CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, January 6, 2016

Chairperson COLBY 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:	Kurt Smoot, Kevin Smith, Bill Baker, Robert Dylina, Peter Padilla, Jill McLeod, and Chairperson Travis Colby
Commissioners Absent:	None
Staff Present:	Planning Manager Espinosa, Associate Planner Nelson, Senior Deputy City Attorney Rozell, and Recording Secretary Lane

1. APPROVAL OF AGENDA

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

2. MINUTES

M/S PADILLA-SMITH, and carried by unanimous voice vote, to approve the Minutes of December 9, 2015, as submitted.

3. COMMUNICATIONS

None.

4. **ITEMS**

4.1 Conditional Use Permit #1208, initiated by Golden Valley Engineering, on behalf of LJ Steiner, LLC, property owner. This application involves a request to construct a 128-unit apartment complex with 1, 2, and 3 bedroom units on a portion of a 10.42 acre parcel, generally located at the southeast corner of Pacific Drive and Horizons Avenue. This parcel is located within Planned Development (P-D) #46 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, which clarified an issue regarding additional parking spaces. For further information, refer to Staff Report #16-01.

Public testimony was opened at 7:15 p.m.

Speakers from the Audience in Favor:

JOHN HINCHEY, Steiner Development, Modesto, on behalf of the applicant
ASHLEY MCCOMB THANADABOUTH, Golden Valley Engineering, Merced, on behalf of the applicant
DOUG BOYER, Merced
JIM XU, Golden Valley Engineering, Merced, on behalf of the applicant
RICK SEYMOUR, Merced

Both JOHN HINCHEY, ASHLEY MCCOMB THANADABOUTH, and JIM XU requested modifications to Condition #13 since this is part of the Merced Storm Drain Master Plan, a conversation had already taken place with the City Engineer, and metering was not required.

No one spoke in opposition to the project.

Public testimony was completed at 7:41 p.m.

After the Commissioners discussed the parking issues and Condition #13 regarding storm water, they re-opened the public hearing to get further clarification from the applicant regarding the potential extra parking spaces.

Public testimony was re-opened at 7:50 p.m.

JOHN HINCHEY, Steiner Development, Modesto, spoke on behalf of the applicant. He clarified that with 272 total bedrooms and 263 parking spaces, the ratio of spaces to bedrooms was almost 1 to 1 already without adding in the potential extra 59 parking spaces that could be added if that was deemed necessary by the Planning Commission. He added that if that land was not needed for parking, it would be landscaped and would add to the aesthetics of the property.

Public testimony was completed at 7:52 p.m.

M/S PADILLA-DYLINA, and carried by the following vote, to find that the previous environmental review [Initial Study #14-26 (Mitigated Negative Declaration) 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] remains sufficient and no further documentation is required (CEQA Section 15162 Findings), and approve Conditional Use Permit #1208, subject to the Findings and thirty-one (31) Conditions set forth in Staff Report #16-01, amending Condition #13 as follows (RESOLUTION #3060):

"13. At the building permit stage, proper documentation shall be provided to the satisfaction of the City Engineer, showing how storm water will be managed on the site and directed to the City's storm water system. ~~Storm water shall be collected on-site and metered into the City's system. The developer shall provide calculations to confirm there is capacity in the existing storm water system to serve the proposed project. If there is not sufficient capacity, the developer shall provide an alternative to using the existing lines and drainage basin~~."

AYES: Commissioners Smoot, Smith, Baker, Dylina, Padilla, McLeod, and Chairperson Colby

NOES: None
ABSENT: None
ABSTAIN: None

4.2 Conditional Use Permit #1207, initiated by Boos Development on behalf of SEW Enterprises, LLC, property owners. This application involves a request to demolish two existing three-story office buildings and construct a new 12,900-square-foot CVS Pharmacy (with alcohol sales for off-site consumption) and a 4,000-square-foot future retail pad on two parcels containing approximately 2.19 acres, located on the north side of Olive Avenue, approximately 120 feet west of M Street (625 and 645 West Olive Avenue). These parcels are located within Planned Development (P-D) #1 and have a Regional/Community Commercial (RC) 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, which modified Finding H-1, modified Condition #11, and deleted Condition #30, to reflect that the existing alcohol license would be transferred to the new location rather than the applicant obtaining an additional license. For further information, refer to Staff Report #16-02.

