

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, May 20, 2015

Chairperson WILLIAMS called the meeting to order at 7:00 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Peter Padilla, Kurt Smoot, Kevin Smith, Travis Colby, and Chairperson Brandon Williams

Commissioners Absent: Carole McCoy (one vacancy)

Staff Present: Planning Manager Espinosa, Associate Planner Nelson, City Engineer Elwin, Senior Deputy City Attorney Rozell, and Recording Secretary Lane

1. **APPROVAL OF AGENDA**

M/S PADILLA-SMITH, and carried by unanimous voice vote (one absent, one vacancy), to approve the Agenda as submitted.

2. **MINUTES**

M/S COLBY-SMOOT, and carried by unanimous voice vote (one absent, one vacancy), to approve the Minutes of May 6, 2015, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Adoption of Resolutions of Denial of General Plan Amendment #15-01, Site Utilization Plan Revision #11 to Planned Development (P-D) #42, Conditional Use Permit #1197 (“Bellevue Ranch Apartments”) , initiated by Golden Valley Engineering, on behalf of C.W.N. Development, LLC, property owner. This application involves: a General Plan Amendment and Site Utilization Plan Revision to modify the improvement order and financing of off-site infrastructure within the Bellevue Ranch Master Development Plan; and a Conditional Use Permit to allow the construction of 432 apartment dwellings and associated parking, open space and on-site amenities on 20.77 acres. The project site is bound by M Street, M Street Circle, Mandeville Lane, and Barclay Way within the Bellevue Ranch Master Development Plan Area and is zoned Planned Development (P-D) #42. (Continued from May 6, 2015)

Planning Manager ESPINOSA reviewed the report on this item. For further information, refer to Staff Report #15-08 – 2nd Addendum.

M/S COLBY-PADILLA, and carried by the following vote, to recommend to the City Council denial of Environmental Review #15-03 (subsequent EIR/ND Section 15162 Findings) and denial of General Plan Amendment #15-01 and Site Utilization Plan Revision #11 to Planned Development (P-D) #42, subject to the Findings set forth in Attachment A of Staff Report #15-08 – 2nd Addendum (RESOLUTION #3047); and deny Environmental Review #15-03 (subsequent EIR/ND Section 15162 Findings) and Conditional Use Permit #1197, subject to the Findings set forth in Attachment B of Staff Report #15-08 – 2nd Addendum (RESOLUTION #3048).

AYES: Commissioners Padilla, Smoot, Smith, and Colby

NOES: Chairperson Williams

ABSENT: Commissioner McCoy (one vacancy)

ABSTAIN: None

- 4.2 General Plan Amendment #14-04, Revision #2 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #4 to Planned Development (P-D) #46, initiated by Golden Valley Engineering, on behalf of Barbara Bruno, property owner. This application is a request to modify the designations of the General Plan, Fahrens Creek Specific Plan, and Site Utilization Plan for Planned Development (P-D) #46 for an approximately 10.42 acre parcel generally located at the southwest corner of Pacific Drive and Horizons Avenue. The requested changes include changing the General Plan designation for approximately 6.2 acres of the parcel from Low Density (LD) Residential to Village Residential (VR) and changing the designation within the Fahrens Creek Specific Plan and the Site Utilization Plan for Planned Development #46 for approximately 6.76 acres of the property from Low Density Residential to Multi-Family Residential. These changes would allow the future construction of an apartment complex with 136 units on an approximately 5.9-acre portion of the property. (Continued from meetings of March 4 and April 22, 2015)

Associate Planner NELSON reviewed the report on this item. She noted a memo from staff, which was provided to the Commission prior to the meeting, modifying Finding D of Staff Report #15-03 – 3rd Addendum, based on the City Engineer’s confirmation that adequate storm drainage capacity to serve this site is available in the existing basin south of Yosemite Avenue. For further information, refer to Staff Report #15-05 – 3rd Addendum.

Public testimony was opened at 7:25 p.m.

Speaker from the Audience in Favor:

KATIE FENTERS, Golden Valley Engineering, Madera, representing the applicant

No one spoke in opposition to the project.

Public testimony was completed at 7:27 p.m.

M/S PADILLA-COLBY, and carried by the following vote, to recommend to the City Council adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program (Exhibit B) regarding Initial Study #14-26, and approval of General Plan Amendment #14-04, Revision #2 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #4 to Planned Development (P-D) #46, subject to the Findings and twelve (12) Conditions set forth in Staff Report #15-05 – 3rd Addendum, amending Finding D as follows (RESOLUTION #3050):

(Note: ~~Strikethrough~~ deleted language, underline added language.)

“D. Storm Drainage

Storm drain lines exist in Pacific Drive and Compass Pointe Avenue and drain into the Fahrens Creek Basin south of Yosemite Avenue. Sufficient capacity exists within the basin to serve this project. ~~The project would be required to provide storage of storm water on the site and meter it into the City’s storm drain system. The developer would be required to provide calculations to confirm there is capacity in the existing system to serve the proposed project. If there is not sufficient capacity, the developer would be required to provide an alternative to using the existing lines.~~

AYES: Commissioners Padilla, Smoot, Smith, Colby, and Chairperson Williams

NOES: None

ABSENT: Commissioner McCoy (one vacancy)

ABSTAIN: None

4.3 Conditional Use Permit #1200, initiated by BP Investors, LLC, property owners. This application involves a request to construct a 216-unit apartment complex in two phases on a 9.8-acre parcel located on the north side of Merrill Place (extended) approximately 1,200 feet east of G Street. This parcel is located within Residential Planned Development (RP-D) #61 and has a Village Residential (VR) General Plan designation.

Associate Planner Nelson reviewed the report on this item. She noted a memo from staff, which was provided to the Commission prior to the meeting, modifying Condition #18 to provide an alternate solution to “looping” the water system. For further information, refer to Staff Report #15-11.

Public testimony was opened at 8:09 p.m.

Speaker from the Audience in Favor:

RICK TELEGAN, Fresno, representing the applicant

Speaker from the Audience (Neutral):

PETE BANDONI, Merced

No one spoke in opposition to the project.

Public testimony was completed at 8:19 p.m.

The Commission discussed the project and the reasons they did not support it, such as the number of occupants which could possibly occupy the units based on the number of bedrooms, insufficient parking based on these numbers, the request for extra height for the buildings, and that the project was not a good fit for the area. The Commissioners questioned basing the parking standards on the number of units instead of the number of bedrooms. Planning Manager ESPINOSA confirmed that the Municipal Code stipulates that the number of units be used as the basis, but that City staff is planning to look at a standard based on bedrooms with the upcoming Zoning Ordinance update. The Commissioners took an informal straw vote and found they were all in favor of denial of the project.

