

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JANUARY 22, 2020

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of January 22, 2020, 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 22, 2020, 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 Jack Mobley – Chairman
 Commissioner Mark Erreca
 Commissioner Robert Acheson
 Commissioner Kurt Spycher
 Commissioner Fernando Aguilera

Staff Present: Mark Hendrickson, Director
 Steve Maxey, Deputy Director
 Kim Zinke, Recording Secretary
 Ana Muniz-Laguna, Recording Secretary
 Brody Patterson, Planner I
 Tiffany Ho, Planner I
 Jimena Olaguez, Code Compliance Technician

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: None

IV. APPROVAL OF MINUTES

MOTION: M/S ACHESON – SPYCHER, AND CARRIED BY AVOTE OF 5 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE MEETING OF JANUARY 8, 2020.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. **ZONE CHANGE APPLICATION No. ZC19-005 – Randy J. Beard - A request to change the zoning of two parcels totaling approximately 0.53 acres FROM: C-2 (General Commercial) TO: MU (Mixed-Use) to allow the conversion of existing buildings to apartments. The project site is located at the northwest corner of Stephens Street and Locust Street within the Delhi Urban Community, identified as Assessor's Parcel Numbers (APNs) 009-161-004 and 009-161-005. The property is designated Delhi Urban Community – Mixed-Use land use and currently zoned C-2 (General Commercial). CEQA: Recommend that the Board of Supervisors find that the project is exempt from environmental review pursuant to Section 15183 - "Projects Consistent with a Community Plan or Zoning" and Section 15301 - "Existing Facilities" of the CEQA Guidelines. **BP****

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RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Recommend that the Board of Supervisors find that the project is exempt from environmental review pursuant to Section 15183 - "Projects Consistent with a Community Plan or Zoning" and Section 15301 - "Existing Facilities" of the CEQA Guidelines; and,
- 3) Recommend that the Board of Supervisors approve Zone Change Application No. ZC19-005 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Planner Brody Patterson presented the Staff Report and recommendations of approval dated January 22, 2020.

The public hearing opened at 9:07 a.m.

No one spoke in favor or opposition to this application.

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

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS FIND THAT THE PROJECT IS EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15183 – PROJECTS CONSISTENT WITH A COMMUNITY PLAN OR ZONING AND SECTION 15301 – EXISTING FACILITIES 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 22, 2020, AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ZONE CHANGE APPLICATION NO. ZC19-005 AS SET FORTH IN THE STAFF REPORT.

- B. 5th MINOR MODIFICATION No. MM19-028 to CONDITIONAL USE PERMIT No. CUP 3632 - MICHAEL A. WENGER - INTERIM MANAGEMENT PLAN – VALLEY SAND & GRAVEL – MINE ID#91-24-0021 - To approve a second 5-year Interim Management Plan (IMP) to allow for management of an idle aggregate mine. The project site is located .5 miles south of the Intersection of I-5 and South Volta Road, in the Los Banos area, identified as Assessor’s Parcel Number (APN) 088-070-074. The property is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: The proposal is not considered a project in accordance with Section 2770(h)(1) of the Public Resources Code. JO**

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine the review and approval of the IMP is not considered a project for the purposes of CEQA in accordance with Public Resources Code Section 2770(h)(1);
- 3) Approve Minor Modification No. MM19-028 to Conditional Use Permit No. CUP 3632 based on the findings identified in the Staff Report.

Planner Jimena Olaguez presented the Staff Report and recommendations of approval dated January 22, 2020.

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

Des Johnston, Quad Knopf, asked for approval of this application and thanked Planning staff for their work on this project.

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

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINES THE REVIEW AND APPROVAL OF THE IMP IS NOT CONSIDERED A PROJECT FOR THE PURPOSES OF CEQA IN ACCORDANCE WITH PUBLIC RESOURCES CODE SECTION 2770(h)(1) OF THE PUBLIC RESOURCES CODE.

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 22, 2020, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES 5th MINOR MODIFICATION No. MM19-028 to CONDITIONAL USE PERMIT No. CUP 3632 SUBJECT TO THE 6 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Department

1. Minor Modification No. MM19-028 to Conditional Use Permit No. CUP 3632 is granted for a second extension to the Interim Management Plan approved by the Merced County Planning Commission on December 20, 2014, for an additional five years to December 20, 2024.
2. Minor Modifications may be approved by the Director upon submittal of an acceptable application.
3. All conditions to the original Conditional Use Permit 3632 and Minor Modification No. MM14-003 shall remain in effect.
4. The applicant(s) understands that they are still subject to the indemnity agreement signed on the original application.
5. The applicant shall comply with all applicable County, State and Federal regulations.

County Counsel

6. INDEMNITY AND HOLD HARMLESS AGREEMENT:

MICHAEL A. WENGER 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

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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.