Public testimony was opened at 8:21 p.m.

Speaker from the Audience in Favor:

RICH RADOYCIS, Rocklin, representing the applicant

No one spoke in opposition to the project.

Public testimony was completed at 8:22 p.m.

The Commission discussed the driveway on Olive Avenue becoming both an ingress and egress driveway instead of just an ingress. Ms. ESPINOSA noted that if that was to happen, the applicant would need to obtain a letter of approval from the adjacent property owner.

Chairperson COLBY noticed that there was someone in the audience wishing to speak.

Public testimony was re-opened at 8:26 p.m.

Speaker from the Audience in Favor:

YASSER SADEK, Merced, property owner, confirmed that he had spoken to Loren Gonella and would secure the required letter agreeing to the ingress/egress driveway change.

Public testimony was completed at 8:27 p.m.

M/S SMITH-PADILLA, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #15-35, and approve Conditional Use Permit #1207, subject to the Findings and thirty-seven (37) Conditions set forth in Staff Report #16-02, amending Finding H-1, amending Condition #11, and deleting Condition #30 as follows (RESOLUTION #3061):

"Finding H-1
The project site is located within Census Tract 10.04. According to the California Department of Alcoholic Beverage Control, three licenses for the sale of alcohol for off-site consumption are allowed within this census tract. Currently, there are four licenses in the census tract. CVS will be transferring their existing Type 21 License from their existing location within the Merced Mall (also within Census Tract 10.04). The California Department of Beverage Control does not require a Finding of Public Convenience or Necessity (PCN) when a license is transferred within the same census tract even if the census tract is considered to be over-concentrated. ~~Therefore, this census tract is considered over-concentrated and a Finding of Public Convenience or Necessity would be required to be issued by the City Council (Condition #30). It should be noted, however, that one of the four existing licenses belongs to the CVS located within the Merced Mall. This license will eventually be moved to another location. Therefore, once that is done, the number of licenses within this census tract would not be increased over what is~~

~~currently existing, although it would still be considered over-concentrated.~~

"11. Approval of alcohol sales shall not become effective until such time as the transfer of the existing ABC License has been finalized. All alcohol sales shall cease at the existing location prior to alcohol sales beginning at the new location. ~~the City Council makes a Finding of Public Convenience or Necessity to allow the sale of alcoholic beverages at this location. If no such finding is made, the approval for alcohol sales with this Conditional Use Permit becomes null and void~~.

"~~30. Prior to obtaining a license from the Alcoholic Beverage Control to sell alcohol, each business shall obtain approval for a Finding of Public Convenience or Necessity from the Merced City Council.~~"

AYES: Commissioners Smoot, Smith, Baker, Dylina, Padilla, McLeod, and Chairperson Colby
NOES: None
ABSENT: None
ABSTAIN: None

4.3 Conditional Use Permit #1209, initiated by MT2 Telecom, on behalf of SEW Enterprises, LLC, property owners. This application involves a request to construct an 85-foot tall wireless communication tower in the form of a mono-pine tree to allow the relocation of the existing wireless communication towers currently located on top of the existing three-story buildings located at 625 and 645 West Olive Avenue. These parcels are located within Planned Development (P-D) #1 and have a Regional/Community Commercial (RC) General Plan designation.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #16-03.

Public testimony was opened at 8:40 p.m.

Speaker from the Audience in Favor:

SALOMON MARTINEZ, JR. Rio Vista, representing the applicant

No one spoke in opposition to the project.

Public testimony was completed at 8:43 p.m.