M/S COLBY-SMOOT, and carried by the following vote, to continue the public hearing to the Planning Commission Meeting of June 17, 2015, to allow staff time to prepare Findings and a resolution for denial:

AYES: Commissioners Padilla, Smoot, Smith, Colby, and Chairperson Williams

NOES: None

ABSENT: Commissioner McCoy (one vacancy)

ABSTAIN: None

4.4 Fiscal Year 2015-2016 Capital Improvement Program (CIP)

Planning Manager ESPINOSA discussed the function of the Planning Commission in review of the CIP. City Engineer ELWIN was available to answer questions regarding the projects. For further information, refer to Staff Report #15-12.

M/S WILLIAMS-SMOOT, and carried by the following vote, to find that the Fiscal Year 2015-2016 Capital Improvement Program is consistent with the General Plan:

AYES: Commissioners Padilla, Smoot, Smith, Colby, and Chairperson Williams

NOES: None

ABSENT: Commissioner McCoy (one vacancy)

ABSTAIN: None

4.5 Cancellation of June 3, 2015, Planning Commission Meeting due to Lack of Items

M/S COLBY-SMITH, and carried by unanimous voice vote (one absent, one vacancy), to cancel the Planning Commission meeting of June 3, 2015.

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

Senior Deputy City Attorney ROZELL, in response to a question from the Commission, stated that attending an upcoming social event would not be a violation of the Brown Act provided that there was no discussion about Planning Commission business. He added that the

meal would need to be claimed on the Form 700 Form if the value of the meal exceeded \$50.00. In addition, the meal would have to be disclosed and a Commissioner might have to disqualify himself or herself from voting on any projects within 12 months in which the host is the owner or applicant of the project.

6. **ADJOURNMENT**

There being no further business, Chairperson WILLIAMS adjourned the meeting at 8:36 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



BRANDON WILLIAMS, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3047

WHEREAS, the Merced City Planning Commission at its regular meeting of May 6, 2015, held a public hearing and considered **General Plan Amendment #15-01 and Site Utilization Plan Revision #11 to Planned Development (P-D) #42**, initiated by Golden Valley Engineering, on behalf of C.W.N. Development, LLC, property owner. This application involves a General Plan Amendment and Site Utilization Plan Revision to modify the improvement order and financing of off-site infrastructure within the Bellevue Ranch Master Development Plan. The project site is bound by M Street, M Street Circle, Mandeville Lane, and Barclay Way within the Bellevue Ranch Master Development Plan Area and is zoned Planned Development (P-D) #42; also known as Assessor's Parcel Numbers 224-020-006 and 224-020-008; and,

WHEREAS, the Merced City Planning Commission concurs with modified Findings B, C, E, F, and R of Staff Report #15-08 – Addendum and makes additional Findings FF and GG as indicated below:

- B) *Project Density:* Based on 432 units on 20.77 acres, the overall project density is approximately 20.8 dwelling-units per acre. Residential densities of between 10 and 22 dwelling units per acre may be permitted according to the adopted Bellevue Ranch Master Development Plan. Multi-family housing is an important component of the Bellevue Ranch project's mixed-use neighborhoods and is necessary to support the economic viability of the commercial core, maintain a walkable urban core, support transit services, and to provide housing for all income levels within the City. However, the proposed project is not compatible with the area for the reasons discussed in Finding C below.

- C) *Dwelling Units and Bedrooms:* The 432 dwelling units consist of 216 dwellings on each parcel. Each parcel will have 8 buildings, each with 27 dwelling units (7 on the first floor, 10 on the second floor, and 10 on the third floor). Within each building, these 27 dwellings are comprised of 9 one-bedroom units, 12-two-bedroom units, 4 three-bedroom units, and 2 four-bedroom units. Of the 216 dwelling units on each parcel, 72 are one-bedroom units, 96-two-bedroom units, 32 three-bedroom units, and 16 four-bedroom units. The ratios of bedrooms per parcel are 33.4% one-bedroom; 44.4% two-bedroom; 14.8% three-bedroom; and 7.4% four-bedroom (Attachment E). Therefore, a total of 848 bedrooms are

proposed. According to the applicant, the proposed student housing project comes with the potential for several students to share rental space, thereby filling bedrooms to their maximum occupancy of 2 students per bedroom. If each bedroom was filled to capacity, that would mean up to 1,696 occupants total for this project with 882 on-site parking spaces provided. This in turn may lead to inadequate parking and a corresponding increase in on-street parking throughout the adjoining neighborhood, which is already experiencing congested parking conditions due to students parking near a UC Merced bus stop in the neighborhood.

It should be noted that the previous condominium project (CUP #1114) approved on this site in 2008 was for 440 dwelling units, but only 688 total bedrooms for a maximum occupancy of 1,376 (assuming 2 per bedroom). Condominiums have less potential for reaching that full occupancy because individual ownership of many of the units would likely result in only 1 person per bedroom in many of the units. In apartments, it is more likely to have full occupancy.

- E) *Neighborhood Amenities:* The project will have access to future commercial sites, neighborhood parks, and schools. All these amenities will be located within the Bellevue Ranch area (Attachment A of Staff Report #15-08 Addendum). However, the commercial site and schools have not been developed, and all the planned neighborhood parks have not been developed at this time.

- F) *Interface with the Neighborhood:* While the land use designation and zoning for the site are consistent with the adopted General Plan, Bellevue Ranch Master Development Plan, and Official Zoning Map, site design features can be required to assure compatibility with adjacent land uses. The project site design and recommended conditions are intended to create a compatible development with the future shopping center to the north and the single family homes located east and south of the project site. The project design and conditions fall short of this intent, however. The project design is incompatible with the adjacent single-family homes due to the massing of three-story, 40-foot tall buildings across the street from one and two story single family homes. The density of the project is driving such height and massing, as well as the location and parking layout of the project. The density further drives the design and location of

parking, which is proposed to be sited around the perimeter of the project. This design detracts from the open space and aesthetics of the neighborhood, and introduces noise and light nuisances to adjacent properties.

R) *Parking:*

1. *On-Street Parking:* Per BRMDP Condition #74, the developer is required to include on-street parking within the rights-of-way on adjacent roads; these roads are constructed and provide such space. This provision is independent of any off-street parking requirements.
2. *Off-Street Parking Amount:* The off-street parking space requirement for multiple-family dwellings is 1.75 spaces for each unit up to 30 units, and 1.5 spaces for each unit thereafter. For each 10-acre parcel, which is proposed to contain 216 units, the following minimum parking is determined as follows: 53 parking spaces are required for the first 30 units, and 279 parking spaces for the remaining 186 units, totaling 332 parking spaces, or 664 parking spaces for both 10-acre sites. For each 10-acre site, the applicant proposes 441 parking spaces, for a total of 882 spaces, resulting in 109 spaces over the minimum requirement. The applicant is not currently proposing any of the parking spaces to be covered or enclosed. Although the proposal includes on-site parking spaces that exceed City code requirements, the unique needs and parking demands of student housing are not addressed. Only 2 parking spaces are allocated per unit and some 4-bedroom units could have up to 8 occupants. The total project occupancy could be up to 1,696 individuals with 2 per bedroom. The proposal does not include any measures to limit the occupancy of rooms, which could lead to parking demands that could exceed the spaces provided (882). This would lead to project occupants parking on the street and in the adjacent single-family neighborhood which is already impacted with student parking in vicinity to a bus stop.
3. *Off-Street Parking Location:* The proposal places the off-street parking between the buildings and public sidewalk and street. Doing so enables the formation of a large private open space enclosed by the buildings (Attachment B), and minimizes the size

