

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF NOVEMBER 14, 2018

DRAFT

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of November 14, 2018, 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 November 14, 2018, 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 (Chairperson)
 Commissioner Robert Acheson
 Commissioner Fernando Aguilera
 Commissioner Kurt Spycher

Staff Present: Mark Hendrickson, Director
 Steve Maxey, Deputy Director
 Kim Zinke, Recording Secretary
 Kristin McHaney, Recording Secretary
 Brian Guerrero, Planner III
 Diana Lowrance, Planner III
 Pam Navares, Planner II

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: Commissioner Jack Mobley

IV. APPROVAL OF MINUTES

MOTION: M/S SPYCHER – ACHESON, AND CARRIED BY A VOTE OF 4 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE MEETING OF OCTOBER 10, 2018 AND OCTOBER 24, 2018.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. **MINOR SUBDIVISION APPLICATION No. MS18-010 – Jose & Carmen Torrez - A request to section off a 4 acre homesite parcel from a 33.8 acre parcel and convey the remaining 29.8 acre parcel with an adjacent parcel, creating a 72.27 acre parcel. The property is located on the southeast corner of Westside Boulevard and Weir Avenue in the Livingston, identified as Assessor's Parcel Numbers (APNs) 049-030-012 and 049-030-014. The property is designated Agricultural land use and zoned A-1 (General Agricultural). CEQA: No further environmental review required under Section 15162 – "Subsequent EIRs and Negative Declarations." **PN****

MERCED COUNTY PLANNING COMMISSION

Minutes – November 14, 2018

Page 2

RECOMMENDATION(S):

- 1) Open/close 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 Minor Subdivision Application No. MS18-010 based on the findings included in the staff report and subject to the recommended conditions of approval.

Planner Pam Navares presented the Staff Report and recommendations of approval dated November 14, 2018.

The public hearing opened at 9:04 a.m.

No one spoke in favor or opposition to this application.

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

MOTION: M/S SPYCHER – ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO SECTION 15162 – “SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS” OF THE CEQA GUIDELINES.

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED NOVEMBER 14, 2018 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION APPLICATION No. MS18-010 SUBJECT TO THE 7 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 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.
5. The 4 acre homesite parcel shall be removed from the Agricultural Preserve prior to recording the parcel map.

MERCED COUNTY PLANNING COMMISSION

Minutes – November 14, 2018

Page 3

Merced County Department of Public Works/Road Division

6. Right of Way dedication is required on Westside Boulevard, Weir Avenue and Longview Avenue.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

JOSE TORREZ and IGNACIO FUENTEZ, 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.

- B. ADMINISTRATIVE APPLICATION No. AA18-015 - Kulbirinderpal Singh -** A request to operate a semi mobile food vendor at an existing convenience store located at the northwest corner of North Lander Avenue & West Third Avenue, identified as Assessor's (APN) Parcel number 055-190-064. The property is designated Stevinson Urban Community - Commercial land use and zoned C-2 (General Commercial). CEQA: Exempt from CEQA pursuant Section 15311(c) – "Accessory Structures". **BG**

RECOMMENDATION(S):

- 1) Open/close the Public Hearing;
- 2) Determine the project is exempt from CEQA pursuant to Section 15311(c) - "Accessory Structures" of the CEQA Guidelines; and,
- 3) Approve Administrative Application No. AA18-015 based on the findings and subject to the recommended conditions of approval.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated November 14, 2018.

The public hearing opened at 9:09 a.m.

No one spoke in favor or opposition to this application.

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

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THAT THE PROJECT IS EXEMPT FROM CEQA PURSUANT TO SECTION 15311(C) - "ACCESSORY STRUCTURES" OF THE CEQA GUIDELINES.

MERCED COUNTY PLANNING COMMISSION

Minutes – November 14, 2018

Page 4

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED NOVEMBER 14, 2018, AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ADMINISTRATIVE APPLICATION No. AA18-015 SUBJECT TO THE 14 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Department, Planning Division

1. Administrative Permit No. AA18-015 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:**

KULBIRINDERPAL SINGH 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

MERCED COUNTY PLANNING COMMISSION

Minutes – November 14, 2018

Page 5

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.