M/S PADILLA-SMITH, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #15-38, and approve Conditional Use Permit #1209, subject to the Findings and twenty-three (23) Conditions set forth in Staff Report #16-03 (RESOLUTION #3062):

AYES: Commissioners Smoot, Smith, Baker, Dylina, Padilla, McLeod, and Chairperson Colby
NOES: None
ABSENT: None
ABSTAIN: None

4.4 Cancellation of January 20, 2016, Planning Commission Meeting due to Lack of Items

M/S BAKER-DYLINA, and carried by unanimous voice vote, to cancel the Planning Commission meeting of January 20, 2016.

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

6. **ADJOURNMENT**

There being no further business, Chairperson COLBY adjourned the meeting at 8:46 p.m.

Respectfully submitted,

KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:

TRAVIS COLBY, Chairperson
Merced City Planning Commission

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CITY OF MERCED
Planning Commission

Resolution #3060

WHEREAS, the Merced City Planning Commission at its regular meeting of January 6, 2016, held a public hearing and considered **Conditional Use Permit #1208**, , initiated by Golden Valley Engineering, on behalf of LJ Steiner, LLC, property owner. This application involves a request to construct a 128-unit apartment complex with 1, 2, and 3 bedroom units on a portion of a 10.42 acre parcel, generally located at the southeast corner of Pacific Drive and Horizons Avenue. This parcel is located within Planned Development (P-D) #46 and has a Village Residential (VR) General Plan designation; 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 #16-01; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby find that the previous environmental review [Initial Study #14-26 (Mitigated Negative Declaration) 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] remains sufficient and no further documentation is required (CEQA Section 15162 Findings), and approve Conditional Use Permit #1208, subject to the Conditions set forth in Exhibit A and the Mitigation Monitoring Program adopted 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, set forth in Exhibit B, both attached hereto and incorporated herein by this reference.

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

AYES:	Commissioners Smoot, Smith, Baker, Dylina, Padilla, McLeod, and Chairperson Colby
NOES:	None
ABSENT:	None
ABSTAIN:	None

Adopted this 6th day of January 2016

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval
Exhibit B – Mitigation Monitoring Program

n:shared:planning:PC Resolutions:CUP#1208 Compass Pointe Apt Ph2

Conditions of Approval
Planning Commission Resolution #3060
Conditional Use Permit #1208

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (elevations), and Exhibit 3 (floor plans) -- Attachments B, C, and D of Staff Report #16-01, except as modified by the conditions.

2. All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit 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. The Project shall comply with the conditions set forth in Resolution #3050 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 previously approved for this project, including all mitigation measures required by the Mitigation Monitoring Program for General Plan Amendment #14-04 and the Fahrens Creek Annexation (Attachment G of Staff Report #16-01 and Exhibit B of Planning Commission Resolution).

5. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.

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 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. 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 the first 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.

9. At the time of building permit submittal, a hydrology study prepared by a registered professional engineer or hydrologist shall be submitted showing the impacts of and any required mitigation measures for development within the area designated as a Floodway on the Flood Insurance Rate Map (FIRM). Any development of this area is subject to approval of the City Engineer and Development Services Director (Mitigation Measure H-9 of the Mitigation Monitoring Program 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 previously approved for this project). In addition, sufficient documentation and plans shall be provided to demonstrate to the satisfaction of the City Engineer and Development Services Director/Chief Building Official that all structures on the site are located outside the Floodway area.

10. All missing public improvements along the property frontage shall be installed. This includes, but is not limited to, streets, sidewalks, curbs, gutters, street lights, and water and sewer lines. All improvements shall be constructed per City Standards.

11. The developer shall pay for any improvements installed by prior developments that are eligible for reimbursement by this development.

12. All landscaping shall comply with State Water Resources Control Board Resolution No. 2015-0032 "To Adopt an Emergency Regulation for Statewide Urban Water Conservation" or the most recent water regulations adopted by the State and City addressing water conservation measures. If turf is proposed to be installed in park strips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed. All irrigation provided to street trees or other landscaping shall be provided with a drip irrigation or micro-spray system.

