## CITY OF MERCED Planning & Permitting Division

STAFF REPORT: #11-10 AGENDA ITEM: 4.1

FROM: Kim Espinosa, PLANNING COMMISSION

Planning Manager **MEETING DATE:** August 3, 2011

PREPARED BY: Julie Nelson,

Planner

**SUBJECT:** Tentative Subdivision Map #1301 ("Tentative Map of Golden Valley Plaza for

Calvano Development"), initiated by Bedesen-Cardoza & Associates, Inc., applicants for Mark Calvano, property owner. This application involves a request to subdivide a 3.2-acre parcel into 3 lots within a Thoroughfare Commercial (C-T) zone, generally located at the southwest corner of Childs and

Parsons Avenues (2020 E. Childs Avenue). \*PUBLIC HEARING\*

**ACTION:** Approve/Disapprove/Modify

1) Environmental Review #11-17 (Categorical Exemption)

2) Tentative Subdivision Map #1301

#### **SUMMARY**

The project site is located at the southwest corner of Childs and Parsons Avenues (the former bowling alley) (Attachment A). The site is currently a 3.20-acre parcel. This request would subdivide the parcel into 3 separate parcels (Lot A-45,624 square feet; Lot B-26,200 square feet; and Lot C 67,751 square feet) (Attachment B). The Planning Commission approved Conditional Use Permit (CUP) #1158 to allow a shopping center at this site on March 9, 2011. Staff is recommending approval with conditions.

#### RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #11-17 (Categorical Exemption) and Tentative Subdivision Map #1301 ("Tentative Map of Golden Valley Plaza for Calvano Development"), in accordance with the Resolution at Attachment D and subject to the following conditions:

- \*1) The proposed project shall be constructed/designed as shown on Exhibit 1 ("Tentative Map of Golden Valley Plaza for Calvano Development"), except as modified by these conditions.
- \*2) All conditions contained in *Resolution #1175-Amended ("Standard Tentative Subdivision Map Conditions")* shall apply.
- \*3) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.

- \*4) All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
- \*5) Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before final map approval. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
- The developer/applicant shall indemnify, protect, defend (with counsel selected by the \*6) City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, approvals granted herein. concerning the project and the Furthermore. developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
- \*7) The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
- \*8) The project shall comply with all applicable local, state laws, codes and regulations of the current Edition of the California Building and Fire Codes, and State Accessibility (ADA) requirements including, but not limited to, site accessibility.
- \*9) The developer shall comply with all applicable conditions of approval for Conditional Use Permit (CUP) #1158 approved by the Planning Commission on March 9, 2011 (Planning Commission Resolution #2983).
- \*10) At the time of Final Map submittal, a 7-foot-wide Public Utilities Easement (P.U.E.) shall be dedicated to follow the property line at the corner of Childs and Parsons Avenues.

- \*11) The developer shall install all necessary public improvements upon development of the project site to bring the site into compliance with Merced City Standards. This shall include, but is not limited to, street and sidewalk improvements and the installation of a median in Childs Avenue. Said improvements shall not exceed those required by CUP #1158 (Planning Commission Resolution #2983).
- \*12) A "Covenant for Easement Agreement" shall be recorded with the County Recorder allowing vehicular access across portions of each property as is necessary to provide for sufficient access for all uses. Such easements shall be recorded with the Final Map and in a form approved by the City. If sufficient parking is not provided on each parcel for the intended use on that parcel, a joint parking agreement shall be entered into. This agreement shall be recorded with the County Recorder and in a form approved by the City consistent with Section 20.58.400.E.3 of the Merced City Zoning Ordinance.
- \*13) Conditions, Covenants, and Restrictions (CC&R's) shall be recorded concurrently with the Final Map. The CC&R's shall include conditions to ensure the landscaping on each parcel is well maintained.
- 14) The property owner shall enter into a "Subdivision Drainage Agreement" with the Merced Irrigation District Improvement District No. 1 (MIDDID No. 1) and pay all applicable fees as required by MID.
- The property owner shall contact MID and enter into all necessary agreements for all crossings over or under any MID facilities, including utilities, bridges, driveways, and pipelines and for all work associated with MID facilities. The developer shall construct all necessary improvements or upgrades needed to accommodate the traffic generated by this project over the existing MID facilities as required by MID.

