

**CITY OF MERCED**  
**Planning Commission**

**MINUTES**

Merced City Council Chambers  
Wednesday, July 5, 2018

Chairperson DYLINA called the meeting to order at 7:01 p.m., followed by a moment of silence and the Pledge of Allegiance.

Secretary's Note: At this time, at the request of Chairperson DYLINA, Planning Manager ESPINOSA introduced the newly appointed Planning Commissioner SCOTT G. DREXEL to the Commission.

**ROLL CALL**

Commissioners Present: Mary Camper, Scott G. Drexel, Jeremy Martinez, Peter Padilla, and Chairperson Robert Dylina

Commissioners Absent: Sonia Alshami and Travis Colby

Staff Present: Director of Development Services McBride, Planning Manager Espinosa, Associate Planner Nelson, Planner Mendoza-Gonzalez, Deputy City Attorney Fincher, and Recording Secretary Davis

**1. APPROVAL OF AGENDA**

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

**2. MINUTES**

M/S PADILLA-MARTINEZ, and carried by unanimous voice vote (two absent), to approve the Minutes of June 6, 2018, as submitted.

**3. COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Conditional Use Permit (CUP) #1225, initiated by Juan Mondragon, on behalf of William Lee Liu and Tai Ho Liu, Trustees, property owner. This application involves a request to allow the sale of beer and wine for on-site consumption within a restaurant (Carnitas Michoacan) located at 1540 Yosemite Parkway. The subject site is generally located at the southeast corner at Yosemite Parkway and Shirley Street, within a Neighborhood Commercial (C-N) Zone. (Item was heard originally at the meeting of May 23, 2018).

Commissioner PADILLA recused himself from the hearing due to a professional conflict associated with the applicant.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #18-12 - Addendum.

Mr. MENDOZA-GONZALEZ noted the new crime map included in his report, that he created with the assistance of the Merced Police Department at the request of Chairperson DYLINE and asked the Commission to provide feedback.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened and closed at 7:14 p.m.

M/S CAMPER-MARTINEZ, to adopt a Categorical Exemption regarding Environmental Review #18-46, and approve Conditional Use Permit #1225, subject to the Findings and thirteen (13) Conditions set forth in Staff Report #18-12 Addendum (RESOLUTION #3096):

AYES: Commissioners Camper, Drexel, Martinez, and Chairperson Dylina

NOES: None

ABSENT: Commissioners Alshami and Colby

ABSTAIN: Commissioner Padilla

Commissioner PADILLA returned to the dais.

- 4.2 Vesting Tentative Subdivision Map (VTSM) #1308 (“Bellevue Ranch West Villages 17-22”), initiated by Benchmark Engineering, applicant for Baxter Ranches, LLC, property owner. This application involves the subdivision of approximately 165 acres into 14 large lots. This property is generally located on the west side of M Street, between Bellevue Road and Arrow Wood Drive (extended), within Planned Development (P-D) #42 and has the following General Plan Designations: Regional/Community Commercial (RC), High-Medium Residential (HMD), Low-Medium Residential (LMD), School (SCH), Open Space (OS), and Low Density Residential (LD).

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #18-15.

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

Speaker from the Audience in Favor:

RICK MUMMERT, Benchmark Engineering, Representative of the Applicant, Escalon

There were no speakers from the audience in opposition to the project.

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

Secretary’s Note: Chairperson DYLINA and Commissioner PADILLA disclosed to the Commission that they both had fact-finding meetings with the applicant at separate times prior to the meeting.

M/S PADILLA-CAMPER, and carried by the following vote, to find that the previous environmental review [Environmental Impact Report (EIR) for the Bellevue Ranch Master Development Plan (SCH #9212055)] remains sufficient and no further documentation is required (CEQA Section 15162 Findings) and approve Vesting Tentative Subdivision Map #1308 (“Bellevue Ranch West Villages 17-22”), subject to the Findings and twenty-four (24) Conditions set forth in Staff Report #18-15 (RESOLUTION #3097):

AYES: Commissioners Camper, Drexel, Martinez, Padilla, and Chairperson Dylina

NOES: None

ABSENT: Commissioners Alshami and Colby

ABSTAIN: None

4.3 Cancellation of July 18, 2018, Planning Commission Meeting due to lack of items.

M/S MARTINEZ-CAMPER, and carried by unanimous voice vote (two absent), to cancel the Planning Commission meeting of July 18, 2018, due to lack of items.