13. At the building permit stage, proper documentation shall be provided to the satisfaction of the City Engineer, showing how storm water will be managed on the site and directed to the City's storm water system.

14. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site. Refuse containers or other items shall not be permitted to be placed in the required clear space of the turning area.

15. Bicycle parking shall meet the minimum requirements of the California Green Building Code.

16. All driveways shall comply with the City of Merced Standard for commercial driveways and are to be reviewed by the Fire Department as part of the review of the improvement plan submittals. A minimum of 20-feet of stacking room outside the gate shall be provided at all driveway entrances.

17. Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Division if required.

18. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

19. Concurrent with or prior to the submittal of a Building Permit Application, the applicant shall submit to the Development Services Department a detailed landscape plan that is consistent with the City's Water Efficient Landscaping & Irrigation Ordinance (Merced Municipal Code 17.60) and all state-mandated drought restrictions.

20. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of at least one tree for each six parking spaces. The documentation provided to allow parking within the flood area shall address the use of trees in the flood area. If trees are not allowed because they may have a negative effect on the floodway, the requirement for parking lot trees shall not apply within the floodway area only.

21. All buildings shall be designed to include commercial fire sprinklers ("13-system") as required by the California Fire Code. Eight-foot wide access-ways to the buildings through the parking lots shall be provided; handicapped loading zones may not be used for this purpose. Details will be worked out with Staff at the building permit review stage.

22. A Knox-box with "click-to-enter" technology for the Fire Department shall be provided at all entrance driveways. Details to be reviewed by the Fire Department as part of the review of the building permit submittals.

23. 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 (Mitigation Measure H-8 of the Mitigation Monitoring Program adopted for General Plan #14-04, Revision #2 to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision #4 to Planned Development (P-D) #46 previously approved for this project).

24. All mechanical equipment shall be screened from public view.

25. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City's Refuse Department to determine the

best location for these enclosures to ensure proper access is provided for City Refuse Trucks.

26. The project shall comply with the City's Multi-Family Design Standards in Merced Municipal Code Section 20.54.290.

27. The project shall comply with the North Merced Sign Ordinance and requirements of Merced Municipal Code Section 17.36.572 regarding signing for apartments and condominiums.

28. Sufficient lighting shall be provided throughout the parking area to provide a safe environment for tenants and visitors. If lighting cannot be provided in the floodway area and sufficient parking cannot be provided elsewhere on the site, the number of units would need to be reduced to comply with the parking requirements. Based on 135 parking spaces, 85 units could be constructed. All lighting shall comply with Mitigation Measure G-1 of the Mitigation Monitoring Program for the Fahrens Creek Annexation.

29. Irrigation for all on-site landscaping shall be provided by a drip system or micro-spray system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city mandated water regulations dealing with the current drought conditions.

30. All private outdoor walking and vehicle and bicycle parking areas shall be properly lighted with ground-mounted lights.

31. Pedestrian access gates shall be provided along each street frontage to allow residents access to the public sidewalk as well as to the City's bike path system.

n:shared:planning:PC Resolutions: CUP#1205 Exhibit A

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

Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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	

Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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	

Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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	

Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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	

Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
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 CEEEK ANNEXATION
TO THE CITY OF MERCED