and bulk of the proposed units as viewed from existing residents and property owners on the south side of Barclay Way (Attachment F of Staff Report #15-08 Addendum), whose homes face the project. Placing off-street parking adjacent to the street, however, is inconsistent with BRMDP Condition of Approval #77 (Location of parking lots set behind buildings); BRMDP Condition of Approval #88 (Requirement for specific design elements that face a street); and Condition of Approval 10c of CUP #1114. These three conditions support the plan's goal to emphasize: (a) choice in mobility (in this case pedestrian travel); (b) attractive neighborhoods; (c) a strong market for nearby commercial uses; and (d) a functional transit system, all of which support efforts to provide clean air.

As a Planned Development, the Planning Commission has significant leeway to adjust the design of the project if merited, however. An option could be to require buildings to be placed adjacent to some of the streets, but to balance issues of scale and bulk with appearance and aesthetic considerations. For example, placing buildings adjacent to Barclay Way directly across the street from existing single-family homes, would score high in appearance, but the scale and bulk of the condos as compared to the detached single-family homes raises issues of light, noise, and imbalance of building sizes. Alternatively, two-story buildings could be constructed and be placed adjacent to the public sidewalk along Barclay Way. This design option is preferred as it reduces the density and associated impacts to parking, services and infrastructure, and provides the best aesthetic option, thereby adding value to the project and the adjacent neighborhood. Also refer to discussion presented in Finding Q3 under *Building Setback*, and R4 below.

4. *Off-Street Parking Lot Screen*: To partially screen the parking area, a combination of low walls, wrought iron fencing and dense landscaping is being proposed (Attachment F of Staff Report #15-08 Addendum), which would help shield the nearby homes from vehicle lights and would form an attractive streetscape.

PLANNING COMMISSION RESOLUTION #3047

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- FF) At its May 6, 2015 meeting, the Planning Commission heard testimony from over 25 adjacent residents who were opposed to the project. Reasons cited for their opposition included the change from condominiums to apartments, the current parking problems in the neighborhood that could be exacerbated by this project and its lack of parking for all the prospective occupants, the appearance of the proposed project design and lack of aesthetic appeal, the height of the buildings, the potential increase in crime and noise, the limited on-site management, and the possible effect on their property values, etc.
- GG) After considering all the public testimony, the Planning Commission determined that they could not support this project for the following reasons: the increased number of bedrooms and potential occupants, the corresponding increase in traffic, insufficient parking, the change from potential owners in condominiums to renters in apartments, and that the project and its design was not a good fit for the neighborhood.

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend denial of Environmental Review #15-03, General Plan Amendment #15-01 and Site Utilization Plan Revision #11 to Planned Development (P-D) #42.

Upon motion by Commissioner COLBY, seconded by Commissioner PADILLA, and carried by the following vote:

AYES: Commissioner(s) McCoy, Padilla, Smoot, Smith, and Colby

NOES: Chairperson Williams

ABSENT: None (one vacancy)

ABSTAIN: None

Adopted this 20th day of May 2015

PLANNING COMMISSION RESOLUTION #3047

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May 20, 2015



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

CITY OF MERCED
Planning Commission

Resolution #3048

WHEREAS, the Merced City Planning Commission at its regular meeting of May 6, 2015, held a public hearing and considered **Conditional Use Permit #1197** (“Bellevue Ranch Apartments”), initiated by Golden Valley Engineering, on behalf of C.W.N. Development, LLC, property owner. This application involves a Conditional Use Permit to allow the construction of 432 apartment dwellings and associated parking, open space and on-site amenities on 20.77 acres. The project site is bound by M Street, M Street Circle, Mandeville Lane, and Barclay Way within the Bellevue Ranch Master Development Plan Area and is zoned Planned Development (P-D) #42; also known as Assessor’s Parcel Numbers 224-020-006 and 224-020-008; and,

WHEREAS, the Merced City Planning Commission concurs with modified Findings B, C, E, F, and R of Staff Report #15-08 – Addendum and makes additional Findings FF and GG as indicated below:

- B) *Project Density:* Based on 432 units on 20.77 acres, the overall project density is approximately 20.8 dwelling-units per acre. Residential densities of between 10 and 22 dwelling units per acre may be permitted according to the adopted Bellevue Ranch Master Development Plan. Multi-family housing is an important component of the Bellevue Ranch project’s mixed-use neighborhoods and is necessary to support the economic viability of the commercial core, maintain a walkable urban core, support transit services, and to provide housing for all income levels within the City. However, the proposed project is not compatible with the area for the reasons discussed in Finding C below.

- C) *Dwelling Units and Bedrooms:* The 432 dwelling units consist of 216 dwellings on each parcel. Each parcel will have 8 buildings, each with 27 dwelling units (7 on the first floor, 10 on the second floor, and 10 on the third floor). Within each building, these 27 dwellings are comprised of 9 one-bedroom units, 12-two-bedroom units, 4 three-bedroom units, and 2 four-bedroom units. Of the 216 dwelling units on each parcel, 72 are one-bedroom units, 96-two-bedroom units, 32 three-bedroom units, and 16 four-bedroom units. The ratios of bedrooms per parcel are 33.4% one-bedroom; 44.4% two-bedroom; 14.8% three-bedroom; and 7.4% four-bedroom (Attachment E). Therefore, a total of 848 bedrooms are proposed. According to the applicant, the proposed student housing

project comes with the potential for several students to share rental space, thereby filling bedrooms to their maximum occupancy of 2 students per bedroom. If each bedroom was filled to capacity, that would mean up to 1,696 occupants total for this project with 882 on-site parking spaces provided. This in turn may lead to inadequate parking and a corresponding increase in on-street parking throughout the adjoining neighborhood, which is already experiencing congested parking conditions due to students parking near a UC Merced bus stop in the neighborhood.

It should be noted that the previous condominium project (CUP #1114) approved on this site in 2008 was for 440 dwelling units, but only 688 total bedrooms for a maximum occupancy of 1,376 (assuming 2 per bedroom). Condominiums have less potential for reaching that full occupancy because individual ownership of many of the units would likely result in only 1 person per bedroom in many of the units. In apartments, it is more likely to have full occupancy.

- E) *Neighborhood Amenities:* The project will have access to future commercial sites, neighborhood parks, and schools. All these amenities will be located within the Bellevue Ranch area (Attachment A of Staff Report #15-08 Addendum). However, the commercial site and schools have not been developed, and all the planned neighborhood parks have not been developed at this time.