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.

Ms. ESPINOSA informed the Commission that Cannabis items will be brought before them starting on the meeting of August 8; with the retail items starting September 19 and 20, for a Wednesday and Thursday meeting.

Commissioners CAMPER, MARTINEZ, and Chairperson DYLINE announced to the Commission that they will be unable to attend the meeting of September 20, 2018, because they will be attending Merced FEAST.

Ms. ESPINOSA suggested a schedule change for the September meetings for Tuesday and Wednesday, September 18 and 19, instead of Wednesday and Thursday.

6. **ADJOURNMENT**

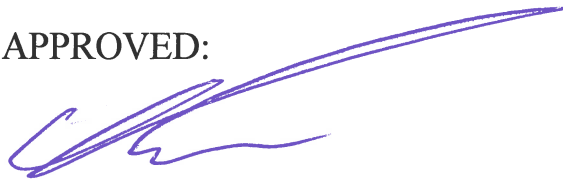
There being no further business, Chairperson DYLINA adjourned the meeting at 7:43 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary  
Merced City Planning Commission

APPROVED:



ROBERT DYLINA, Chairperson  
Merced City Planning Commission

**CITY OF MERCED**  
**Planning Commission**

**Resolution #3096**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of July 5, 2018, held a public hearing and considered **Conditional Use Permit #1225**, initiated by Juan Mondragon, on behalf of William Lee Liu and Tai Ho Liu, Trustees, property owner. This application involves a request to allow the sale of beer and wine for on-site consumption within a restaurant (Carnitas Michoacan) located at 1540 Yosemite Parkway. The subject site is generally located at the southeast corner at Yosemite Parkway and Shirley Street, within a Neighborhood Commercial (C-N) Zone; also known as Assessor's Parcel Number 035-082-001; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through E of Staff Report #18-12 - Addendum; 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 #18-46, and approve Conditional Use Permit #1225, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Camper, seconded by Commissioner Martinez, and carried by the following vote:

**AYES:** Commissioners Camper, Martinez, Drexel, and Chairperson Dylina

**NOES:** None

**ABSENT:** Commissioners Alshami and Colby

**ABSTAIN:** Commissioner Padilla

PLANNING COMMISSION RESOLUTION # 3096

Page 2

July 5, 2018

Adopted this 5<sup>th</sup> day of July 2018

  
\_\_\_\_\_  
Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

  
\_\_\_\_\_  
Secretary

Attachment:

Exhibit A – Conditions of Approval

n:\shared\planning\PC Resolutions: CUP#1225 (Carnitas Michoacan)

**Conditions of Approval**  
**Planning Commission Resolution # 3096**  
**Conditional Use Permit #1225**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (floor plan) - Attachments B and C of Staff Report #18-12 - Addendum.
2. All conditions contained in Resolution #1249 (“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, 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.



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. The restaurant shall meet all applicable Merced County Health Department requirements.
8. The restaurant shall meet all applicable Alcoholic Beverage Control requirements.
9. Alcoholic beverages shall not be allowed outside the building. A future outdoor seating area with alcohol service may be allowed with approval from both the Site Plan Review Committee and Alcoholic Beverage Control.
10. This approval is for alcohol sales as an ancillary use to the primary restaurant only.
11. Request to operate as a nightclub, bar, or similar use shall require an additional review and approval from the Planning Commission.
12. The City reserves the right to periodically review the area for potential problems. Should excessive calls for service or violation of these conditions of approval occur, the City may consider revocation of the Conditional Use Permit (CUP) after a public hearing and following the procedures outlined in the Merced Municipal Code.
13. Alcohol sales shall cease at 11:00 p.m. regardless of the business hours for the restaurant.

n:shared:planning:PC Resolutions: CUP #1225 Exhibit A

**CITY OF MERCED**  
**Planning Commission**

**Resolution #3097**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of July 5, 2018, held a public hearing and considered **Vesting Tentative Subdivision Map #1308**, initiated by Benchmark Engineering, applicant for Baxter Ranches, LLC, property owner. This application involves the subdivision of approximately 165 acres into 14 large lots. This property is generally located on the west side of M Street, between Bellevue Road and Arrow Wood Drive (extended), within Planned Development (P-D) #42 and has the following General Plan Designations: Regional/Community Commercial (RC), High-Medium Residential (HMD), Low-Medium Residential (LMD), School (SCH), Open Space (OS), and Low Density Residential (LD); also known as Assessor's Parcel Numbers (APN) 224-010-009, 224-010-011, and 224-010-021; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through F of Staff Report #18-15; and,