\* (Note: Items with an asterisk are mandatory).

#### **PROJECT DESCRIPTION**

The subject site is located at the southwest corner of Childs and Parsons Avenue (Attachment B). This proposal includes subdividing the existing parcel into three separate parcels (Parcel A – 45,624 square feet; Parcel B – 26,209 square feet; Parcel C - 67,751 square feet). This subdivision will allow for the construction of a small commercial center to include a convenience store/gas station and car wash, sit-down restaurant, fast-food restaurant and a telecommunications facility/pylon sign. The subdivision of the parcel does not affect the previous approval. The developer will still be required to comply with all conditions of the previous approval (Condition #9).

<b>Surrounding</b>	uses a	are	noted	at A	Attachment	A
Cui I Cuiluii						

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
			Ü
North	Restaurants and Residential	C-T and R-2	Thoroughfare Commercial
	(across Childs Avenue)		(CT) and Low-Medium
			Density (LMD) Residential
South	Hotels (Holiday Inn and	C-T	Thoroughfare Commercial
	Hampton Inn)		(CT)
East	Multi-family Residential	R-4	High-Medium Density
	(across Parsons Avenue)		Residential (HMD)
West	Ramada Inn, Restaurant, &	C-T	Thoroughfare Commercial
	Chevron Gas Station		(CT)

#### **Background**

The existing 35,000 square-foot building was once a bowling alley with over 20 bowling lanes and a side bar within the building. In March 2011, the Planning Commission approved Conditional Use Permit (CUP) #1158 to allow the construction of a commercial center. As part of the CUP application, the developer indicated he would be subdividing the parcel into the three parcels as proposed, which normally would have been handled with a non-discretionary minor subdivision (lot split) since it was four parcels or less. However the developer has opted to file for a subdivision map instead which grants certain protections under the Subdivision Map Act and offers extended time frames for installing public improvements and/or demolishing the existing building, which cannot extend over property lines.

#### FINDINGS/CONSIDERATIONS:

#### General Plan Zoning Compliance and Policies Related to This Application

A) The proposed project complies with the General Plan designation of Thoroughfare Commercial (CT) and the minimum lot size of 10,000 square feet as specified in the City's Zoning Ordinance.

The proposed commercial center complies with the following General Plan Land Use Policies:

- 1) Land Use Policy 2.1: Encourage further development of appropriate commercial and industrial uses throughout the City.
- 2) Land Use Policy 2.7: Locate and Design New Commercial Developments to provide good access from adjacent neighborhoods and reduce congestion on Major Streets.
- 3) Land Use Policy 2.8.d: Develop a mix of regionally-oriented businesses along Highway 99.
- 4) Land Use Policy 3.2.a: Encourage infill projects that are determined to be compatible with existing development.

#### **Traffic/Circulation**

B) The proposed subdivision will not affect the traffic for the site. However, access easements allowing cross-access between the three parcels shall be provided as required by Condition #14.

Traffic generation was reviewed with the Conditional Use Permit and found to be in compliance with the City's General Plan.

#### Site Design

C) As currently proposed, the convenience store/gas station and car wash will be on Parcel A, the fast-food restaurant on Parcel B, and the sit-down restaurant on Parcel C.

#### **Public Improvements/Services**

As conditioned by the CUP, handicap ramps at the proposed driveway entrances along both roadways and at the northeast corner of the development (at the Childs and Parsons Avenues intersection) will need to be constructed to meet City commercial driveway standards. If the existing streets or sidewalks along the project frontage are found to be sub-standard, the developer shall make all necessary improvements to bring them up to City Standards (Condition #11).