Appendix C
Mitigation Monitoring Program

ATTACHMENT A

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 initialed 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*	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
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.	*Certificate of Occupancy*	*City Inspection Services*	
A-5	Projects under review shall be required to submit temporary erosion control plans for construction activities.	*Building Permits*	*City Inspection Services*	
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.	*Building permits*	*City Inspection Services*	
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.	*Final Maps*	*City Engineering & Public Works*	
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.	*Building Permits*	*City Inspection Services, Engineering, & Public Works*	
	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.	*Building Permits*	*City Inspection Services*	
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.	*Building Permits*	*City Inspection Services*	
B-3	All material transported off site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.	*Building Permits*	*City Inspection Services*	
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.	*Building Permits*	*City Inspection Services*	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
B-5	Construction site vehicle speeds shall be limited to 15 miles per hour.	*Building Permits*	*City Inspection Services*	
B-6	If used, petroleum-based dust palliatives shall meet the road oil requirements of the District's rule regarding Cutback Asphalt Paving Materials.	*Building Permits*	*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.	*Building Permits*	*City Inspection Services*	
B-8	All internal combustion engine-driven equipment shall be properly maintained and well tuned according to the manufacturer's specifications.	*Building Permits*	*City Inspection Services*	
B-9	When reasonably available and economically feasible, diesel powered or electric equipment shall be utilized in lieu of gasoline powered engines.	*Building Permits*	*City Inspection Services*	
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.	*Building Permits*	*City Inspection Services*	
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).	*Building Permits*	*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.	*Site Plan Approval*	*City Planning*	
(B-13)	(General Plan 1-d) Development construction activity shall implement appropriate dust (PM10) suppression techniques as required by the SJVRAPCD.	*Building Permit/Construction*	*City Inspection Services*	

Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
C. WATER			
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.	*Tentative Maps*	*City Engineering & Public Works*	
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.	*Tentative Maps* *Building Permits* *Conditional Use Permits/Site Plan Approvals*	*City Engineering & Public Works*	
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.	*Building Permits*	*City Inspection Services*	
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.	*Building Permits/ Parcel Maps*	*City Engineering & Public Works*	
C-5 Industrial users shall recycle their own water if feasible and implement water conservation measures and techniques as determined for individual projects.	*Building Permits*	*City Engineering & Public Works*	
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.	*Building Permits* *Subdivision maps/Parcel maps/ Building permits*	*City Inspection Services & Engineering* *Engineering*	
(C-8) (General Plan 2-b) Water conservation policy of the City should be periodically reviewed to determine need, appropri- ateness, and feasibility of implementing conservation practices suggested in the Merced Water Supply Plan.	*Subdivision maps/Parcelmaps/ Conditional Use Permits*	*Engineering/Public Works/ City Planning*	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
	E. ANIMAL LIFE			
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).	*Final Maps* *Building Permits*	*City Planning* *CA Dept of Fish & Game*	
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 Avenu: 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.	*Final Maps* *Building Permits*	*City Planning* *CA Dept of Fish & Game*	
	F. NOISE			
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. 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.	*Final Maps* *Building Permits*	*City Planning*	

Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
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.	*Final Maps* *Building Permits*	*City Planning*	
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.		*City Planning* *City Inspection Services*	
F-4 All construction activity shall be conducted in accordance with City of Merced standards for times of operation.	*Building Permits*	*City Inspection Services*	
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.	*Building Permits*	*City Inspection Services*	
F-6 In noise sensitive areas, construction equipment, compressors, and generators shall be fitted with heavy duty mufflers specifically designed to reduce noise impacts.	*Building Permits*	*City Inspection Services*	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
	G. LIGHT AND GLARE			
G-1	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.	*Building Permits*	*City Planning*	
	M. TRANSPORTATION /CIRCULATION			
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).	Certificate of Occupancy	City Planning & City Engineer	
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.	Tentative Maps/ Parcel Maps/ Site Plan Reviews	City Planning & Engineering	
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.	Tentative Maps/Site Plan Reviews	City Planning & Engineering	

	Mitigation Measure	***Timing***	***Agency or Department Consultation***	***City Verification (date and initials)***
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 7.b 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.	Tentative Maps/ Parcel Maps/ Site Plan Reviews	City Planning & Engineering	
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.	Tentative Maps/ Parcel Maps/ Site Plan Reviews	City Planning & Engineering	
(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 furture changes).	Subdivision Map/ Conditional Use Permit	Engineering	
(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.	Subdivision Map/ Conditional Use Permit	Engineering/Planning/ Finance	

