



## Planning Commission

### Staff Report

January 9, 2019

AGENDA ITEM # A

PREPARED BY:  
APPROVED BY:

JIMENA OLAGUEZ, CODE COMPLIANCE TECHNICIAN  
MARK HENDRICKSON, DIRECTOR

**ADMINISTRATIVE APPLICATION NO. AA18-035: Juan Carlos Gutierrez Alcaraz & Alicia G. Oliva:**

A request to operate a semi-mobile food vendor with outdoor seating, located in the parking lot of an existing service station. The project site is located on the north side of West Plaza Drive, 230 feet west of South Hwy 33 in the Santa Nella area, identified as APN 070-260-017. The property is designated Santa Nella Urban Community - Commercial land use in the General Plan and zoned Special Zoning Area (SPZ). Staff recommends that the Planning Commission find the project exempt from environmental review pursuant to Section 15311(c) of the CEQA Guidelines – “Accessory Structures”.

**SUPERVISORIAL DISTRICT:** 5 – Jerry O’Banion

**RECOMMENDATION(S):**

1. Open/close the public hearing;
2. Determine the project can be found exempt from environmental review pursuant to Section 15311(c) – “Accessory Structures” of the CEQA Guidelines; and,
3. Approve Administrative Application No. AA18-035 based on the findings identified in the Staff Report and subject to the proposed conditions of approval.

**LOCATION MAP:**



## BACKGROUND:

### Site Description

The applicant is proposing to establish a semi-mobile food vendor operation with outdoor seating in the parking lot of an existing service station, identified as APN 070-260-017. The restroom, which will be accessible to the food vendor employees, is located on the adjacent property that is improved with a gas station, and is identified as APN 070-260-016.

The project site is located on the north side of West Plaza Drive, 230 feet west of South Hwy 33 in the Santa Nella area, identified as APN 070-260-017. The property is designated Santa Nella Urban Community - Commercial land use in the General Plan and zoned Special Planning Zone (SPZ). The site has access from Highway 33. The project site is surrounded by commercial uses to the east, west and south, while the north contains a drainage basin and a vacant lot.

### Surrounding Uses

	General Plan	Zoning	Current Land Use
On-Site:	Commercial	SPZ	Parking Lot
North:	General Commercial	SPZ	Drainage Basin/Vacant
East:	General Commercial	SPZ	Service Station
South:	Commercial	SPZ	Truck Stop
West:	General Commercial	SPZ	Restaurant

### Prior Actions/Entitlements

There are no other previously approved permits for the project site.

## ANALYSIS

### Project Description

The applicant is requesting to establish a semi-mobile food vendor operation with outdoor seating at a parking lot adjacent to an existing service station. Per the applicant's Operational Statement, the semi-mobile food vendor is proposing to operate seven days a week (Monday through Sunday) from 9:00 am to 11:00 pm. The food vendor employees will have access to the restrooms located at the adjacent gas station. Wastewater and trash will be collected and removed by the applicant daily.

### Consistency with Adopted Plans and Policies

#### 1. General Plan

The 2030 General Plan provides a set of guiding principles, goals, and policies that communicate the adopted philosophy of the County regarding growth, development and sustainability. These statements, together with adopted diagrams, standards and analysis, provide the context under which specific land use proposals are reviewed. The 2030 General Plan is therefore considered the local "constitution" for planning and development and serves to direct the physical growth and development of the County for the long term.

#### Land Use Element

The Land Use Element of the 2030 General Plan provides the policy context for Merced County to achieve its vision for both rural and urban land use. Agricultural land use designation is applied to much of the land within the County. It acknowledges the importance of agriculture and seeks to protect productive agricultural land, promote

agricultural processing and support operations, and recognize and preserve valuable open space resources.

The following land use goals and policies are applicable to the present application:

**Goal LU-1**

*Create a countywide land use pattern that enhances the integrity of both urban and rural areas by focusing urban growth towards existing or suitably located new communities.*

**Policy LU-1.1: Countywide Development**

*Direct urban development to areas within adopted urban boundaries of cities, Urban Communities, and Highway Interchange Centers in order to preserve productive agriculture, limit urban sprawl, and protect natural resources.*

**Policy LU-1.4: Urban Communities**

*Continue to support compact Urban Communities through the efficient use of land to reduce conflicts with agricultural and open space areas, and minimize public service costs.*

The proposed taco truck is located within the Santa Nella Urban Community on an existing parking lot adjacent to a service station that is designated General Commercial and zoned Special Planning Zone area (SPZ). In addition, the project site is located along a major transportation route (Highway 33). Therefore, the application is consistent with the General Plan.

**2. Zoning Code**

The project site is zoned SPZ (Special Planning Zone) per the Merced County Zoning map. The purpose of the SPZ is to protect unique land uses and resources beyond the scope of typical zoning regulations (Ord. 1586, 1977). The proposed semi-mobile food vendor is an allowed use in the SPZ and can be considered a commercial use, which is consistent with the General Plan land use designation.