The project will be responsible for the installation/construction of the following public improvements, among others:

- 1) Improvements to Childs Avenue as they relate to any substandard sidewalk, curb, gutter, and asphalt for the travel lanes.
- 2) Improvements to Parsons Avenue as they relate to any substandard sidewalk, curb, gutter, and asphalt for the travel lanes.
- 3) Installation of a median in Childs Avenue.
- 4) For the above improvements, the developer may be eligible for reimbursement/credit from the City per the procedures in the Merced Municipal Code. Projects eligible for reimbursement/credit include street over-sizing (per MMC 17.58); and Public Facilities Impact Fee (PFIF) projects (per MMC 17.62). Determinations will be made at the building permit stage.

#### **Storm Drainage**

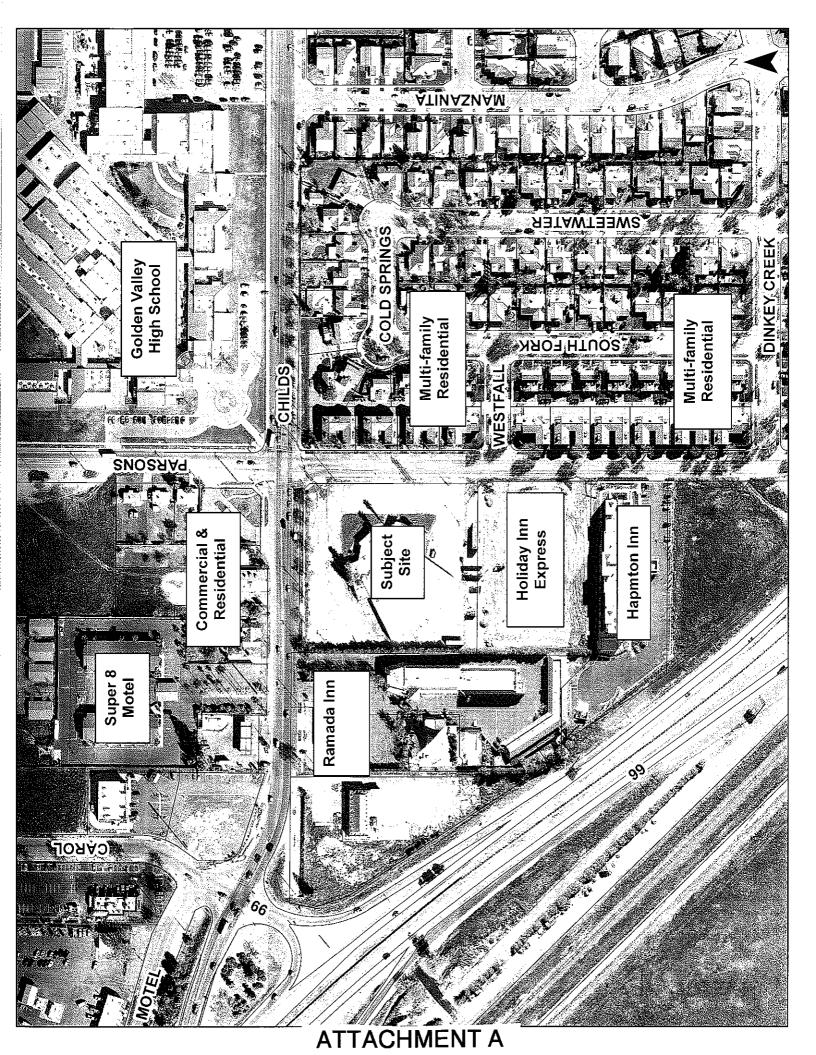
E) The project site ultimately drains into a Merced Irrigation District (MID) canal. As such, the owner shall enter into all necessary agreements and comply with all requirements deemed appropriate by MID. There are currently no exposed MID irrigation facilities on the site, but the developer shall provide all necessary improvements needed to accommodate the expected traffic over the existing MID facilities (Conditions #12 and #13).