**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 find that the previous environmental review [Environmental Impact Report (EIR) for the Bellevue Ranch Master Development Plan (SCH#9212055)] remains sufficient and no further documentation is required (CEQA Section 15162 Findings), and approve Vesting Tentative Subdivision Map #1308, 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 Camper, and carried by the following vote:

AYES: Commissioners Padilla, Camper, Martinez, Drexel, and Chairperson Dylina

NOES: None

ABSENT: Commissioners Alshami and Colby

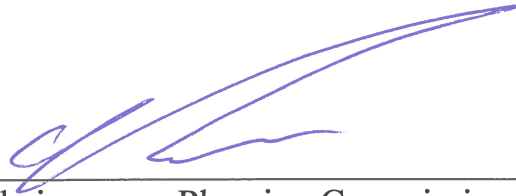
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3097

Page 2

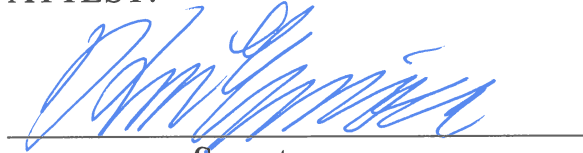
July 5, 2018

Adopted this 5<sup>th</sup> day of July 2018



\_\_\_\_\_  
Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:



\_\_\_\_\_  
Secretary

Attachment:

Exhibit A – Conditions of Approval

N:\SHARED\PLANNING\PC RESOLUTIONS\RESOLUTIONS\ VTSM #1308 (BRW big lots).docx

**Conditions of Approval**  
**Planning Commission Resolution # 3097**  
**Vesting Tentative Subdivision Map # 1308**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (vesting tentative map) -- Attachment C of Staff Report #18-15, except as modified by the conditions.
2. All conditions contained in Resolution #1175-Amended ("Standard Tentative Subdivision Map Conditions") shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. The Project shall comply with the conditions set forth in Bellevue Ranch Master Development Plan (BRMDP) previously approved for this project by City Council Resolution #95-24 adopted May 15, 1995.
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. Should any conflicts arise between the tentative map conditions contained herein and those conditions, mitigation measures, and guiding principles contained in the BRMDP, Appendices D, E, and F, or any other pertinent Sections/Appendices of the BRMDP, said conditions, mitigation measures, guiding principles, and sections/appendices shall take precedence.
9. Consistent with Condition of Approval #91 of the BRMDP, the Backbone Improvement Plans for the Large Lot Final Map shall be reviewed by the local transit authority to locate appropriate locations and designs for bus stop facilities on arterial and collector streets.
10. Prior to development of commercial and multi-family uses within the project area, Site Plan Review or a Conditional Use Permit shall be obtained in accordance with the City's Zoning Ordinance. Further subdivision of the large lots into small lots for single-family development requires a Tentative Subdivision Map.
11. Consistent with Conditions of Approval #39 and #40 of the BRMDP, the necessary right of way shown in the BRMDP for all major arterials, intersections, special intersections, and the M Street Transitway shall be dedicated within the large-lot Final Map to the satisfaction of the City Engineer.
12. Consistent with Condition #75 of the BRMDP, collector streets that do not have fronting lots may utilize the "collector street alternative" design with a 64-foot-wide right-of way. This shall be provided on the Final Map of the large lot subdivision.
13. Consistent with Condition #4 of the BRMDP, a minimum 15-foot-wide landscape buffer area shall be required along Bellevue Road. A solid decorative masonry wall shall be provided in this buffer area adjacent to any residential development.
14. Street names shall be approved by the City Engineer.

15. Offer for dedication, by Final Map, all collector and arterial street rights-of-way and all necessary easements and as needed for irrigation, utilities, drainage, landscaping, and open space.
16. Consistent with Mitigation Measure 4.14.6 of the BRMDP, prior to approval of a Final Map, the project applicant shall submit all plans for review to affected electric utilities.
17. Consistent with Condition #7 of the BRMDP, