

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF SEPTEMBER 25, 2019

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of September 25, 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 September 25, 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: Steve Maxey, Deputy Director
 Kristin McHaney, Recording Secretary
 Diana Lowrance, Planner III
 Brody Patterson, Planner I

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: None

IV. APPROVAL OF MINUTES

MOTION: M/S SPYCHER-MOBLEY, AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE SEPTEMBER 11, 2019 MEETING.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. **ZONE CODE TEXT AMENDMENT No. ZCTA16-002 – Merced County - A request to repeal and replace Title 18 (Zoning) of the Merced County Code, Chapters 18.01 through 18.57 and amend chapters 18.28, 18.34, 18.43, and 18.57. The purpose of the amendment is: 1) To implement 2030 Merced County General Plan goals and polices; 2) To make the zoning code user-friendly by way of logical organization, clear language, and easy to understand tables and graphics; 3) To clarify, correct, and fix longstanding issues identified by staff; 4) To address policy issues recommended by the Board of Supervisors; and, 5) To bring the code in-line with recent State statues. The provisions of this Zone Code Text Amendment would be effective in all unincorporated areas of the County. CEQA: An Addendum to the Final Program Environmental Impact Report for the 2030 Merced County General Plan Update has been prepared. **DL****

RECOMMENDATION(S)

- 1) Open/Close the public hearing;
- 2) Recommend that Board of Supervisors consider the Addendum to the Certified Final Program Environmental Impact Report (FPEIR) prepared for the 2030 Merced County General Plan Update (together with the FPEIR), evidence in the record before the Planning Commission, the Board's findings in certifying the FPEIR, and the adopted Mitigation Monitoring and Reporting Plan; and,
- 3) Adopt a resolution recommending the Board of Supervisors adopt the ordinance repealing and replacing portions of, and amending portions of, Title 18 (Zoning) of the Merced County Code.

Deputy Director Steve Maxey presented the Staff Report and recommendations of approval dated September 25, 2019.

The public hearing opened at 9:08 a.m.

Ashley Warner, Leadership Accountability, expressed concerns the public process and asks that the Commission not adopt at this time.

Commissioner Spycher asked for a recap on what public outreach has taken place.

Deputy Director Steve Maxey responded with public workshops, stakeholder meetings and numerous public hearings have been held over the last 18 months.

Commissioner Mobley asked if there was a deadline for this project to be adopted.

Deputy Director Steve Maxey stated that the Board of Supervisors is looking to stick to the original timeline given and have met all outreach/workshops at this time.

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

MOTION: M/S SPYCHER-MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION RECOMMEND THAT BOARD OF SUPERVISORS CONSIDER THE ADDENDUM TO THE CERTIFIED FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (FPEIR) PREPARED FOR THE 2030 MERCED COUNTY GENERAL PLAN UPDATE (TOGETHER WITH THE FPEIR), EVIDENCE IN THE RECORD BEFORE THE PLANNING COMMISSION, THE BOARD'S FINDINGS IN CERTIFYING THE FPEIR, AND THE ADOPTED MITIGATION MONITORING AND REPORTING PLAN

MOTION: M/S SPYCHER-MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION ADOPT A RESOLUTION RECOMMENDING THE BOARD OF SUPERVISORS ADOPT THE ORDINANCE REPEALING AND REPLACING PORTIONS OF, AND AMENDING PORTIONS OF, TITLE 18 (ZONING) OF THE MERCED COUNTY CODE

- B. MINOR SUBDIVISION APPLICATION No. MS19-009 - Jim Vincent** - A request to divide one parcel totaling approximately 144.7 acres into two parcels resulting in parcel sizes of: Parcel 1 = 60.44 acres and Parcel 2 = 84.95 acres. Parcel 3, under the same ownership, will remain unchanged at approximately 75.74 acres. No new buildings are proposed. The project site is located east of State Highway 33 and south of Denton and Leak Road in the Dos Palos area, and is identified by Assessor Parcel Numbers (APN) 086-090-018 and (APN) 086-090-030. The property is designated Agricultural in the General Plan and zoned A-1 General Agricultural. CEQA: No further environmental review is required pursuant to CEQA Section 15162 “Subsequent EIRs and Negative Declarations”. **DL**

RECOMMENDATION(S):

- 1) Open/Close the public hearing;
- 2) Determine that no subsequent environmental review is required in compliance with Section 15162 “Subsequent EIRs and Negative Declarations” based upon the analysis in the CEQA Section 15162 Findings and Analysis prepared as an attachment to the Staff Report; and,
- 3) Approve Minor Subdivision Application No. MS19-009 based on the findings included in the staff report and subject to the proposed conditions of approval.

