

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

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

Staff Present: Mark Hendrickson, Director
 Kim Zinke, Recording Secretary
 Kristin McHaney, Recording Secretary
 Brian Guerrero, Development Services Coordinator
 Jimena Olaguez, Code Compliance Technician

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: Commissioner Kurt Spycher

IV. APPROVAL OF MINUTES

MOTION: M/S ACHESON – ERRECA, AND CARRIED BY A VOTE OF 4 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE MEETING OF SEPTEMBER 25, 2019.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT No. CUP19-014 – Parreira Almond Processing - A request to add three buildings totaling 174,300 square feet to an existing almond processing and storage facility. The property is located on the east side of Ortigalita Road, approximately 1,290 Feet south of Charleston Road in the Los Banos area, identified as APNs: 088-101-007, -008, and -009. The project site is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: An IS/MND is proposed. **BG**

RECOMMENDATION(S):

- 1) Open/Close the public hearing;
- 2) Determine the proposed project will not have a significant effect on the environment and adopt the proposed Mitigated Negative Declaration pursuant to Section 15070- "Decision to Prepare a Negative or Mitigated Negative Declaration" of the CEQA Guidelines; and,

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- 3) Approve Conditional Use Permit CUP19-014 based on the findings identified in the Staff Report and subject to the proposed conditions of approval.

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

The public hearing opened at 9:06 a.m.

No one spoke in favor or opposition to this application.

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

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINE THE PROPOSED PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND ADOPTS THE MITIGATED NEGATIVE DECLARATION OF THE CEQA GUIDELINES.

MOTION: M/S ERRECA – ACHESON, AND CARRIED BY A VOTE OF 4 – 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED OCTOBER 23, 2019, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT NO. CUP19-014 SUBJECT TO THE 15 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Department

1. Conditional Use Permit No. CUP19-014 is granted to construct a new 78,000 square foot processing building and office space, a 10,750 square foot fumigation building, and a 78,050 square foot warehouse building with a 7,500 square foot attached canopy, all within the footprint of an existing almond processing facility.
2. The project shall be located, developed and operated in a manner described on the approved Plot Plan, Project Description, and Conditions of Approval of this permit.
3. The project shall comply with the Mitigation Measures listed in the IS/MND.
4. The project shall comply with all applicable public health, safety, and welfare regulations administered by the County of Merced, and in particular the County Fire Department, the Health Department/ Environmental Health Division, the Community and Economic Development Department, and Public Works Department/ Road and Building and Safety Divisions.
5. For the purpose of conditions monitoring, an inspection fee in the amount of **\$324.00** shall be required. This fee shall be paid within 30 days of 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.

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6. Prior to issuance of a building permit, the project applicant must obtain all necessary permits and written authorizations and must demonstrate compliance with all applicable regulations administered by Federal and State agencies.
7. At such time that APN 088-101-008 is sold to a different property owner, an easement shall be recorded for the sewer line.
8. The applicant shall comply with all applicable standard conditions of approval listed in the Planning Commission Resolution No. 97-1.

Environmental Health

9. The facility shall immediately initiate, and diligently pursue, the process to obtain a permit to operate a public water system. The facility shall then maintain compliance with that permit as long as 25 or more persons work at the facility on 60 or more days of the year.
10. The applicant shall maintain an accurate hazardous material business (HMBP) plan with Merced County Division of Environmental Health and maintain compliance with all applicable hazardous material regulations. The HMBP must be filed electronically no later than 30 days of the commencement of operations. Visit <http://cers.calepa.ca.gov/> to submit a new or revised HMBP.
11. Prior to any increase in the number of persons working at the facility, any septic system involved shall be evaluated by a qualified person to determine if system capacity is adequate. The system shall be enlarged as needed to handle the load. Alternatively, a new system can be installed and the old septic tank destroyed. Septic system permits from MCDEH are required prior to any work on a system.

Department of Public Works/Roads Division

12. Applicant shall comply with the County's MS4 Storm Water Permit, Order No. 2013-0001-DWQ. Applicant is constructing more than 5,000 square feet of new impervious surface and must implement site design, source control, runoff reduction and storm water treatment as described in the permit. If there are existing storm water facilities, Applicant shall provide a calculation indicating the facilities have sufficient volume to compensate for the increased impervious surface.

County Counsel

13. INDEMNITY AND HOLD HARMLESS AGREEMENT:

RPAC 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. 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.

Mitigation Measures

San Joaquin Valley Air Pollution Control District

14. Prior to the issuance of the building permit from Merced County, the project *applicant must contact the SJVAPCD's Business Assistance Office* to identify applicable SJVAPCD Rules and Regulations. The proposed project would need to demonstrate compliance with Regulation VIII – Fugitive Dust PM10 Prohibitions; and may be subject to additional rules, including, but not limited to Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). The project applicant will be required to implement measures of applicable SJVAPCD Rules and Regulations as noted.

California Water Resource Control Board

15. The applicant may be subject to the Construction General Permit Order No. 2009-009-DWQ for Storm Water Discharge and Waste Discharge Requirements (WDR's) under Central Valley Water Board Order R5-2015-0005. The applicant shall consult with Central Valley Regional Water Quality Control Board to determine if further permitting requirements are needed.

- B. MINOR SUBDIVISION APPLICATION MS19-010 – Boyd/Silveira** - A request to subdivide 2 acres of a 20.61 acre parcel and convey the remaining 18.61 acres to an adjacent parcel under different ownership, creating a 102.47 acre parcel. The project is located on the north side of West Bell Drive, 725 feet east of North Dwight Way in the Atwater area, identified as Assessor's Parcel Number's APN's: 056-570-016 and 056-570-002. The properties are designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission determine that no further environmental review is required pursuant to section 15162 of CEQA guidelines- "Subsequent EIRs and Negative Declarations." **JO**

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 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. MS19-010 based on the findings included in the staff report and subject to the proposed conditions of approval.

Project Planner Jimena Olaguez presented the Staff Report and recommendations of approval dated October 23, 2019.

The public hearing opened at 9:11 a.m.

No one spoke in favor or opposition to this application.

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

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, 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 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).

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED OCTOBER 23, 2019, AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION APPLICATION NO. MS19-010 SUBJECT TO THE 5 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 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:

BOYD/SILVERIA 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,

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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

Director Mark Hendrickson said the Board of Supervisors approved the Zoning Code Update at the October 22, 2019 Board meeting.

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:12 a.m.