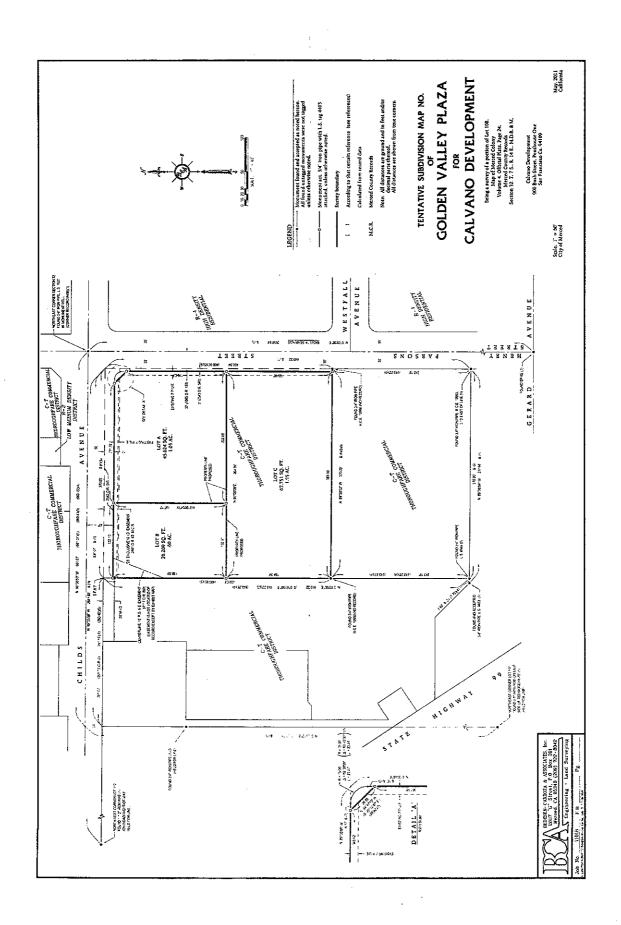
#### **Environmental Clearance**

F) The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no significant adverse environmental effects have been found) is being recommended (Attachment C).

#### Attachments:

- A) Location Map
- B) Site Plan
- C) Environmental Review #11-17 (Categorical Exemption)
- D) Draft Planning Commission Resolution





## **ATTACHMENT B**

X Signed by Lead Agency

Office of Planning and Research From: City of Merced 678 West To: 18th Street Merced, CA 95340 1400 Tenth Street, Room 121 Sacramento, CA 95814 County Clerk County of Merced **Project Title:** Tentative Subdivision Map #1301 ("Tentative Subdivision Map of Golden Valley Plaza for Calvano Development") Project Location: Southwest corner of Childs and Parsons Ave. APN: 061-240-040 Project Location - City: Merced Project Location - County: Merced **Description of Project:** Tentative Subdivision Map to allow the subdivision of an existing parcel into 3 lots intended for Commercial Development. Name of Public Agency Approving Project: City of Merced Planning Name of Person Carrying Out Project: Mark Calvano Exempt Status: (check one) Ministerial (Sec. 21080(b)(1); 15268); Declared Emergency (Sec. 21080(b)(3); 15269(a)); Emergency Project (Sec. 21080(b)(4); 15269(b)(c)); X Categorical Exemption: Section 15332 (In-Fill Development Projects) Statutory Exemptions. Reasons why Project is Exempt: Project is considered an in-fill development project. The project location is within the City limits on a 3.2 acre parcel surrounded by urban uses. The site can be served by all required utilities and public services, and the project site has no value as habitat for endangered, rare or threatened species. No significant effects resulting from traffic, noise, air quality, or water quality will result from the subdivision of the lots. The project is consistent with the City of Merced General Plan and Zoning regulations. Lead Agency: City of Merced Contact Person: Julie Nelson, Planner Area Code/Telephone: 209/385-6858 Date: July 7, 2011 Signature:

# CITY OF MERCED Planning Commission

#### Resolution #2990

WHEREAS, the Merced City Planning Commission at its regular meeting of August 3, 2011, held a public hearing and considered **Tentative Subdivision Map #1301** ("Tentative Map of Golden Valley Plaza for Calvano Development"), initiated by Bedesen-Cardoza & Associates, Inc., applicants for Mark Calvano, property owner. This application involves a request to subdivide a 3.2-acre parcel into 3 lots within a Thoroughfare Commercial (C-T) zone, generally located at the southwest corner of Childs and Parsons Avenues (2020 E. Childs Avenue); also known as Assessor's Parcel No. 061-240-040; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through F of Staff Report #11-10; and,

WHEREAS, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #11-17, and approve Tentative Subdivision Map #1301, subject to the Conditions set forth in Exhibit A attached hereto.