- C. MAJOR MODIFICATION No. MM18005 to MINING & RECLAMATION No. CUP99-012 – Calaveras Materials** - A request to allow for an alternate temporary ingress/egress truck route and to modify the existing reclamation plan in regards to phases and timing of reclamation; reclaimed slope ratio; and, proposed end use (open space vs. agriculture). The project site is located on the west side of North Highway 59, 0.6 miles south of West Turlock Road in the Merced area, identified as Assessor's Parcel Number (APN) 042-200-056. The property is designated Agricultural land use and zoned A-2 (Exclusive Agricultural). CEQA: No further environmental review is required pursuant to Section 15162 "Subsequent EIRs and Negative Declarations" and exempt from CEQA pursuant to Section 15301 – "Existing Facilities". **BG**

RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Determine no further environmental review is required pursuant to Section 15162 – "Subsequent EIRs and Negative Declarations" and can also be found exempt from CEQA pursuant to Section 15301 - "Existing Facilities" of the CEQA Guidelines; and,
- 3) Approve Major Modification No. MM18-005 based on the findings included in the staff report and subject to the proposed conditions of approval.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated November 14, 2018.

The public hearing opened at 9:19 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:20 a.m.

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO SECTION 15162 – “SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS” AND CAN ALSO BE FOUND EXEMPT FROM CEQA PURSUANT TO SECTION 15301 - "EXISTING FACILITIES" OF THE CEQA GUIDELINES.

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED NOVEMBER 14, 2018 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MAJOR MODIFICATION No. MM18005 to MINING & RECLAMATION No. CUP99-012 SUBJECT TO THE 9 CONDITIONS SET FORTH IN THE STAFF REPORT WITH CONDITION #5 BEING ADDED TO READ AS FOLLOWS:

Conditions:

Community and Economic Development Department, Planning Division

1. Major Modification No. MM18-005 to CUP99-012 is approved to amend the existing reclamation plan to allow for a change in phases and timing of reclamation, reclaimed slope ratio, proposed end use in certain phases to be returned to agricultural and to temporarily use Turlock Road as an ingress/egress to avoid impacting Hopeton Slough.
2. For the purpose of conditions monitoring an inspection in the amount of \$324 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. All conditions not modified by this reclamation plan amendment shall remain in effect and complied with by the applicant/operator.
4. 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.
5. Prior to beginning operations that would require access to/from Turlock Road, applicant shall consult with Merced County Department of Public Works, Roads Division, to determine how any future roadway damage caused by mining operations will be assessed, repaired, and paid for by the applicant. The Department of Public Works will have final discretion as to whether a road maintenance agreement or similar mechanism shall be used.

County Counsel

6. INDEMNITY AND HOLD HARMLESS AGREEMENT:

CALAVERAS MATERIALS, 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 including, but not limited to, COUNTY's actions regarding related environmental determinations.

MERCED COUNTY PLANNING COMMISSION

Minutes – November 14, 2018

Page 7

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/Roads Division

7. Calaveras Materials Inc. (CMI) shall obtain and pay for an Encroachment Permit for the proposed driveway approaches along Turlock Road.
8. Upon approval of this amendment, CMI shall document the existing pavement condition through photographs of the proposed ingress and egress area of Turlock Road. The assessment limits shall be 100-feet of pavement in either direction of the driveways. Should road damage be identified within these limits during mining phases 11 and 12, CMI shall immediately obtain an encroachment permit and repair the road to a condition satisfactory to the County. Such repairs to be at the sole cost and expense of CMI.
9. CMI shall demonstrate they have permit coverage under the Regional Boards Industrial General Permit (IGP) for stormwater discharges and authorized non-stormwater discharges.

- D. CONDITIONAL USE PERMIT No. CUP18-003 - AT & T Mobility** - A request to construct a new unmanned telecommunications facility consisting of a 110 foot tall monopole (with 12 panel antennas), a walk-in equipment cabinet, and an emergency standby power generator. The project site is located just north of the intersection of Romero Road and State Highway 140/33, approximately $\frac{3}{4}$ of a mile north of the Urban Community of Santa Nella, identified as Assessor's Parcel Number (APN) 070-070-014. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). CEQA: The project may be found exempt pursuant to Section 15303 of the CEQA Guidelines – "New Construction or Conversion of Small Structures". **DL**

RECOMMENDATION(S):

- 1) Open/Close the public hearing;
- 2) Determine the project can be found exempt from environmental review pursuant to Section 15303 "New Construction or Conversion of Small Structures" of the CEQA Guidelines; and,
- 3) Approve Conditional Use Permit CUP18-003 based on the findings included in the staff report and subject to the conditions of approval.

