

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JANUARY 9, 2019

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of January 9, 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 9, 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 Jack Mobley
 Commissioner Robert Acheson
 Commissioner Kurt Spycher
 Commissioner Fernando Aguilera

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
 Brody Patterson, Planner I
 Jimena Olaguez, Code Compliance Technician

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: None

Director Mark Hendrickson announced that Item F. Conditional Use Permit No. CUP18-001 – Cesar Cisneros, has been pulled from the Planning Commission agenda, but gave the public an opportunity to speak on this application during the Citizens Communication portion.

IV. APPROVAL OF MINUTES

MOTION: M/S ACHESON – SPYCHER, AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE NOVEMBER 14, 2018 HEARING.

V. CITIZEN COMMUNICATIONS

Jason Castro, resident on Burchell Avenue, spoke in regards to Conditional Use Permit No. CUP18-001, the item pulled from the Planning Commission agenda. He has concerns with the amount of traffic and conditions of the road from this project.

Michael Reis, resident on Burchell Avenue, expressed the same concern with the roads. They are in poor shape and very narrow for trucks to drive back and forth. The County patches the road, but it returns to the former state quickly.

VI. **PUBLIC HEARINGS**

- A. **ADMINISTRATIVE APPLICATION No. AA18-035 – Juan Gutierrez Alcaraz / Alicia Oliva** - A request to operate a semi-mobile food vendor with outdoor seating, adjacent to an existing convenience mart. 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”. **JO**

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.

Jimena Olaguez, Code Compliance Technician presented the Staff Report and recommendations of approval dated January 9, 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 9:16 a.m.

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 5 - 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 SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 9, 2019, AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ADMINISTRATIVE APPLICATION No. AA18-035 SUBJECT TO THE 18 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Department, Planning Division

1. Administrative Permit No. AA18-035 is granted to Juan Carlos Gutierrez & Alicia Oliva to establish a semi-mobile food vendor with outdoor seating adjacent to an existing commercial site, in accordance with the approved Plot Plan and Operational Statement. Minor Modifications may be approved by the Director upon submittal of an acceptable application.

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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 (Juan Carlos Gutierrez & Alicia Oliva) 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:

Juan Carlos Gutierrez & Alicia Oliva have 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 Carlos Gutierrez & Alicia Oliva.

Juan Carlos Gutierrez & Alicia Oliva 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 Carlos Gutierrez & Alicia Oliva, his 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

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first claim, petition, or allegation of liability against County. Juan Carlos Gutierrez & Alicia Oliva 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 permit approval, modification, or denial.

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

Department of Public Health, Environmental Health Division

12. Prior to beginning operation, the applicant shall obtain a stationary mobile food facility permit from MCDEH and thereafter operate within the parameters of the permit and the applicable sections of the California Retail Food Code.
13. The semi-mobile food vehicle shall be located within 200 feet travel distance of an MCDEH approved toilet and permanent hand washing station. The semi-mobile food staff shall have access to this restroom at all times the vehicle parked on-site. If the restrooms are locked, the semi-mobile food staff must have a key in their possession.
14. The semi-mobile food vendor operator shall provide to MCDEH food program staff a current, valid document from the restroom owner indicating the times the restrooms are available and granting permission for the semi-mobile food staff to use the restrooms. A copy of the permission document shall be kept on the mobile food facility.
15. The mobile food facility shall not obtain any water from the premises, nor shall any wastewater from the food facility be drained to on-site sewer connection or to the ground surface. No solid waste (trash, etc.) from the semi-mobile food vendor shall be disposed on the parcel.
16. The semi-mobile food vendor shall immediately cease operating if the water supply to the restroom fails or the market sewer connection fails.
17. The mobile food facility must report to its approved commissary at least once every day for cleaning, discharge of waste water, restocking water and food, and all other required functions.

Department of Public Works, Building and Safety Division

18. 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.

- B. MINOR SUBDIVISION APPLICATION No. MS18-017 – W&B Spycher Properties, LP** - A request to subdivide an 80 acre parcel into four 20 acre parcels. The property is located on the northeast corner of West Sycamore Street and North Harding Road in the Turlock area, identified as Assessor's Parcel Number (APN) 041-130-062. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). 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**

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 Minor Subdivision Application No. MS18-017 based on the findings identified in the Staff Report and subject to the proposed conditions of approval.

