet east of north Lander Avenue, identified as Assessor's Parcel Number (APN) 015-100-006. The property is designated Hilmar Urban Community- Low Density Residential land use in the General Plan and zoned R-1 (Single-Family Residential). CEQA: Staff recommends that the Planning Commission find the project exempt from environmental review pursuant to CEQA Section 15315 of the CEQA Guidelines - "Minor Land Divisions". **PN**

RECOMMENDATION(S):

- 1) Open/close the 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 Extension Application No. EXT19-004 based on the findings identified in the Staff Report and subject to the proposed conditions of approval.

Planner Pam Navares presented the Staff Report and recommendations of approval date May 08, 2019.

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

No one spoke in favor or opposition of this application.

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

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION NO FURTHER ENVIRONMENTAL REVIEW REQUIRED PURSUANT TO SECTION 15315 – "MINOR LAND DIVISIONS" OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MAY 08, 2019 AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES 2ND EXTENSION

MERCED COUNTY PLANNING COMMISSION

Minutes – May 08, 2019

Page 9

No. EXT19-004 TO MINOR SUBDIVISION No. MS16-001 SUBJECT TO THE 12 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Department

1. Approval of this extension shall extend the period of time for recording the final map to May 11, 2020.
2. The applicant shall comply with all applicable County, State and Federal regulations.
3. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 97-1.

Public Works

4. Right-of-Way dedication is required to fulfill the property owner's half of an 84 foot ultimate right-of-way on Bloss Avenue (per the Hilmar Community Plan):
 - a. Bloss Avenue has an existing 40 foot right-of-way, with 20 feet lying on the owner's side of the road centerline. The owners will need to dedicate an additional 22 foot right-of-way along the Bloss Avenue frontage of the property. However at this time, the dedication of only 10 feet right-of-way is required.
5. The Project site is subject to frontage improvements in accordance to the Merced County Improvement Standards and Specifications (curb and gutter, sidewalks) along Bloss Avenue. The applicant will need to enter into a Deferment of Construction Agreement to install the improvements at a later date:
 - a. The agreement will also include dedication of the remaining 12 foot right-of-way and a 10 foot public utility easement.

Fire Department

6. If a home or structure is located on the properties, the applicant shall install Reflective Building Identification that meets Fire Department Design Specifications.

Merced County Division of Environmental Health

7. Parcels in the subdivision shall connect to the Hilmar County Water District water and sewer services, unless the District refuses to provide such services. MCDEH has no objection to the extension.

Turlock Irrigation District

8. There is an irrigation pipeline belonging to Improvement District (ID) 79, the Ekstrom Ditch, located along the northern boundary of the subject property. A 15-foot wide irrigation easement (or PUE) adjoining the First Street right of way shall be dedicated for this pipeline.

9. A 25 foot wide irrigation easement shall be dedicated along the east line of the Proposed Parcel 2 for the benefit of Parcel 1. This easement could have a reversion clause that is triggered in the event that Parcel 1 abandons its right to utilize ID 790 in the future.
10. In order for the District to accept the necessary easement(s), the "Certificate of Acceptance" should appear on the acceptance documents as outlined in the comment letter submitted by the Turlock Irrigation District.

Hilmar County Water District

11. Any Hilmar Water District facilities or easements would need to remain intact or attached to each of the newly created parcels.

County Counsel

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

JADWINDER TUNG 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

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

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