

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF MARCH 27, 2019

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of March 27, 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 March 27, 2019, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Mark Erreca – Chairman
 Commissioner Robert Acheson
 Commissioner Fernando Aguilera
 Commissioner Kurt Spycher

Staff Present: Mark Hendrickson, Director
 Kim Zinke, Recording Secretary
 Kristin McHaney, Recording Secretary
 Brody Patterson, Planner I
 Diana Lowrance, Planner III

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 FEBRUARY 13, 2019.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. 9th EXTENSION APPLICATION No. EXT19-001, TO MAJOR SUBDIVISION No. MAS04-003 – "RIVER REACH ESTATES" – Bhupinder Sahota: A request to extend the expiration date of the tentative map for Major Subdivision MAS04-003 by 1 year, FROM: March 9, 2019 TO: March 9, 2020. The project site is located on the south side of West Palm Avenue, 750 feet east of North Santa Fe Drive, identified as Assessor's Parcel Number (APN) 140-170-068. The property is designated Cressey Rural Center – Agricultural-Residential land use in the General Plan and zoned A-R (Agricultural-Residential). 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**

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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 Extension Application No. EXT19-001 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 March 27, 2019.

The public hearing opened at 9:05 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 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 MARCH 27, 2019 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES 9TH EXTENTION APPLICATION No. EXT19-001 TO MAJOR SUBDIVISION MAS04-003 SUBJECT TO THE 3 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. The Tentative Map for Major Subdivision Application No. MAS04-003 shall expire on March 9, 2020, unless an extension request is applied for.
2. The current Extension Application No. EXT19-001 shall comply with all conditions of approval as required by the previously approved Minor Subdivision No. MAS04-003 and any previously approved discretionary extensions (EXT07-001, EXT08-001, and EXT18-002).

County Counsel

3. INDEMNITY AND HOLD HARMLESS AGREEMENT:

BHUPINDER SAHOTA 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.

- B. 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.

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 Guidelines Section 15070 - "Decision to Prepare a Negative or Mitigated Negative Declaration"; and,
- 3) Approve Conditional Use Permit CUP18-001 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 March 27, 2019.

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

Jason Castro, neighbor, expressed concern of current road conditions and increased noise in the area due to trucks.

The public hearing closed at 9:15 a.m.

Commissioner Spycher asked staff if the current road conditions were considered and if there are any plans to address future repairs.

Staff responded that the applicant was given appropriate requirements per the Department of Public Works and that road improvements were being addressed by the appropriate departments.

MOTION: M/S SPYCHER – ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND ADOPT A NEGATIVE DECLARATION PURSUANT TO SECTION 15070 – “DECISIONS TO PREPARE A NEGATIVE OR MITIGATED NEGATIVE DECLARATION” 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 MARCH 27, 2019 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP18-001 SUBJECT TO THE 22 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. Conditional Use Permit No. CUP18-001 is granted 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).
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, directed away from adjoining properties and public rights-of-way, and physically shielded by an opaque material to prevent direct view of the light source from neighboring properties and Burchell Avenue.
5. Applicant/property owner shall plant vegetation along the property line adjacent to Burchell Avenue and/or install a fence that blocks the light from the truck tractors from shining on the properties across Burchell Avenue. Note: There is a maximum height of four feet allowed within the first 15 feet of the front yard setback. If the fence or vegetation is set back 15 feet or more from the front property line, there is no height limit. Additionally, walls or fences higher than six feet require building permits.
6. Construction between March 1 and August 31. If construction (of the proposed 4800 square foot shop building) occurs between March 1 and August 31, a pre-construction survey for nesting Swainson's hawks on site and within 0.25 miles of the project site is required. If active nest(s) are found, a qualified biologist should determine the need (if any) for temporal (i.e., time-related) restrictions on construction. The determination should utilize criteria set forth by CDFW (CDFG, 1994).
7. The project is subject to the provisions of Planning Commission Resolution No. 97-1, attached.

Merced County Fire Department Prevention Bureau

8. **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).
9. **Fire Department Access.** Fire access shall be maintained in accordance with CFC Sec. 503.(503.1.2). A knoxbox keyed entry system is required.

10. **California Fire Code (2016) Section 503.1.2 Additional access.** The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.
11. **Aboveground Petroleum Storage.** The tanks need to meet and comply with NFPA 30, CFC Chp. 23 & 57 and be UL-142; the tanks will also not be located within 50 ft. of any structures, nor under powerlines, and have impact protection per code. See attached requirements.
12. **Fire Flow Requirements.** All projects shall meet the fire flow requirements as per California Fire Code. All options shall be approved by this office (507.1).
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. In order to make a more thorough determination of your requirements, plans will have to be submitted for plan review. Submit your plans through the Merced County Buildings and Safety Division. After these preliminary steps have been met and our review process completed. 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 below are specific to your project and provided to assist you, however, they are not intended to all-inclusive.

Merced County Department of Public Health – Division of Environmental Health

15. A permanent barrier shall be placed and maintained around the leach field and septic tank which serve the dwelling.
16. The applicant shall maintain compliance with all applicable fuel storage tank regulations.
17. 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.

Merced County Department of Public Works – Building and Safety Division

18. You must hire an architect or engineer licensed in the state of California to draw the plans and provide any structural calculations for the proposed structures. Each structure (proposed building & proposed fuel tank) must have its own permit. The plans shall be submitted to the Building Division for

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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.

19. 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.
20. This facility will require a permanent restroom. The permanent restroom must also be in compliance with disabled access and properly detailed in the submitted drawings. If this is made part of the proposed building it can be inside or attached. A restroom built as a separate structure will require its own drawings and permit.

Merced County Department of Public Works – Roads

21. Applicant shall install a paved agricultural driveway approach(es) to prevent deterioration of the edge of the pavement along Burchell Avenue. The improvements must accommodate entering/exiting trucks and shall conform to the Merced County Improvements Standards and Specifications Ch. 7 "Driveways". An Encroachment Permit shall be obtained and paid for by Applicant or the Contractor prior to commencing any work along the County right-of-way.

County Counsel

22. INDEMNITY AND HOLD HARMLESS AGREEMENT:

CESAR CISNEROS 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 CESAR CISNEROS.

CESAR CISNEROS 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 CESAR CISNEROS, 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. CESAR CISNEROS 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

None

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:19 a.m.