- C. CONDITIONAL USE PERMIT No. CUP19-013 – Gateway Park Development Partners, LLC.** - A request to construct a 60 ft freeway-oriented pylon sign, as measured from the crown of Highway 99, on a County-owned property that is currently leased as a drainage basin for adjacent commercial development. The project site is located at the southwest corner of East Mission Avenue and South Alfalfa Road (also known as Coffee Street/Marino Way) in the Merced area, identified as Assessor's Parcel Number (APN) 066-034-001. The property is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission find that the project is exempt from environmental review pursuant to Section 15303 of the CEQA Guidelines – "New Construction or Conversion of Small Structures." **TSH**

RECOMMENDATION(S):

- 1) Open/close the Public Hearing;
- 2) Determine the project can be found exempt from environmental review pursuant CEQA Guidelines Section 15303 – "New Construction or Conversion of Small Structures"; and,
- 3) Approve Conditional Use Permit No. CUP19-013 based on the findings included in the staff report and subject to the recommended conditions of approval.

Planner Tiffany Ho presented the Staff Report and recommendations of approval, including one amendment to Condition #13, dated January 22, 2020.

The public hearing opened at 9:17 a.m.

Eric Plum, General Manager for Gateway Park Development, asked for approval of this application and said he will do what is necessary to move this project forward.

The public hearing closed at 9:18 a.m.

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINE THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT CEQA GUIDELINES SECTION 15303 – "NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES.

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 22, 2020, AS AMENDED IN THE HEARING, AND MAKES THE 7 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT NO. CUP19-013 SUBJECT TO THE 14 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

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Conditions:

Merced County Community and Economic Development Department

1. Conditional Use Permit No. CUP19-013 is granted to construct a 60 foot freeway-oriented pylon sign on a County-owned property that is currently leased as a drainage basin for the adjacent commercial development. Minor Modifications may be approved by the Community and Economic Director upon submittal of an acceptable application.
2. For the purpose of conditions monitoring an inspection in the amount of **\$162.00** 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 proposed freeway-oriented sign shall not exceed the height of 60 feet, as measured from the crown of Highway 99, exclusive of any miscellaneous structures or architectural described in Merced County Zoning Code (MCZC) Section 18.30.030 and approved by the Community and Economic Development Director.
4. No digital signage (changeable copy, flashing signs, etc.) shall be installed on the sign, with the following exceptions:
 - a. An exception shall be made for digital advertising of fuel and hotel prices on two (2) double-sided tenant spaces, not to exceed 228 square feet. These prices shall be displayed statically and may change only once per day. This exception is for display of fuel and hotel prices only, and does not permit digital display or branding, logos, or words.
5. Maintenance and operation of the proposed freeway-oriented sign are the responsibility of the applicant and shall comply with the operational standards listed in MCZC Section 18.44.130(F).
6. The project site shall be adequately landscaped with a minimum of 3,000 square feet of landscaping at the base of the proposed sign, and landscaping around the perimeter of the project site. Landscape plans shall be submitted to the Department for review and approval prior to issuance of a building permit, unless otherwise allowed by the Community and Economic Development Director.
7. New or modified sign copy for each individual tenant space on the freeway-oriented sign shall be submitted for review and approval to the Department a minimum of 30 days prior to installation of that copy.
8. Sign copy shall comply with the Master Sign Program adopted for the Merced Gateway Planned Development Master Plan and in place at time of this project approval. Any modification of the approved Master Sign Plan does not constitute approval of sign copy or sign structure.

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9. Displaced, broken, or malfunctioning equipment on the sign must be replaced, repaired, or removed within 30 days of notice from the County, or as otherwise feasible as determined by the Merced County Community and Economic Development Director.
10. Internal structure of the sign shall not be visible. Blank tenant sign spaces shall be covered with blank panels or other architectural treatment complimentary to the approved sign design.
11. The project shall comply with all standard conditions adopted by the Planning Commission in Resolution 97-01, as amended.
12. The applicant shall comply with all applicable Federal, State, and local regulations. These regulations shall include, but not be limited to standards administered by the County Fire, Health, and Public Works Departments.
13. This use permit shall expire upon the expiration or termination of "Storm Drainage License Agreement Number 300-1117," as executed on April 26, 2016. If ordered by the County's Director of Community and Economic Development within 30 days of the expiration of Agreement Number 300-1117, the applicant shall cause deconstruction and removal of all sign improvements on the project site within 90 days of the expiration or termination of Agreement Number 300-1117. Should applicant and County enter into an agreement following the expiration or termination of Agreement Number 300-1117 that provides applicant with the right to place all existing sign improvements on the project site, this use permit shall be subject to the terms of such agreement.

County Counsel

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

GATEWAY PARK DEVELOPMENT PARTNERS, LLC 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 GATEWAY PARK DEVELOPMENT PARTNERS, LLC.

GATEWAY PARK DEVELOPMENT PARTNERS, LLC 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 GATEWAY PARK DEVELOPMENT PARTNERS, LLC, 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

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misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. GATEWAY PARK DEVELOPMENT PARTNERS, LLC 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.

VII. COMMISSION ACTION ITEM (S)

- A. Adoption of Resolution Amending Standard Conditions of Approval: Consider an amendment to Resolution 97-1, which established standard conditions of approval for all subdivisions, administrative permits, and conditional use permits in Merced County. Staff recommends adoption of a resolution amending the existing standard conditions of approval to provide for consistency with the recently enacted Zoning Ordinance adopted by the Board of Supervisors on October 22, 2019.

MOTION: M/S SPYCHER – ERRECA AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION ADOPTS THE RESOLUTION AMENDING STANDARD CONDITIONS OF APPROVAL – RESOLUTION NO. 20-001.

VIII. DIRECTOR'S REPORT

None

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:24 a.m.