- F) *Interface with the Neighborhood:* While the land use designation and zoning for the site are consistent with the adopted General Plan, Bellevue Ranch Master Development Plan, and Official Zoning Map, site design features can be required to assure compatibility with adjacent land uses. The project site design and recommended conditions are intended to create a compatible development with the future shopping center to the north and the single family homes located east and south of the project site. The project design and conditions fall short of this intent, however. The project design is incompatible with the adjacent single-family homes due to the massing of three-story, 40-foot tall buildings across the street from one and two story single family homes. The density of the project is driving such height and massing, as well as the location and parking layout of the project. The density further drives the design and location of parking, which is proposed to be sited around the perimeter of the project.

This design detracts from the open space and aesthetics of the neighborhood, and introduces noise and light nuisances to adjacent properties.

R) *Parking:*

1. *On-Street Parking:* Per BRMDP Condition #74, the developer is required to include on-street parking within the rights-of-way on adjacent roads; these roads are constructed and provide such space. This provision is independent of any off-street parking requirements.
2. *Off-Street Parking Amount:* The off-street parking space requirement for multiple-family dwellings is 1.75 spaces for each unit up to 30 units, and 1.5 spaces for each unit thereafter. For each 10-acre parcel, which is proposed to contain 216 units, the following minimum parking is determined as follows: 53 parking spaces are required for the first 30 units, and 279 parking spaces for the remaining 186 units, totaling 332 parking spaces, or 664 parking spaces for both 10-acre sites. For each 10-acre site, the applicant proposes 441 parking spaces, for a total of 882 spaces, resulting in 109 spaces over the minimum requirement. The applicant is not currently proposing any of the parking spaces to be covered or enclosed. Although the proposal includes on-site parking spaces that exceed City code requirements, the unique needs and parking demands of student housing are not addressed. Only 2 parking spaces are allocated per unit and some 4-bedroom units could have up to 8 occupants. The total project occupancy could be up to 1,696 individuals with 2 per bedroom. The proposal does not include any measures to limit the occupancy of rooms, which could lead to parking demands that could exceed the spaces provided (882). This would lead to project occupants parking on the street and in the adjacent single-family neighborhood which is already impacted with student parking in vicinity to a bus stop.
3. *Off-Street Parking Location:* The proposal places the off-street parking between the buildings and public sidewalk and street. Doing so enables the formation of a large private open space enclosed by the buildings (Attachment B), and minimizes the size and bulk of the proposed units as viewed from existing residents

and property owners on the south side of Barclay Way (Attachment F of Staff Report #15-08 Addendum), whose homes face the project. Placing off-street parking adjacent to the street, however, is inconsistent with BRMDP Condition of Approval #77 (Location of parking lots set behind buildings); BRMDP Condition of Approval #88 (Requirement for specific design elements that face a street); and Condition of Approval 10c of CUP #1114. These three conditions support the plan's goal to emphasize: (a) choice in mobility (in this case pedestrian travel); (b) attractive neighborhoods; (c) a strong market for nearby commercial uses; and (d) a functional transit system, all of which support efforts to provide clean air.

As a Planned Development, the Planning Commission has significant leeway to adjust the design of the project if merited, however. An option could be to require buildings to be placed adjacent to some of the streets, but to balance issues of scale and bulk with appearance and aesthetic considerations. For example, placing buildings adjacent to Barclay Way directly across the street from existing single-family homes, would score high in appearance, but the scale and bulk of the condos as compared to the detached single-family homes raises issues of light, noise, and imbalance of building sizes. Alternatively, two-story buildings could be constructed and be placed adjacent to the public sidewalk along Barclay Way. This design option is preferred as it reduces the density and associated impacts to parking, services and infrastructure, and provides the best aesthetic option, thereby adding value to the project and the adjacent neighborhood. Also refer to discussion presented in Finding Q3 under *Building Setback*, and R4 below.

4. *Off-Street Parking Lot Screen*: To partially screen the parking area, a combination of low walls, wrought iron fencing and dense landscaping is being proposed (Attachment F of Staff Report #15-08 Addendum), which would help shield the nearby homes from vehicle lights and would form an attractive streetscape.

PLANNING COMMISSION RESOLUTION #3048

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FF) At its May 6, 2015 meeting, the Planning Commission heard testimony from over 25 adjacent residents who were opposed to the project. Reasons cited for their opposition included the change from condominiums to apartments, the current parking problems in the neighborhood that could be exacerbated by this project and its lack of parking for all the prospective occupants, the appearance of the proposed project design and lack of aesthetic appeal, the height of the buildings, the potential increase in crime and noise, the limited on-site management, and the possible effect on their property values, etc.

GG) After considering all the public testimony, the Planning Commission determined that they could not support this project for the following reasons: the increased number of bedrooms and potential occupants, the corresponding increase in traffic, insufficient parking, the change from potential owners in condominiums to renters in apartments, and that the project and its design was not a good fit for the neighborhood.

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby deny Environmental Review #15-03 and Conditional Use Permit #1197.

Upon motion by Commissioner COLBY, seconded by Commissioner PADILLA, and carried by the following vote:

AYES: Commissioner(s) McCoy, Padilla, Smoot, Smith, and Colby

NOES: Chairperson Williams

ABSENT: None (one vacancy)

ABSTAIN: None

Adopted this 20th day of May 2015

PLANNING COMMISSION RESOLUTION #3048

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May 20, 2015



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

CITY OF MERCED
Planning Commission

Resolution #3050

WHEREAS, the Merced City Planning Commission at its regular meeting of May 20, 2015, held a public hearing and considered **General Plan Amendment #14-04, Revision #2 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #4 to Planned Development (P-D) #46**, initiated by Golden Valley Engineering, on behalf of Barbara Bruno, property owner. This application is a request to modify the designations of the General Plan, Fahrens Creek Specific Plan, and Site Utilization Plan for Planned Development (P-D) #46 for an approximately 10.42 acre parcel generally located at the southwest corner of Pacific Drive and Horizons Avenue. The requested changes include changing the General Plan designation for approximately 6.2 acres of the parcel from Low Density (LD) Residential to Village Residential (VR) and changing the designation within the Fahrens Creek Specific Plan and the Site Utilization Plan for Planned Development #46 for approximately 6.76 acres of the property from Low Density Residential to Multi-Family Residential. These changes would allow the future construction of an apartment complex with 136 units on an approximately 5.9-acre portion of the property; also known as Assessor's Parcel No. 206-070-006; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #15-05 – 3rd Addendum; with Finding D amended as follows:

D) Storm Drainage

Storm drain lines exist in Pacific Drive and Compass Pointe Avenue and drain into the Fahrens Creek Basin south of Yosemite Avenue. Sufficient capacity exists within the basin to serve this project.

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program (Exhibit B) regarding Initial Study #14-26, and approval of General Plan Amendment #14-04, Revision #2 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #4 to Planned Development (P-D) #46, subject to the Conditions set forth in Exhibit A attached hereto.