Commissioner Kurt Spycher recused himself from this application, due to conflict of interest, as this is a family owned property.

Planner Brody Patterson presented the Staff Report and recommendations of approval dated January 9, 2019.

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 MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 4 - 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 MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 9, 2019, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION APPLICATION NO. MS18-017 SUBJECT TO THE 9 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.

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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. Prior to parcel map recording, the applicant is to provide a recorded well access ("Shared Well") agreement between the owners of the two properties. If the parcels will be owned by the same party at the time of map recording, a note shall be placed on the parcel map indicating that a Shared Well agreement will be required at the time of sale of either parcel. An easement for well access shall be indicated on the map.

Merced County Department of Public Health/Environmental Health Division

6. Any well on the involved property must meet the minimum setback of 15 feet from any proposed parcel line, per the Merced County Well Ordinance, Chapter 9.28. The final map should indicate the actual distance if that distance is less than 30 feet.
7. Per the Merced County Well Ordinance, Chapter 9.28, an abandoned well is a well whose use has been discontinued or which is in such a state of disrepair that no water can be produced, water quality is at risk, or as otherwise defined within the California Water Well Standards. Discontinued use may be evidenced by lack of a working pump or a permanent power supply. Abandoned wells are required to be destroyed. Wellhead construction must comply with the Merced County Well Ordinance. The status of each well located on the property must be identified on the plot plan as irrigation or domestic, active or abandoned.

Merced County Department of Public Works/Road Division

8. Applicant shall dedicate sufficient right-of-way width on both streets, Sycamore Street and Harding Road, to satisfy one-half of the ultimate right-of-way width of 60 ft.

County Counsel

9. INDEMNITY AND HOLD HARMLESS AGREEMENT:

W&B Spycher Properties, LP 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.

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- C. MINOR SUBDIVISION APPLICATION No. MS18-021 – Jim Gudgel** - A request to subdivide a 312.3 acre parcel into two parcels, resulting in parcel sizes of: Parcel 1 = 58.49 acres and a 253.81 acre Remainder Parcel. The project site is located on the south side of West Rahilly Road, 2.5 miles west of South Highway 59 in the Merced area, identified as Assessor's Parcel Number (APN) 065-130-062. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). 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**

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 Minor Subdivision Application No. MS18-021 based on the findings identified in the Staff Report and subject to the proposed conditions of approval.

Planner Brody Patterson presented the Staff Report and recommendations of approval dated January 9, 2019.

The public hearing opened at 9:24 a.m.

No one spoke in favor or opposition to this application.

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

MOTION: M/S SPYCHER - MOBLEY, AND CARRIED BY A VOTE OF 5 - 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 SPYCHER - MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 9, 2019, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION APPLICATION NO. MS18-021 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.

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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.

County Counsel

5. INDEMNITY AND HOLD HARMLESS AGREEMENT:

Jim Gudgel 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.

- D. MINOR SUBDIVISION APPLICATION MS18-018 – Michael Soloman -** A request to subdivide a 10.06 acre parcel into two 5.03 acre parcels. The project site is located on the northeast side of N. Pinewood Street, approximately 800 feet north of W. Collier Road in the Hilmar area, identified as Assessor's Parcel Number (APN) 046-220-035. The property is designated Highway Interchange Center in the General Plan and zoned H-I-C (Highway Interchange Center). CEQA: Staff recommends that the Planning Commission find the project exempt from environmental review pursuant to Section 15315 of the CEQA Guidelines – "Minor Land Divisions." **PN**

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. MS18-018 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 dated January 9, 2019.

The public hearing opened at 9:29 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:30 a.m.

MOTION: M/S MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINES THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15315 - "MINOR LAND DIVISIONS" OF THE CEQA GUIDELINES.

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MOTION: M/S MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 9, 2019 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION APPLICATION NO. MS18-018 SUBJECT TO THE 6 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. In conjunction with submittal of the final map for review, the applicant shall apply for and obtain any necessary permits for which a land use permit is required.
3. The applicant shall comply with all applicable County, State and Federal regulations.