The proposed taco truck is allowed as a temporary mobile retail sale/semi-mobile food vendor under Table 18-8, Chapter 18.18 of the Zoning Code. Section 18.47.280(D) requires an Administrative Permit for semi-mobile food vendors that have outdoor seating in a commercial zone. The project is consistent with the requirements detailed in Section 18.47.280(D) and the setback and parking standards in Section 18.18.030. Therefore, the proposed project is consistent with the Zoning Code.

**California Environmental Quality Act (CEQA)**

Staff has determined that this project can be found exempt from CEQA review under Section 15311(c) – “Accessory Structures”, which allows for placement of “seasonal or temporary” uses in generally the same location from time to time.

The proposed project involves placement of a minor accessory structure, a semi-mobile food vendor with outdoor seating, to an existing commercial facility. The semi-mobile food vendor is authorized for placement on the property and has access to the restroom facilities. The semi-mobile food vendor shall cease operation if water supply to the restrooms, on-site septic, or water connection is inaccessible and/or fails. The semi-mobile food vendor shall vacate the premises after close of the proposed hours of operation. Because the food truck would be less intensive and ancillary to the primary use on the property (a gas station), the project may be found categorically exempt.

## **Community Engagement**

The project application was routed to applicable County departments as well as outside agencies for comment. Comments were received from the Department of Public Health – Environmental Health Division, Department of Public Works Building and Safety Division, and the Department of Public Works Roads Division.

The following comments and observations were made regarding the application:

The Department of Public Health – Environmental Health Division submitted comments stating the applicant shall obtain a stationary mobile food facility permit, maintain access to the restroom while parked, and obtain potable water from an approved commissary. The applicant shall not obtain any water from the premises (except for toilet flushing and hand washing) and shall cease operations if water supply to the restrooms, on-site septic system, or sewer connections fails.

The Department of Public Works – Buildings and Safety Division submitted comments stating that any extension cords used for power to the truck shall be rated for outdoor use, protected from damage if in vehicle route or travel, and be one continuous run from the power source to the truck.

The Department of Public Works – Roads Division submitted comments stating that since no additional permanent structure are proposed, the project is not subject to the Regional Transportation Impact Fee or Bridge and Major Thoroughfare Fee.

Notice of the public hearing was published in the Merced Sun-Star on December 29, 2018—and mailed to property owners within 300 feet of the project site on December 28, 2018. No written or verbal comments were received by staff prior to the completion of this staff report.

## **CONCLUSION:**

The analysis provided in this staff report finds the proposed semi-mobile food vendor to be consistent with applicable provisions of the General Plan and Zoning Code. Furthermore, the project can be found exempt from CEQA review under Section 15311(c) – “Accessory Structures” of the CEQA Guidelines.

Staff recommends the Planning Commission approve Administrative Application No. AA18-035 based upon the findings and subject to the proposed conditions of approval.

**RECOMMENDED PLANNING COMMISSION ACTION:**

**A. CEQA Determination**

**MOTION:** Determine that the project can be found exempt from CEQA Review under Section 15311(c) – “Accessory Structures” of the CEQA Guidelines based on the findings listed in the Staff Report.

**CEQA Findings:**

1. The proposed project involves placement of a minor accessory structure, a semi-mobile food vendor with outdoor seating.
2. The semi-mobile food vendor is authorized for placement on the property and access to the restroom facilities at an adjacent existing convenience mart.
3. The semi-mobile food vendor shall cease operation if water supply to the restrooms, on-site septic, or water connection is inaccessible and/or fails.
4. The semi-mobile food vendor shall vacate the premises at closing of the proposed hours of operation.
5. The determination that the application is exempt from CEQA review reflects the independent judgment of the County.

**B. Project Determination**

**MOTION:** Approve Administrative Application No. AA18-035 based on the findings included in the staff report and subject to the proposed conditions of approval.

**Project Findings:**

1. Administrative Application No. AA18-035 proposes establish a semi-mobile food vendor with outdoor seat adjacent to an existing commercial facility, located on the north side of West Plaza Drive, 230 feet west of South Hwy 33 in the Santa Nella area.
2. The property is designated Santa Nella Urban Community – General Commercial land use in the General Plan and zoned SPZ (Special Zoning Area).
3. The proposal is consistent with applicable provisions of the 2030 Merced County General Plan.
4. The proposal is consistent with applicable provisions of the Merced County Zoning Code that have not been superseded through adoption of the 2030 General Plan.
5. The project has been reviewed by the Department of Public Works Road Division, Department of Public Health Environmental Health Division,

Department of Public Works Building and Safety Division, and the Fire Department.

6. The proposed semi-mobile food vendor is compatible with adjacent uses, properties, and neighborhoods, and will not be a nuisance or detrimental to the public health, safety or general welfare.
7. The project is subject to all applicable Federal, State and Local regulations.
8. Notice of the application and Planning Commission hearing was published in the Merced Sun Star and mailed to adjacent property owners.

## **ATTACHMENTS**

1. Proposed Conditions of Approval
2. Site Plan
3. Public Agency Comments

cc.

Property Owner – Aulakh Inderpal

Applicant – Juan C. Gutierrez Alcaraz & Alicia G. Oliva