Upon motion by Commissioner Padilla, seconded by Commissioner Colby, and carried by the following vote:

AYES: Commissioners Padilla, Smoot, Smith, Colby, and Chairperson Williams

NOES: None

ABSENT: Commissioner McCoy (one vacancy)

ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3050

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May 20, 2015

Adopted this 20th day of May 2015



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Mitigation Monitoring Program

**Conditions of Approval
Planning Commission Resolution #3050
General Plan Amendment #14-04,
Revision #2 to the Fahrens Creek Specific Plan, and
Site Utilization Plan Revision #4 to Planned Development (P-D) #46**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) - Attachment B of Planning Commission Staff Report #15-05-3rd Addendum, except as modified by the conditions below or subsequent Conditional Use Permit approval.
2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
3. The Project shall comply with the conditions set forth in Planning Commission Resolution #2675 (Attachment F of Planning Commission Staff Report #15-05-3rd Addendum) for Annexation Application #00-03, Pre-Zone Application #00-03, General (including Specific) Plan Amendment #00-09, and Environmental Review #00-31 (including the Mitigation Monitoring Program found at Attachment G of Planning Commission Staff Report #15-05-Addendum #3) previously approved for this project, except as amended by this action (which includes the deletion of Condition #18).
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. Approval of the General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision are subject to the applicant's entering into a written (developer) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit

issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.

6. In accordance with Merced Municipal Code Section 20.42.130, this project will be constructed according to the following development schedule: construction shall begin no later than January 1, 2016 with completion of construction by June 1, 2017. On each anniversary of the approval of this application until the entire project is constructed, an updated development schedule shall be submitted to the Planning Division.
7. 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, 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 (with counsel selected by the City) 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.

8. 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.
9. 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 or the issuance of a building permit. 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.
10. Conditional Use Permit approval is required prior to development of any project on this site.
11. At the time this site is developed, all public improvements shall be installed along the property frontage (including frontage on Pacific Drive, Stinson Drive, Horizons Avenue, and Compass Pointe Avenue).
12. Any development on the site shall comply with all mitigations measures outlined in Initial Study #14-26 (Attachment H of Planning Commission Staff Report #15-05 – 3rd Addendum) and described in the mitigation monitoring program found at Attachment L of Attachment H of Planning Commission Staff Report #15-05 – 3rd Addendum.

ENVIRONMENTAL REVIEW #14-26
Mitigation Monitoring Program

MITIGATION MONITORING CONTENTS

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own “Mitigation Monitoring and Reporting Program” (MMC 19.28). The City’s program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor’s Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

- 1) The requirements of the adopted mitigation monitoring program for the General Plan Amendment #14-04, Revision #2 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision shall run with the real property. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

In most cases, mitigation measures can be monitored through the City’s construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

GENERAL PLAN MITIGATION MEASURES

As a second tier environmental document, Initial Study #14-26 incorporates some mitigation measures adopted as part of the *Merced Vision 2030 General Plan Program Environmental Impact Report* (SCH# 2008071069), as mitigation for potential impacts of the Project.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Director of Development Services in written form providing specific information on the asserted violation. The Director of Development Services shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the Director of Development Services shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigation measures proposed specifically for General Plan Amendment #14-04, Revision #2 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #4 to Planned Development (P-D) #46. The columns within the tables are defined as follows:

Mitigation Measure:	Describes the Mitigation Measure (referenced by number).
Timing:	Identifies at what point in time or phase of the project that the mitigation measure will be completed.
Agency/Department Consultation:	This column references any public agency or City department with which coordination is required to satisfy the identified mitigation.
Verification:	These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

**General Plan Amendment #14-04/Revision 32 to the Fahrens Creek Specific Plan/
 Site Utilization Plan Revision #4 to Planned Development (P-D) #46
 Mitigation Monitoring Checklist**

Project Name: _____ **File Number:** _____
Approval Date: _____ **Project Location** _____
Brief Project Description _____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced’s Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

C) Air Quality				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
C-1	C-1) The project applicant shall submit an Indirect Source Review (ISR) to the San Joaquin Air Pollution Control Board in compliance with District Rule 9510 and shall comply with all other applicable District Rules. The San Joaquin Valley Air Pollution Control District recommends this application be submitted as early as possible or prior to the final discretionary approval.	Prior to Conditional Use Permit (CUP) approval	Planning Department	
C-1	C-2) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A)	Building Permit Issuance / CUP approval	Inspection Services / Planning Department	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
C-2	C-3) Compliance with Mitigation Measures C-1 and C-2 above would reduce this impact to a less than significant level.	Building Permit Issuance / CUP approval	Inspection Services / Planning Department	
D) Biological Resources				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
D1	D-1) If any development takes place during the Swainson's Hawk nesting season (late March through July), a pre-construction survey shall be conducted by a qualified biologist to determine whether nesting activities are taking place within the area. If it is found that nesting activities are taking place, the project shall take necessary actions, including delaying the start of construction, to ensure the species is not disturbed.	Building Permit	Planning Department CA. Dept. of Fish and Wildlife	
D1	D-2) With regard to the Giant Garter Snake, for any development taking place in proximity to Fahrens Creek corridor, from the west edge of R Street to the north edge of Yosemite Avenue the following actions shall be taken: a) Provide environmental awareness training to contractors doing work in this area; b) Restrict construction along the Creek to only the snake's active season (May 1 through September 30); and, c) Have a qualified biologist conduct pre-construction surveys 24 hours in advance of construction activities.	Building Permit	Planning Department CA. Dept. of Fish and Wildlife	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
D1	D-3) No development shall occur within 50 feet of the centerline of the creek (or 25 feet from the crown, whichever is greater).	Building Permit	Planning Department	
D1	D-4) The project shall comply with all applicable mitigation measures for Expanded Initial Study (EIS) #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09. Refer to the Mitigation Monitoring Program prepared for EIS #00-31 at Attachment A.	Building Permit	Planning Department	
D2	D-5) Compliance with Mitigation Measures D-1 through D-4 would reduce this impact to a less than significant level.	Building Permit	Planning Department	
D4	D-6) Compliance with Mitigation Measures D-1 through D-4 would reduce this impact to a less than significant level.	Building Permit	Planning Department	
D5	D-7) Compliance with Mitigation Measures D-1 through D-4 would reduce this impact to a less than significant level.	Building Permit	Planning Department	
E) Biological Resources				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
E1	E-1) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Planning Department	
E2	E-2) Compliance with Mitigation Measure E-1 would make this impact less than significant.	Building Permit	Planning Department	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
E3	E-3) Compliance with Mitigation Measure E-1 would make this impact less than significant.	Building Permit	Planning Department	
E4	E-4) Compliance with Mitigation Measure E-1 would make this impact less than significant.	Building Permit	Planning Department	
F) Geology and Soils				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
F2	F-1) The project shall comply with all requirements of the State Water Resources Board (SWRCB) and obtain a General Construction Activity Stormwater Permit.	Building Permit	Inspection Services	
H) Hydrology and Water				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
H-1	H-1) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	
H-2	H-2) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
H-3	H-3) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	
H-4	H-4) The project developer shall provide calculations to the City Engineer verifying the capacity of the existing storm drain line as well as the capacity of the basin into which the water would ultimately drain.	Building Permit	Engineering	
H-4	H-5) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	
H-5	H-6) The project developer shall provide calculations to the City Engineer verifying the capacity of the existing storm drain line as well as the capacity of the basin into which the water would ultimately drain.	Building Permit	Engineering	
H-5	H-7) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
H-7	H-8) The project shall comply with all requirements of the California Building Code and the Federal Emergency Management Agency (FEMA). All necessary documentation related to the construction of the residential uses shall be provided at the building permit stage.	Building Permit	Inspection Services / Engineering	
H-7	H-9) At the time of submittal for a Conditional Use Permit (CUP), the developer shall provide a hydrology study demonstrating the effects of constructing a portion of the parking area within the flood way. This document shall be reviewed and approved by the Development Services Director.	Building Permit	Inspection Services / Planning Department / Engineering	
K) Noise				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
K-1	K-1) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	
K-2	K-2) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	