Department of Public Works/Roads

4. The applicant shall dedicate a 10 foot public utility easement along the property frontage for future improvements.
5. This site is subject to Level 1 Improvements (County Code Ch. 16.08.040). These improvements shall include extending and undergrounding utility services, constructing storm water low impact development (LID) measures, installing street lights, and reconstructing Pinewood Street. The applicant may defer the construction of these improvements.

County Counsel

6. INDEMNITY AND HOLD HARMLESS AGREEMENT:

Michael Solomon 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.

- E. MINOR SUBDIVISION APPLICATION No. MS18-020 – Jon Kahl** - A request to subdivide an 84 acre parcel into four parcels: Parcel 1 = 21.76 acres, Parcel 2 = 21.13 acres, Parcel 3 = 20.60 acres and Parcel 4 = 20.51 acres. The project site is located on the south side of Mariposa Way, 0.25 miles west of Plainsburg Road in the Merced area, identified as Assessor's Parcel Number (APN) 067-050-007. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). 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." **PN**

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; and,
- 3) Approve Minor Subdivision Application No. MS18-020 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 dated January 9, 2019.

The public hearing opened at 9:34 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:35 a.m.

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 5 - 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.

MOTION: M/S SPYCHER – MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 9, 2019 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION APPLICATION NO. MS18-020 SUBJECT TO THE 6 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.

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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. Prior to parcel map recording, the applicant is to provide a recorded well access ("Shared Well") agreement between the owners of the properties. If the parcels will be owned by the same party at the time of map recording, a note shall be placed on the parcel map indicating that a Shared Well agreement will be required at the time of sale of the parcels. An easement for well access or surface water access shall be indicated on the map.

County Counsel

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

Jon Kahl 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.

- F. CONDITIONAL USE PERMIT No. CUP18-001 – Cesar Cisneros** - A request to bring into conformance an existing agricultural trucking business with a maximum of 20 trucks and to construct a 4,800 square foot shop building (including a new septic system). The project site is located on the southeast corner of the intersection of Hyde Street and Burchell Avenue in the Planada area, identified as Assessor's Parcel Number (APN) 053-290-010. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). CEQA: A Negative Declaration is proposed. **DL**

RECOMMENDATION(S):

- 1) Open/Close the public hearing;
- 2) Determine that the project will not have a significant effect on the environment and adopt a Negative Declaration pursuant to CEQA Section 15070 - "Decision to Prepare a Negative or Mitigated Negative Declaration"; and,
- 3) Approve Conditional Use Permit CUP18-001 based on the findings identified in the staff report and subject to the conditions of approval.

This application has been pulled from the agenda.

- G. MINOR SUBDIVISION No. MS18-019 – Equity Trust Co. – Hai Ding/Ping Zhou –**
A request to divide a 2.2 Acre parcel into two parcels resulting in parcel sizes of: Parcel 1 = 1.21 Acres and Parcel 2 = 1 Acre. The property is located on the north side of East Dunn Road, 225 feet west of North Lake Road, identified as Assessor's Parcel Number (APN) 060-670-012. The property is designated Merced Rural Residential Center land use in the General Plan and is zoned A-R (Agricultural Residential). CEQA: Staff recommends that the Planning Commission find the project exempt from environmental review pursuant to Section 15315 of the CEQA Guidelines - "Minor Land Divisions." **BG**

RECOMMENDATION(S):

- 1) Open/close the 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 MS18-019 based on the findings identified in the staff report and subject to the recommended conditions of approval.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated January 9, 2019.

The public hearing opened at 9:40 a.m.

Jim Higginbotham, neighbor, submitted a letter for the record and to the Commissioners. In summary, he says there have been 24 reported calls for service to the Sheriff's office to the project site in the last 5 years. The property is zoned AR and not Commercial. No one will purchase a parcel that has no road frontage but has an easement on the side of the existing home. This project would place a one acre parcel facing someone's backyard. A number of calls have been placed to the property owner and nothing has been done about the disruptive behavior from the UC Merced students living in the home currently.

Mark Hoags, neighbor, agreed with Mr. Higginbotham. He also has the same concerns.

The public hearing closed at 9:44 a.m.

Commissioner Spycher asked if this property was split, can the property owner build?