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:_____

CITY OF MERCED
Planning Commission

Resolution #3061

WHEREAS, the Merced City Planning Commission at its regular meeting of January 6, 2016, held a public hearing and considered **Conditional Use Permit #1207,** initiated by Boos Development on behalf of SEW Enterprises, LLC, property owners. This application involves a request to demolish two existing three-story office buildings and construct a new 12,900-square-foot CVS Pharmacy (with alcohol sales for off-site consumption) and a 4,000-square-foot future retail pad on two parcels containing approximately 2.19 acres, located on the north side of Olive Avenue, approximately 120 feet west of M Street (625 and 645 West Olive Avenue). These parcels are located within Planned Development (P-D) #1 and have a Regional/Community Commercial (RC) General Plan designation.; also known as Assessor's Parcel No. 236-220-019 and -020; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through K of Staff Report #16-02; with Finding H-1 amended as follows:

H-1) The project site is located within Census Tract 10.04. According to the California Department of Alcoholic Beverage Control, three licenses for the sale of alcohol for off-site consumption are allowed within this census tract. Currently, there are four licenses in the census tract. CVS will be transferring their existing Type 21 License from their existing location within the Merced Mall (also within Census Tract 10.04). The California Department of Beverage Control does not require a Finding of Public Convenience or Necessity (PCN) when a license is transferred within the same census tract even if the census tract is considered to be over-concentrated.

NOW THEREFORE, 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 #15-35, and approve Conditional Use Permit #1207, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioner(s) Smoot, Smith, Baker, Dylina, Padilla, McLeod and Chairperson Colby

NOES: Commissioner(s) None

ABSENT: None

ABSTAIN: None

Adopted this 6th day of January 2016

Chairperson, Planning Commission of the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution #3061
Conditional Use Permit #1207

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations), -- Attachments C and D of Staff Report #16-02, except as modified by the conditions.

2. All conditions contained in *Resolution* #1249-Amended ("Standard Conditional Use Permit 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. 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 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.

6. 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.

7. Prior to the issuance of a building permit, a Lot Line Adjustment shall be approved modifying the existing property lines and ensuring no building is constructed on top of a property line.

8. All driveways into the site shall meet City Standards. The easternmost driveway on Fairfield Drive shall be modified to meet City Standards. All driveways shall meet handicap accessibility requirements.

9. The developer shall work with the City Engineer to determine the requirements for storm drainage on the site. All storm water shall be captured on-site and metered into the City's storm water system. The developer shall provide all necessary documentation for the City Engineer to evaluate the storm drain system. All storm drain systems shall be installed to meet City Standards.

10. The project shall comply with all the Post Construction Standards required to comply with state requirements for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).

11. Approval of alcohol sales shall not become effective until such time as the transfer of the existing ABC License has been finalized. All alcohol sales shall cease at the existing location prior to alcohol sales beginning at the new location.

12. As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repaired if the permit value of the project exceeds $85,000.00. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State/Federal standards and regulations.

13. A backflow prevention device shall be provided for all water services (i.e., domestic, irrigation, and fire).

14. Parking lot and building lighting shall be shielded or oriented in a way that does not allow "spill-over" onto adjacent lots in compliance with the California Energy Code requirements. Any lighting on the building shall be oriented to shine downward and not spill-over onto adjacent properties.

15. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons, and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from the City's approved tree list). Trees shall be installed at a ratio of at least one tree for each six parking spaces.

16. Concurrent with or prior to the submittal of a Building Permit Application, the applicant shall submit to the Development Services Department a detailed landscape plan that is consistent with the City's Water Efficient Landscaping & Irrigation Ordinance (Merced Municipal Code 17.60) and all state-mandated drought restrictions.

17. The proposed signing at Attachment H is not approved. All signing shall comply with the North Merced Sign Ordinance. Based on the proposed building design, the southern elevation would be allowed 53 square feet of signing and the eastern elevation is allowed 42 square feet of signing. A monument sign is approved subject to compliance with the North Merced Sign Ordinance Section 17.36.665. Signing allotted to a monument sign is deducted from the amounts calculated above for wall-mounted signs. The monument sign shall be located outside the ten-foot visual triangle at the driveway entrance.