O. Transportation/Traffic				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
O-1	O-1) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	

Certificate of Completion:

By signing below, the environmental coordinator confirms that the required mitigation measures have been implemented as evidenced by the Schedule of Tasks and Sign-Off Checklist, and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

 Environmental Coordinator

 Date

**EXPANDED INITIAL STUDY #00-31
for
FAHRENS CREEK ANNEXATION
TO THE CITY OF MERCED**

Appendix C

Mitigation Monitoring Program

MITIGATION MONITORING CONTENTS

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own "Mitigation Monitoring and Reporting Program" (MMC 19.28). The City's program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor's Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

- 1) The requirements of the adopted mitigation monitoring program for the Fahrens Creek Annexation shall run with the real property that is the subject of Annexation Application #00-31 to the City of Merced. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

In most cases, mitigation measures can be monitored through the City's construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Fahrens Creek Annexation Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

Fahrens Creek Annexation to the City of Merced Expanded Initial Study #00-31: Mitigation Monitoring Program (2)

GENERAL PLAN MITIGATION MEASURES

As a second tier environmental document, the *Expanded Initial Study for the Fahrens Creek Annexation to the City of Merced* incorporates some mitigation measures adopted as part of the *Merced Vision 2015 General Plan Program Environmental Impact Report* (SCH# 95082050), as mitigation for potential impacts of the Project. Therefore, following the Fahrens Creek Annexation Mitigation Monitoring Checklist (starting on page A-15) is a list of these relevant General Plan mitigation measures along with the General Plan Mitigation Monitoring Checklists (Forms A and B) to be used to verify that the General Plan mitigation measures have been met.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the City Planner in written form providing specific information on the asserted violation. The City Planner shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the City Planner shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigation measures proposed specifically for the Fahrens Creek Annexation. The columns within the tables are defined as follows:

Mitigation Measure: Summarizes the Mitigation Measure (referenced by number) identified in Expanded Initial Study #00-31.

Timing: Identifies at what point in time or phase of the project that the mitigation measure will be completed.

Agency/Department Consultation: This column references any public agency or City department with which coordination is required to satisfy the identified mitigation.

Verification: These columns will be initiated and dated by the individual designated to verify adherence to the project specific mitigation.

Fahrens Creek Annexation Mitigation Monitoring Checklist

Project Name: _____
 File Number: _____
 Approval Date: _____
 Project Location: _____

Brief Project Description: _____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

Mitigation Measure	Timing	Agency or Department Consultation	City Verification (date and initials)
A. EARTH A-1 Grading and excavation shall be conducted according to City of Merced standards to reduce the effects of disruptions, displacement, compactions, and over-covering of soils.	Building Permits	City Inspection Services, Engineering, & Public Works	
A-2 The Project applicants shall prepare grading plans for individual projects for review and approval by the City of Merced Inspection Services, Engineering, and Public Works Departments prior to approval of building permits. The grading plans shall include the nature and extent of work proposed, phasing, and minimize the effects of disruptions, displacement, compaction, and over-covering of soils.	Building Permits	City Inspection Services, Engineering, & Public Works	
A-3 Prior to approval of any improvement or building plans, the City shall review plans for drainage and storm water run-off control systems and their component facilities, as required, to ensure that these systems are non-erosive in design.	Tentative Map Building Permit	City Engineering & Public Works	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
A-4 Upon completion of construction, subsequent Projects shall re-vegetate all exposed soil surfaces within 30 days, or as otherwise approved by the City, to minimize potential topsoil erosion. Reasonable alternatives to re-vegetation may be employed, especially during peak high temperature periods, subject to the approval of the City.	<i>Certificate of Occupancy</i>	<i>City Inspection Services</i>	
A-5 Projects under review shall be required to submit temporary erosion control plans for construction activities.	<i>Building Permits</i>	<i>City Inspection Services</i>	
A-6 Prior to the issuance of a building permit, the applicant shall design all structures according to the Uniform Building Code Seismic Section 3.	<i>Building permits</i>	<i>City Inspection Services</i>	
A-7 A soils report shall be prepared by a qualified soils or civil engineer, consistent with the provisions of the State Subdivision Map Act, prior to approval of a final subdivision map or building permit, if applicable as required by Merced Municipal Code.	<i>Final Maps</i>	<i>City Engineering & Public Works</i>	
A-8 Building plans shall be reviewed by a registered engineer specializing in geo-technical assessments to ensure that the soils can support the load.	<i>Building Permits</i>	<i>City Inspection Services, Engineering, & Public Works</i>	
B. AIR			
B-1 All active portions of construction sites, earthen access roads, and material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice a day with complete coverage, preferably in the late morning and after work is done for the day. Where feasible, reclaimed water shall be used.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-2 All clearing, grading, earth moving, or excavation activities shall cease during periods of winds greater than 20 miles per hour averaged over one hour.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-3 All material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-4 The area disturbed by clearing, earth moving, or excavation activities shall be minimized at all times. This can be accomplished by mowing instead of disking for weed control and seeding and watering inactive portions of the construction site until grass is evident, if construction time frames warrant.	<i>Building Permits</i>	<i>City Inspection Services</i>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
B-5 Construction site vehicle speeds shall be limited to 15 miles per hour.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-6 If used, petroleum-based dust palliatives shall meet the road oil requirements of the District's rule regarding Cutback Asphalt Paving Materials.	<i>Building Permits</i>	SJVUAPCD	
B-7 Streets adjacent to the Project site shall be swept as needed to remove silt and/or mud that may have accumulated from construction activities. The streets are required to be wet prior to or in conjunction with rotary sweeping.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-8 All internal combustion engine-driven equipment shall be properly maintained and well tuned according to the manufacturer's specifications.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-9 When reasonably available and economically feasible, diesel powered or electric equipment shall be utilized in lieu of gasoline powered engines.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-10 Construction activities shall minimize obstruction of through traffic lanes adjacent to the site and a flag person shall be retained to maintain safety adjacent to existing roadways.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-11 Prior to issuance of a grading permit, the project will be required to comply with District Regulation VIII. Specifically, the rules that apply to this project are: Rule 8010 (Administrative Requirements) and Rule 8020 (Construction, Demolition, Excavation, and Extraction Activities). Additional rules that may apply to this project depending on construction practices employed are: Rule 8030 (Handling and Storage of Bulk Materials), Rule 8060 (Paved and Unpaved Roads), and Rule 8070 (Parking, Shipping, Receiving, Transfer, Fueling, and Service Areas).	<i>Building Permits</i>	SJVUAPCD	
B-12 At the City Planner's discretion, subsequent projects within the Project boundaries may be required to submit an air quality analysis to the City prior to construction. Such studies shall outline any impacts associated with specific processes or activities to be present on-site.	<i>Site Plan Approval</i>	<i>City Planning</i>	
(B-13) (General Plan I-d) Development construction activity shall implement appropriate dust (PM10) suppression techniques as required by the SJVRAPCD.	<i>Building Permit/Construction</i>	<i>City Inspection Services</i>	