Planner Brian Guerrero said the property can subdivide after the final map is recorded. They can build a single family residential home. Environmental Health may require an advanced sewer/septic system. The property owner can't record the map without signature from Environmental Health.

Deputy Director Steve Maxey added that the property owner must comply with State and Local regulations.

Commissioner Mobley asked about the size of the home.

Steve Maxey said we can't regulate the size of the homes.

Commissioner Mobley asked if the Commission can take consideration to divide this property for commercial use?

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Jeff Grant, County Counsel, the Commission is limited to deciding what they can do to this property. The zoning allows for this request.

Duane Andrews, Golden Valley Engineering, said he won't record the map if the property owner can't get the sign off from Environmental Health.

Commissioner Spycher commented that there will be impacts by expanding this property, but they can legally split this property since it is zoned A-R.

Steve Maxey said the Zoning Code will be enforced and the zoning allows for a single family home.

Commissioner Mobley would like to see the laws enforced on the property now and ensure that the peace is kept.

Director Mark Hendrickson asked Mr. Andrews if he could relay to his client, the concerns that neighbors have. Mr. Andrews agreed.

MOTION: M/S MOBLEY – SPYCHER, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINE THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15315-“MINOR LAND DIVISIONS” OF THE CEQA GUIDELINES.

MOTION: M/S MOBELY – SPYCHER, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 9, 2019, AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES MINOR SUBDIVISION No. MS18-019 – Equity Trust Co. SUBJECT TO THE 9 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.

County Counsel

4. INDEMNITY AND HOLD HARMLESS AGREEMENT:

EQUITY TRUST, CO. 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 Fire Department/Fire Prevention Bureau

5. Address Identification: New and existing buildings shall have approved address numbers, building numbers 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).
6. Fire Department Access: Fire Access shall be maintained in accordance with **CFC Sec. 503; 503.2.1; 503.2.3; & 503.2.5** May need turnouts depending on driveway length. **CFC Table D 103.4**
7. Must have an approved water supply.

Merced County Public Works/Roads Division

8. Applicant shall dedicate a 10 foot Public Utility Easement along the frontage of Parcel 1.
9. Applicant shall install a Rural Driveway Approach to provide access to Parcel 2 from Dunn Road. The easement for ingress/egress must be wide enough to accommodate a 14 foot wide driveway and the existing utility pole at the site. An Encroachment Permit shall be obtained prior to any construction done on County right-of-way.

- H. 1st EXTENSION No. EXT18-042 to MINOR SUBDIVISION No. MS16-010 - Karen Montano** – A request to extend the expiration date of the approved tentative map for Minor Subdivision MS16-010 for one year From: Oct. 17, 2018 To: Oct. 17, 2019, on property located on the south side of East Stretch Road, 125 feet west of North Piedmont Drive, identified as Assessor’s Parcel Number (APN) 061-320-014. The property is designated Merced Rural Residential Center land use in the General Plan and zoned A-R (Agricultural-Residential). CEQA: Staff recommends that the Planning Commission find the project exempt from environmental review pursuant to Section 15315 of the CEQA Guidelines - "Minor Land Divisions." **BG**

RECOMMENDATION(S):

- 1) Open/close the 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 Extension No. EXT18-042 based on the findings identified in the staff report and subject to the recommended conditions of approval.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated January 9, 2019.

The public hearing opened at 10:06 a.m.

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Duane Andrews, Golden Valley Engineering, said the final map for the Minor Subdivision has already been recorded and this extension is not necessary.

The public hearing closed at 10:08 a.m.

- I. CONDITIONAL USE PERMIT No. CUP14-006 - Federico Higareda** - A request to bring into conformance a vehicle wrecking and storage yard. The property is located at the southwest corner of Childs Avenue and Highway 99, in the Merced area, identified as Assessor's Parcel No. 259-150-014. The property is designated Merced Urban Community – Regional Commercial land use in the General Plan and zoned M-2 (General Manufacturing). CEQA: Staff recommends that the Planning Commission find the project exempt from environmental review pursuant to Section 15301 of the CEQA Guidelines – “Existing Facilities”. **BG**

RECOMMENDATION(S):

- 1) Open/Close the public hearing;
- 2) Determine the project can be found exempt from environmental review pursuant to Section 15301 “Existing Facilities” of the CEQA guidelines; and,
- 3) Approve Conditional Use Permit No. CUP14-006 based on the project findings identified in the staff report and subject to the proposed conditions of approval.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated January 9, 2019. He added that PG&E requested an additional condition of approval to read: The applicant shall consult with Pacific Gas & Electric (PG&E) prior to expanding the auto storage/wrecking facility to determine if additional development will impact PG&E facilities.