Planner Diana Lowrance presented the Staff Report and recommendations of approval dated November 14, 2018.

The public hearing opened at 9:25 a.m.

Gerie Johnson, Consultant with Complete Wireless, said she is available to answer any questions.

The public hearing closed at 9:26 a.m.

MOTION: M/S SPYCHER - 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 15303 “NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES” OF THE CEQA GUIDELINES.

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED NOVEMBER 14, 2018 AND MAKES THE 7 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP18-003 SUBJECT TO THE 19 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Department

1. Conditional Use Permit No. CUP18-003 is granted to allow the installation of a new unmanned telecommunications facility consisting of a 110 foot tall monopole (with 12 panel antennas), a walk-in equipment cabinet, and an emergency standby power generator on a 2,500 square foot lease site.
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 **\$243** 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.
4. All on-site lighting shall be stationary and directed away from adjoining properties and public rights-of-way.
5. Pursuant to the Merced County General Plan, Public Facilities and Services Element, Policy PFS-5.8 (which requires new telecommunication infrastructure shall be screened, camouflaged, or designed in such a way as to be nearly invisible from public areas), the 110 foot tall monopole shall be screened camouflaged, or designed in such a way as to be nearly invisible from State Highway 140/33. Specifically, the 110 feet monopole shall be camouflaged as a windmill. Additionally, the six-foot chain link fence surrounding the site shall include brown slats to help screen the equipment.
6. The project is subject to the provisions of Planning Commission Resolution No. 97-1, attached.

Merced County Fire Department Prevention Bureau

7. **Address Identification.** New and existing buildings shall have approved address numbers, building number or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property (CFC 505.1).

MERCED COUNTY PLANNING COMMISSION

Minutes – November 14, 2018

Page 9

8. **Fire Department Access.** Fire access shall be maintained in accordance with CFC Sec. 503.(503.1.2). A knoxbox keyed entry system is required. Approved locks shall be installed on gates or similar barriers where required by the fire code official (CFC 506.1.1)
9. **Hazardous Material Storage.** Hazardous materials/battery storage shall comply with CFC 08.1/608.4
10. **Standby Power Systems.** Standby/auxiliary power systems shall comply with all current building codes CFC 604.1.
11. **Fire Extinguishers.** Minimum 2A: 10BC required. CFC 906.
12. **Signage.** CFC 608.7.1.
13. **Information on Construction Documents.** Construction documents shall be drawn to scale upon suitable material. Electronic media documents are allowed to be submitted where approved by the fire code official Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations as determined by the fire code official. (CFC 105.4.2)
14. **Utilities shall be identified in accordance with CFC 509.1.1.** Specification sheets for all equipment shall be provided with plan submittal.
15. All construction shall be completed in a professional manner and in compliance with all provisions of the current California Building Standards Codes and all referenced documents contained within. The Code Sections cited are specific to our project and provided to assist you, however, they are not intended to be all-inclusive.

Merced County Department of Public Health – Division of Environmental Health
(MCDEH)

16. 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 the HMBP.

Merced County Department of Public Works – Building and Safety Division

17. You must hire an architect or engineer licensed in the state of California to draw the plans and provide structural calculations for the proposed facility. The plans shall be submitted to the Building Division for approval and a permit before and construction can begin. We require submittal to consist of: 1 set of all plans and calculations/reports in an electronic format (either on CD/Disk or flash drive). A flier is attached to detail formatting of the electronic documents for submittal.

18. California requires that all proposed non-residential structures must first obtain a soils/geotechnical report completed by a licensed geotechnical engineer. That report must be reviewed by the design engineer to incorporate any mitigating measures into the drawings/calculations.

County Counsel

19. INDEMNITY AND HOLD HARMLESS AGREEMENT:

AT&T MOBILITY 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 AT&T MOBILITY.

AT&T MOBILITY 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 AT&T MOBILITY, 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. AT&T MOBILITY 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.

VII. COMMISSION ACTION ITEM (S)

None

VIII. DIRECTOR'S REPORT

Director Mark Hendrickson reminded the Commission that the November 28, 2018 Planning Commission meeting has been cancelled and the next hearing will be on December 5, 2018 in Room 310, third floor of the Merced County Administration Building.

Mr. Hendrickson introduced the newest Planner, Brody Patterson and Andrew Hatt, and Intern and Consultant with Civic Spark.

MERCED COUNTY PLANNING COMMISSION

Minutes – November 14, 2018

Page 11

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:30 a.m.