Mitigation Measure	Timing	Agency or Department Consultation	City Verification (date and initials)
<p>C. WATER</p>			
<p>C-1 Prior to approval of a Final Map or subsequent development projects, the applicant shall demonstrate to the City that storm drainage facilities are adequate to meet Project demands and that improvements are consistent with the Merced County Critical Area Flooding and Drainage Plan and any updates.</p>	<p>Tentative Maps</p>	<p>City Engineering & Public Works</p>	
<p>C-2 Prior to alteration or removal of the existing elevated YVRR roadbed in the eastern portion of the project area, the property owner shall demonstrate, through competent analysis acceptable to the City of Merced, what effect removal of the roadbed will have on area flood waters delineated in the Special Flood Hazard Area identified on the east side of the roadbed, including impacts to other properties.</p>	<p>Tentative Maps Building Permits Conditional Use Permits/Site Plan Approvals</p>	<p>City Engineering & Public Works</p>	
<p>C-3 Prior to approval of subsequent development projects, the applicants shall demonstrate to the City that temporary erosion control measures will be followed during construction.</p>	<p>Building Permits</p>	<p>City Inspection Services</p>	
<p>C-4 As individual projects are determined, the applicants shall provide detailed information to the City regarding projected water usage. The applicants shall provide all water system needs (including wells, water mains, etc.) for individual projects or pay equivalent fees to insure the construction of the necessary water infrastructure.</p>	<p>Building Permits/ Parcel Maps</p>	<p>City Engineering & Public Works</p>	
<p>C-5 Industrial users shall recycle their own water if feasible and implement water conservation measures and techniques as determined for individual projects.</p>	<p>Building Permits</p>	<p>City Engineering & Public Works</p>	
<p>C-6 Areas within 100-year flood plains will be required to comply with all pertinent provisions of the City's Flood Damage Prevention Ordinance (MMC 17.48) and all updates. (C-7) (General Plan 2-a) When site-specific development proposals with direct discharge into the area's surface water system are submitted to the City for review and action, Best Management options should be evaluated to determine need and feasibility.</p>	<p>Building Permits Subdivision maps/Parcel maps/ Building permits</p>	<p>City Inspection Services & Engineering Engineering</p>	
<p>(C-8) (General Plan 2-b) Water conservation policy of the City should be periodically reviewed to determine need, appropriateness, and feasibility of implementing conservation practices suggested in the Merced Water Supply Plan.</p>	<p>Subdivision maps/Parcel maps/ Conditional Use Permits</p>	<p>Engineering/Public Works/City Planning</p>	

Mitigation Measure	Timing	Agency or Department Consultation	City Verification (date and initials)
<p>E. ANIMAL LIFE</p> <p>E-1 If any future development takes place during the Swainson's Hawk nesting season (late March through July), a pre-construction survey should be conducted by a qualified biologist to determine whether nesting activities are taking place within appropriate portions of the project area covered by this species assessment (Appendix A) (Fahrens Creek corridor from the west edge of "R" Street to the north edge of Yosemite Avenue).</p>	<p>Final Maps</p> <p>Building Permits</p>	<p>City Planning</p> <p>CA Dept of Fish & Game</p>	
<p>E-2 With regard to the Giant Garter Snake, for any development taking place in proximity to the Fahrens Creek corridor, from the west edge of "R" Street to the north edge of Yosemite Avenue: a) provide environmental awareness training to contractors doing work in this area; b) restrict construction along the Creek to only the snake's active season (May 1 through September 30); and c) have a qualified biologist conduct pre-construction surveys 24 hours in advance of construction activities.</p>	<p>Final Maps</p> <p>Building Permits</p>	<p>City Planning</p> <p>CA Dept of Fish & Game</p>	
<p>F. NOISE</p>			
<p>F-1 A 6 foot or higher sound wall or earthen berm (or combination of both), or some other acceptable method for achieving comparable noise reduction, may need to be constructed to meet the City's outdoor noise level standards of DNL 60dB for new residential development adjacent to perimeter arterials (Yosemite Avenue and "R" Street). Depending upon the DNLs and the acoustical shielding provided by the first row of buildings (if any), existing and new residential development located a greater distance from the perimeter arterials may require lower sound walls or a combination of sound attenuation measures. As an alternative to sound walls, new dwelling units may be oriented so that the outdoor use areas would be shielded by the building.</p> <p>As necessary detailed noise projections should be prepared to corroborate earlier noise studies/projections and actual height requirements for sound walls, prior to recordation of final maps for each phase of residential development falling within applicable noise zones.</p>	<p>Final Maps</p> <p>Building Permits</p>	<p>City Planning</p>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
<p>F-2 Project residential developments constructed within pertinent noise zones in proximity to Yosemite Avenue and "R" Street would require sound-rated windows, as well as sound-rated exterior wall assemblies where necessary, or other acceptable methods of sound attenuation to achieve comparable noise reductions, to be consistent with the 45 dB interior noise level maximum.</p>	<p><i>Final Maps</i> <i>Building Permits</i></p>	<p><i>City Planning</i></p>	
<p>F-3 Trucks used for the development of Fahrens Creek will be required to use the City's designated truck routes, to be demonstrated by the project applicant through the submittal of a construction traffic plan to the City Engineer prior to the issuance of grading permits.</p>		<p><i>City Planning</i> <i>City Inspection Services</i></p>	
<p>F-4 All construction activity shall be conducted in accordance with City of Merced standards for times of operation.</p>	<p><i>Building Permits</i></p>	<p><i>City Inspection Services</i></p>	
<p>F-5 Grading and construction activity shall be limited to daylight hours (between 7 a.m. and 7 p.m.) in areas where noise sensitive receptors are located.</p>	<p><i>Building Permits</i></p>	<p><i>City Inspection Services</i></p>	
<p>F-6 In noise sensitive areas, construction equipment, compressors, and generators shall be fitted with heavy duty mufflers specifically designed to reduce noise impacts.</p>	<p><i>Building Permits</i></p>	<p><i>City Inspection Services</i></p>	