Planner Diana Lowrance presented the Staff Report and recommendations of approval dated September 25, 2019.

The public hearing opened at 9:23 a.m.

Paul Garcia, Delhi resident, expressed concern why an environmental review is not required for this project

Planner Diana Lowrance stated that because the use of the land is not changing a environmental review is not required. Staff report does provide explanation and analysis to support the exemption.

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

MOTION: M/S MOBLEY-SPYCHER, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINES THAT NO SUBSEQUENT ENVIRONMENTAL REVIEW IS REQUIRED IN COMPLIANCE WITH SECTION 15162 “SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS” BASED UPON THE ANALYSIS IN THE CEQA SECTION 15162 FINDINGS AND ANALYSIS PREPARED AS AN ATTACHMENT TO THE STAFF REPORT.

MOTION: M/S MOBLEY-SPYCHER, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED SEPTEMBER 25, 2019, AND MAKES THE PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES MINOR SUBDIVISION APPLICATION No. MS19-009 SUBJECT TO THE 8 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.

County Counsel

5. INDEMNITY AND HOLD HARMLESS AGREEMENT:

Jim Vincent 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.

- C. ADMINISTRATIVE APPLICATION No. AA19-025 – Francisca Maciel Andrade - A** request to operate a semi-mobile food vendor (taco truck) and provide outside seating in the parking lot of an existing service station. The project site is located at the northwest corner of West Gonzaga Road and South San Luis Drive in the Santa Nella area, identified as Assessor's Parcel Number (APN) 078-330-002. The property is designated Villages of Laguna San Luis Urban Community - Regional Commercial land use and zoned C-2 (General Commercial). CEQA: Staff recommends that the Planning Commission find that the project is exempt from environmental review pursuant to Section 15311(c) - "Accessory Structures" of the CEQA Guidelines. **BP**

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. AA19-025 based on the findings and subject to the recommended conditions of approval.

Planner Brody Patterson presented the Staff Report and recommendations of approval dated September 25, 2019.

The public hearing opened at 9:31 a.m.

Paul Garcia, Delhi resident, expressed concern with where waste water goes and if there are other requirements that could prevent them from doing business in the requested location.

Planner Brody Patterson responded that other agencies, such as Environmental Health Department do provide requirements that the applicant is subject to comply with in order to operate.

The public hearing closed at 9:33 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 SEPTEMBER 25, 2019, AND MAKES THE PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES ADMINISTRATIVE APPLICATION No. AA19-025 SUBJECT TO THE 8 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. Administrative Permit No. AA19-025 is granted to operate a semi-mobile food vendor (taco truck) on the parking lot of a site consisting of an existing service station 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. The vehicle shall be self-contained for potable water, wastewater, and power. Electrical connections to adjacent businesses may be permitted if approved by the County Building and Safety division.

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7. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
8. Grease shall be disposed per the requirements of the Division of Environmental Health.
9. No advertising signage is permitted, except a sign attached to the semi-mobile food vendor.
10. A copy of the administrative permit shall be kept with the operator at all times and shall not be transferable to another operator.
11. The applicant shall comply with all applicable Local, State and Federal regulations. These regulations shall include, but not be limited to, standards administered by the County Fire, Public Health, and Public Works Departments.
12. Prior to operation, the operator of the proposed taco truck shall obtain and maintain a Merced County Business License.

County Counsel

13. INDEMNITY AND HOLD HARMLESS AGREEMENT:

FRANCISCA MACIEL ANDRADE 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.

VII. COMMISSION ACTION ITEM (S)

Discussion of and nominations for Chairman and Vice Chairman. Commissioner Acheson requested to pass on Chairman. Commissioner Mobley was nominated for Chairman and Commissioner Spycher nominated for Vice Chairman.

VIII. DIRECTOR'S REPORT

None

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:36 a.m.