Upon moti Commissio	ion by Commissioner ner	 by
AYES:	Commissioner(s)	
NOES:	Commissioner(s)	
ABSENT:	Commissioner(s)	

ABSTAIN: Commissioner(s)

PLANNING COMMISSION RESOL Page 2 August 3, 2011	LUTION #2990
Adopted this 3 <sup>rd</sup> day of August 2011	
	Chairperson, Planning Commission of the City of Merced, California
ATTEST:	
	_
Secretary	
Attachment: Exhibit A – Conditions of Approval	

n:shared:planning:PC Resolutions:TSM#1301 Calvano Golden Valley Plaza

# Conditions of Approval Planning Commission Resolution #2990 Tentative Subdivision Map #1301

- 1. The proposed project shall be constructed/designed as shown on Exhibit 1 ("Tentative Map of Golden Valley Plaza for Calvano Development"), except as modified by these conditions.
- 2. All conditions contained in Resolution #1175-Amended ("Standard Tentative Subdivision Map Conditions") shall apply.
- 3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- 4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
- 5. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before final map approval. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
- 6. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore. developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which

EXHIBIT A of Planning Commission Resolution #2990 Page 1 developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

- 7. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
- 8. The project shall comply with all applicable local, state laws, codes and regulations of the current Edition of the California Building and Fire Codes, and State Accessibility (ADA) requirements including, but not limited to, site accessibility.
- 9. The developer shall comply with all applicable conditions of approval for Conditional Use Permit (CUP) #1158 approved by the Planning Commission on March 9, 2011 (Planning Commission Resolution #2983).
- 10. At the time of Final Map submittal, a 7-foot-wide Public Utilities Easement (P.U.E.) shall be dedicated to follow the property line at the corner of Childs and Parsons Avenues.
- 11. The developer shall install all necessary public improvements upon development of the project site to bring the site into compliance with Merced City Standards. This shall include, but is not limited to, street and sidewalk improvements and the installation of a median in Childs Avenue. Said improvements shall not exceed those required by CUP #1158 (Planning Commission Resolution #2983).
- 12. A "Covenant for Easement Agreement" shall be recorded with the County Recorder allowing vehicular access across portions of each property as is necessary to provide for sufficient access for all uses.

### EXHIBIT A of Planning Commission Resolution #2990 Page 2

Such easements shall be recorded with the Final Map and in a form approved by the City. If sufficient parking is not provided on each parcel for the intended use on that parcel, a joint parking agreement shall be entered into. This agreement shall be recorded with the County Recorder and in a form approved by the City consistent with Section 20.58.400.E.3 of the Merced City Zoning Ordinance.

- 13. Conditions, Covenants, and Restrictions (CC&R's) shall be recorded concurrently with the Final Map. The CC&R's shall include conditions to ensure the landscaping on each parcel is well maintained.
- 14. The property owner shall enter into a "Subdivision Drainage Agreement" with the Merced Irrigation District Improvement District No. 1 (MIDDID No. 1) and pay all applicable fees as required by MID.
- 15. The property owner shall contact MID and enter into all necessary agreements for all crossings over or under any MID facilities, including utilities, bridges, driveways, and pipelines and for all work associated with MID facilities. The developer shall construct all necessary improvements or upgrades needed to accommodate the traffic generated by this project over the existing MID facilities as required by MID.

n:shared:planning:PC Resolutions:TSM#1301 Exhibit A