Mitigation Measure	Timing	Agency or Department Consultation	City Verification (date and initials)
<p>G. LIGHT AND GLARE</p> <p>The applicants shall utilize lighting fixtures of minimal wattage necessary to provide adequate lighting for security, industrial operations, and circulation. Light spill shall be controlled by baffles, cut-off lenses, and fixture height necessary to minimize spill-over onto adjacent properties. Prior to building permit approvals, lighting plans shall be submitted for review by the City which specifies lighting type, location, and methods for minimizing spill.</p>	<p>Building Permits</p>	<p>City Planning</p>	
<p>M. TRANSPORTATION /CIRCULATION</p>			
<p>M-1 The Project shall pay all fees as required under the City's Public Facilities Impact Fees (Chapter 17.62 of the Merced Municipal Code).</p>	<p>Certificate of Occupancy</p>	<p>City Planning & City Engineer</p>	
<p>M-2 The developer shall construct all collector, local, or cul-de-sac streets within the Project boundaries to their ultimate right-of-way with full frontage improvements as defined by the City of Merced Standard Designs for all Engineering Structures and the Merced Vision 2015 General Plan and any amendments thereto. This will include its proportional share of the proposed Reverse Frontage Road North-South Collector to be located along the west boundary of AREA A/east boundary of AREA B (and, if included, along the east boundary of AREA C), and any new interior streets within the Project boundaries. The timing of construction of the improvements is to be governed by the Subdivision Map Act and/or local ordinance.</p>	<p>Tentative Maps/ Parcel Maps/ Site Plan Reviews</p>	<p>City Planning & Engineering</p>	
<p>M-3 The developer shall dedicate half the required right-of-way for all arterial and higher order streets adjacent to the Project boundaries as defined in the Merced Vision 2015 General Plan. This includes both Yosemite Avenue and "R" Street (each adjacent to AREA A), as well as Highway 59 (currently several design concepts are under study/evaluation by Caltrans) adjacent to AREA B (and, if included, AREA C). Consistent with Mitigation Measure 7.b of the Merced Vision 2015 General Plan EIR, where the extent of right-of-way dedication exceeds the City's development standards for a collector street (currently 74 feet for a collector street located entirely within the Project and 37 feet for a collector abutting the Project), then the developer is eligible for reimbursements in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional dedication.</p>	<p>Tentative Maps/Site Plan Reviews</p>	<p>City Planning & Engineering</p>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
<p>M-4 The developer shall construct the "collector equivalent" (74 feet) portion of the right-of-way, along with full frontage improvements along the Project boundaries and at least one travel lane in each direction, for all arterial and higher order streets within the Project boundaries. Consistent with Mitigation Measure 7b of the Merced Vision 2015 General Plan EIR, where the extent of street improvements exceeds one-half of a "collector equivalent" street for a project fronting only one side of the street, the project is eligible for reimbursement for the cost of improvements exceeding the one-half "collector equivalent" in accordance with the City's Public Facilities Impact Fee Ordinance and guidelines, unless a traffic study determines that the Project's traffic impacts require additional improvements.</p>	<p>Tentative Maps/ Parcel Maps/ Site Plan Reviews</p>	<p>City Planning & Engineering</p>	
<p>M-5 The owner of each adjacent corner within AREA A shall be responsible for one-quarter of the cost of a traffic signal, to City standards and the satisfaction of the City Engineer, at each quarter mile/half-mile collector intersection with Yosemite Avenue, as well as the intersection of Lehigh Drive (extended) with "R" Street, whenever warrants are met in the judgment of the City Engineer. In such a case, installation of an intersection traffic signal by one developer could even be required at any of these locations by the City Engineer prior to full build-out and adjacent properties, if warrants are met, subject to adopted reimbursement requirements. Security shall be determined at the time of first subdivision map or other discretionary action.</p>	<p>Tentative Maps/ Parcel Maps/ Site Plan Reviews</p>	<p>City Planning & Engineering</p>	
<p>(M-6) (General Plan 7a) Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection level of service below "D." (Note: Studies are not anticipated, based upon current projections, but could be required in the event of future changes).</p>	<p>Subdivision Map/ Conditional Use Permit</p>	<p>Engineering</p>	
<p>(M-7) (General Plan 7b) The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service "D" on all road segments and intersections impacted by the development project.</p>	<p>Subdivision Map/ Conditional Use Permit</p>	<p>Engineering/PIanning/ Finance</p>	

N. PUBLIC SERVICES				
FIRE				
N-1	The applicants shall be required to provide a level of accessibility and rangeland management (firebreaks and/or disking) for fire suppression that is acceptable to the City of Merced.	Tentative Maps/ Parcel Maps Building Permits	City Planning & Fire	
SCHOOLS				
N-2	Careful coordination is required between City, developer(s), and School District regarding phasing of infrastructure improvements within the general area, to achieve safe, adequate access for both school construction and operation.	Tentative Maps/ Parcel Maps Building Permits	Planning staff, City Engineer, and City School District	
N-3	Prior to the issuance of building permits, the applicant shall be responsible for the payment of school facility impact fees as adopted by the Merced City School District and Merced Union High School District.	Building Permits	City School District and MUHSD	
(N-4)	(General Plan 8-c) Site designs will need to be reviewed to assure that development does not hinder efficient and cost-effective public services delivery.	Tentative Maps/ Parcel Maps/ Conditional Use Permits	Planning staff, City Engineer, and City School District	
(N-5)	(General Plan 8-d) Development projects will be required to pay public facilities impact fees as established by the City in accordance with the requirements of State law.	Building Permit	Planning Staff/ Finance	

Mitigation Measure		Timing	Agency or Department Consultation	City Verification (date and initials)
T. CULTURAL RESOURCES				
T-1	If evidence of archaeological artifacts is discovered during construction, all operations within an area at and adjacent to the discovered site shall halt until a qualified archaeologist determines the extent of significance of the site.	Building Permits	City Inspection Services	
T-2	On-site preservation of a resource is the preferred alternative. Preserving a cultural deposit maintains the artifacts in context and may prevent inadvertent discovery of, or damage to, human burials. Preservation may be accomplished through a number of means such as capping or covering the site with a layer of soil, fencing the site area, and/or incorporation of the resource in a park area.	Building Permits	City Inspection Services	

Copies of This Form Distributed To:

____ City Council _____ City Manager _____ City Planner _____ Public Works Dir. _____ City Engineer _____ Fire Chief
____ Police Chief _____ Leisure Serv. Dir. _____ County of Merced (Dept. _____) _____ Other (List _____)
____ Responsible Agency: (List _____)

I hereby certify that I have inspected the project site and that the above information is true to the best of my knowledge.

Name: (Print) _____ Representing: (Agency/Firm) _____

Signature: _____ Date: _____