18. A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are prohibited.

19. The property owner shall ensure the business occupying the site complies with the City's "Shopping Cart Ordinance." (Merced Municipal Code Chapter 8.30) This includes marking all shopping carts, posting all required signs, and implementing a cart retrieval system.

20. Prior to any demolition work being done (interior or exterior), the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Department if required.

21. All mechanical equipment shall be screened from public view.

22. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

23. Bicycle racks shall be provided at a minimum ratio equal to 5% of the vehicular parking spaces.

24. No sales of alcoholic beverages shall be allowed between the hours of 2:00 a.m. and 6:00 a.m.

25. No beer or wine shall be displayed or stored outside of the cooler area and shall not be displayed within 5-feet of the cash register or front door.

26. The proprietor and/or successors in interest and management shall be prohibited from externally advertising or promoting beer and wine and/or distilled spirits including, but not limited to, window and wall signs, banners or free-standing signs (sandwich boards, A-frames, etc.).

27. Employees on duty between the hours of 10 p.m. and 2 a.m. shall be at least 21 years of age to sell beer and wine.

28. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws and other nuisance-related issues.

29. No display or sale of beer or wine shall be made from an ice tub.

30. No single-serving containers shall be sold separately unless authorized by the City of Merced Police Department. All single-serving beer and wine containers shall be sold as part of a pack or carton.

31. This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.

32. The City reserves the right to periodically review the area for potential problems. If problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and following the procedures outlined in the Merced Municipal Code.

33. If the City Engineer determines a Public Utilities Easement (PUE) is needed along the property frontage on Olive Avenue or Fairfield Drive,

the applicant shall dedicate the area needed for the PUE prior to building permit issuance.

34. The applicant shall work with the City's Refuse Department to determine the best location for the refuse enclosure. The enclosure shall be constructed per City Standards.

35. Conditions, Covenants, and Restrictions (CC&R's) shall be recorded prior to the issuance of a building permit providing cross access to all property owners served by the existing driveways on Olive Avenue and Fairfield Drive and providing a joint parking agreement between the existing parcels (APN: 236-220-019 and -020) and the parcel to the east (El Pollo Loco, APN: 236-220-018).

36. If the westernmost driveway on Olive Avenue is to be modified from entrance only to allow both entering and exiting, a letter signed by the adjacent property owner, Doris M. Gonella, Trustee, shall be provided acknowledging and agreeing to the change prior to building permit issuance.

37. The premises shall remain clean and free of debris and graffiti at all times.

n:shared:planning:PC Resolutions: CUP#1207 Exhibit A

CITY OF MERCED
Planning Commission

Resolution #3062

WHEREAS, the Merced City Planning Commission at its regular meeting of January 6, 2016, held a public hearing and considered **Conditional Use Permit #1209** initiated by MT2 Telecom, on behalf of SEW Enterprises, LLC, property owners. This application involves a request to construct an 85-foot-tall wireless communication tower in the form of a mono-pine tree to allow the relocation of the existing wireless communication towers currently located on top of the existing three-story buildings located at 625 and 645 West Olive Avenue. These parcels are located within Planned Development (P-D) #1 and have a Regional/Community Commercial (RC) General Plan designation; also known as Assessor's Parcel No. 236-220-019 and -020; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #16-03; and,

NOW THEREFORE, 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 #15-38, and approve Conditional Use Permit #1209, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioners Smoot, Smith, Baker, Dylina, Padilla, McLeod, and Chairperson Colby
NOES: None
ABSENT: None
ABSTAIN: None

Adopted this 6th day of January 2016

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions: CUP#1209 625 & 645 W Olive Ave – Cell Tower

Conditions of Approval
Planning Commission Resolution #3062
Conditional Use Permit #1209

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (elevations), and Exhibit 3 (photo simulations), -- Attachments C, D, and E of Staff Report #16-03, except as modified by the conditions.