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

No one spoke in favor or opposition to this application.

The public hearing closed at 10:11 a.m.

MOTION: M/S SPYCHER – MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINE THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15301 “EXISTING FACILITIES” OF THE CEQA GUIDELINES.

MOTION: M/S SPYCHER - MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 9, 2019, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP14-006 SUBJECT TO THE 20 CONDITIONS SET FORTH IN THE STAFF REPORT WITH CONDITION #21 BEING ADDED PER THE REQUEST OF PG&E TO READ AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. The application is approved to bring into conformance an existing auto wrecking and storage facility on property zoned M-2 (General Manufacturing). The facility shall operate in a manner consistent with the approved site plan and operational statement. Minor Modifications to the approved use permit may be granted under approval of the Community and Economic Development Director.
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 repair work/dismantling shall be conducted indoors, away from public right-of-way view.
5. All on-site lighting shall be stationary and directed away from adjoining properties and public rights-of-way.
6. Applicant shall install Type A Typical Opaque Screens per Section 18.38, Table 18-10. All landscaping shall be installed, watered, and permanently maintained pursuant to the provisions of Chapter 18.38 (Landscape Standards). Landscaping shall be installed prior to the operation of the used car lot.
7. All on-site signage shall comply with the provisions of Chapter 18.42 (Sign Regulations). In particular, note that these sign types are prohibited, per Chapter 18.42.040 Prohibited signs: A-frame signs; Banners; pennants; statuary; streamers; and whirligigs. See Chapter 18.42.040 for additional prohibited signs.
8. All on-site parking shall comply with provisions of Chapter 18.40 (Parking Requirements).
9. The project is subject to the provisions of Planning Commission Resolution No. 97-1, attached.

County Counsel

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

FEDERICO HIGAREDA 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

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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.

Division of Environmental Health

11. The applicant shall maintain an accurate hazardous material business plan with Merced County Division of Environmental Health and maintain compliance with all applicable hazardous material and hazardous waste regulations.
12. The facility shall install and maintain a barrier around the residential septic system. The barrier shall surround the leach line area. The barrier shall surround the septic tank unless it is traffic rated and has traffic rated risers and lids. The barrier shall be adequate to protect the enclosed area from vehicle traffic, parking, and any other soil compacting activity.
13. The existing well shall be protected from being run into or over by vehicles. Acceptable solutions include fencing, curbing and bollards.

Department of Public Works/Roads Division

14. A defined paved approach shall be constructed at the entrance of the proposed project site to prevent damage to the edge of Childs Court, a County maintained roadway.
15. Any and all storm water shall be maintained on-site.

Merced County Fire Department Fire Prevention Bureau

16. Automotive repair garages shall be operated in accordance with CFC Chapter 23.
17. Flammable finishes (Spray booths) shall be operated in accordance with CFC Chapter 24.
18. Hot work (welding, cutting, open torches and other hot work requires a permit from this office).
19. Address identification shall be installed consistent with CFC 505.1.
20. Fire Department access shall be installed and maintained consistent with CFC Sec. 503. Access shall be unobstructed and have a width not less than 20 feet consistent with CFC Sec. 503.6 and a vertical clearance of not less than 13 feet 6 inches consistent with CFC 503.2.1.
21. The applicant shall consult with Pacific Gas & Electric (PG&E) prior to expanding the auto storage/wrecking facility to determine if additional development will impact PG&E facilities.

VII. COMMISSION ACTION ITEM (S)

None

VIII. DIRECTOR'S REPORT

Mark Hendrickson, Director, acknowledged the passing of Mike Smith with Central California Permit Services and former County Planning employee.

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There will be a joint Board of Supervisor/Planning Commission workshop on the Zoning Code Update on January 29, 2019 at 1pm.

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 10:14 a.m.