

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF February 26, 2020

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of February 26, 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 February 26, 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

Staff Present: Mark Hendrickson, Director
Kim Zinke, Recording Secretary
Kristin McHaney, Recording Secretary
Tiffany Ho, Planner II
Jimena Olaguez, Code Compliance Technician

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: Commissioner Fernando Aguilera

IV. APPROVAL OF MINUTES

MOTION: M/S SPYCHER – ERRECA, AND CARRIED BY A VOTE OF 4 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE MEETING OF JANUARY 22, 2020.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. **10th EXTENSION APPLICATION No. EXT20-001, 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, 2020 TO: March 9, 2021. 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 R-R (Rural 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." **JO**

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,

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- 3) Approve Extension Application No. EXT20-001 based on the findings identified in the Staff Report and subject to the proposed conditions of approval.

Planner Jimena Olaguez presented the Staff Report and recommendations of approval dated February 26, 2020.

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

No one spoke in favor or opposition to this application.

The public hearing closed at 9:06 a.m.

MOTION: M/S SPYCHER - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINE 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 FEBRUARY 26, 2020, AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES 10th EXTENSION APPLICATION No. EXT20-001, TO MAJOR SUBDIVISION No. 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, 2021, unless an extension request is applied for.
2. The current Extension Application No. EXT20-001 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, EXT18-002 and EXT19-001).

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 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. CUP19-017 and ZONE VARIANCE No. ZV19-002 – Avelino DeSilva** - A request to vary from the minimum 200 feet agricultural buffer and construct a conventional home on a six acre parcel created after December 10, 2013. The project site is located on the north side of West Bloss Avenue, 940 feet west of North Golf Link Road, 0.2 miles west of Hilmar, and identified as Assessor's Parcel Number (APN) 045-160-098. 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 15162 of the CEQA Guidelines – “Subsequent EIRs and Negative Declarations.” TSH

RECOMMENDATION(S):

- 1) Open/close the Public Hearing;
- 2) Determine the project can be found exempt from environmental review pursuant CEQA Guidelines Section 15162 – “Subsequent EIRs and Negative Declarations”; and,
- 3) Approve Conditional Use Permit No. CUP19-017 and Zone Variance No. ZV19-002 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 dated February 26, 2020.

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

No one spoke in favor or opposition to this application.

The public hearing closed at 9:13 a.m.

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINE THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT CEQA GUIDELINES SECTION 15162 – “SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS.

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED FEBRUARY 26, 2020, AND MAKES THE 7 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP19-017 AND ZONE VARIANCE No. ZV19-002 SUBJECT TO THE 7 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Department – Planning Division

1. Conditional Use Permit No. CUP19-017 and Zone Variance No. ZV19-002 is granted to vary from the minimum 200 feet agricultural buffer by 80 feet and construct a conventional home on a six acre parcel created after December 10, 2013. Minor Modifications may be approved by the Community and Economic Director upon submittal of an acceptable application.

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2. For the purpose of conditions monitoring an inspection in the amount of **\$162.00** 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. Prior to issuance of a building period, the applicant shall sign and record a right-to-farm certificate. This declaration and acknowledgements contained shall be disclosed to prospective transferees of any interest in the subject property, including but not limited to, a leasehold interest, prior to any transfer.
4. 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.

Public Works Department - Roads Division

5. The applicant shall construct a rural paved, residential driveway approach from Bloss Avenue to the proposed home. The designs shall conform to the Merced County Improvement Standards and Specifications (Ch. 7.04B).
6. The applicant shall obtain an encroachment permit prior to any construction.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

AVELINO DESILVA 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 AVELINO DESILVA.

AVELINO DESILVA 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 AVELINO DESILVA, 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 first claim, petition, or allegation of liability against County. AVELINO DESILVA 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

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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)

None

VIII. DIRECTOR'S REPORT

None

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:14 a.m.