2. All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit 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. 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 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.

6. 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.

7. In coordination with the Police Department and Fire Department, a frequency/inter-modulation study shall be prepared. Service may not be initiated until these departments have reviewed and have found the study to be acceptable.

8. At the time of building permit submittal, the applicant shall provide certification by a Radio Frequency Engineer, stating the RFR measurements and that they meet FCC radio frequency radiation standards.

9. All landscaping shall comply with State Water Resources Control Board Resolution No. 2015-0032 "To Adopt an Emergency Regulation for Statewide Urban Water Conservation" or the most recent water regulations adopted by the State and City addressing water conservation measures. If turf is proposed to be installed in park strips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed. All irrigation provided to street trees or other landscaping shall be provided with a drip irrigation or micro-spray system.

10. The maximum overall height of the "Mono-Pine" stealth facility shall not exceed 85 feet. The maximum height of the mono-pole shall not exceed 80 feet. Antennas mounted to the stealth facility shall not be mounted higher than 80 feet in height.

11. The design of the mono-pine shall closely resemble the appearance of a real pine tree. At a minimum, the branch pattern on the "Mono-Pine" stealth facility shall have a maximum of 18 inches of height between each other and the lowest branch on the "tree" shall be a maximum of 20 feet above the ground.

12. The "Mono-Pine" stealth facility shall not have any form of steps, ladder, or pegs protruding from its side.

13. The color of the Mono-Pine shall match that of a real pine tree. These colors tend to be green (leaves) and brown (bark) and shall be consistently maintained. The antennas and any mounting equipment shall be painted to match the colors of the "tree."

14. The Mono-Pine stealth facility shall be maintained at all times. At no time shall the Mono-Pine be faded or worn down to a state that would be considered unacceptable to City standards for a Stealth Facility. Should the natural weather elements (wind, rain, etc.) deteriorate any portion of the tree, new items of similar likeness shall be installed, replacing the deteriorated items.

15. No signs, other than warning and safety signage, shall be located on a support tower or ancillary facility.

16. Other than lighting required by the FAA or other regulatory agency for the purpose of safety, lights are not permitted on the "Mono-Pine" pole. Any lighting used on the equipment shelter shall be appropriately "down-shielded" to keep light within the boundaries of the site and not impact surrounding properties.

17. Projections or appendages of any sort are not permitted, except for those related to a common Stealth Telecommunications Tower. If there are antennas projecting outward, they shall be screened behind the branches and shall be painted a color similar to the branches (green).

18. All ancillary equipment shall be contained inside the area enclosed by a solid fence. All ancillary equipment shall be screened from view from the public right-of-way.

19. The proposed 8-foot-tall CMU wall proposed to enclose the cell facility and ancillary equipment is approved as proposed. The gate providing access to the facility shall be of solid material or other approved material that would screen the equipment inside the facility from public view. The CMU wall shall be integrated into the site with landscaping consistent with other landscaping on the site.

20. The site shall be provided with landscaping consistent with the other developments on the site. If the other developments on the site have not been landscaped at the time the cell facility is complete, landscaping for the cell facility may be deferred for a period not to exceed 6 months unless an extension of time is granted by the Development Services Director.

21. Any noise generated by the facility from the equipment or the tower shall be kept to a minimum, so as not to cause a nuisance to the neighborhood.

22. All equipment, fencing, and other surfaces shall be maintained free of graffiti.

23. In order to allow the existing buildings on the site to be demolished in a timely manner and make way for the remainder of the site to be developed, temporary cell towers (C.O.W. – cells on wheels) may be used for a period not to exceed 6 months. The C.O.W.'s shall be located on the project site. Every effort shall be made to locate them in an area that is not highly visible from Olive Avenue. The location of the C.O.W.'s shall be approved by the Planning staff prior to installation.

n:shared:planning:PC Resolutions: CUP#1209 Exhibit A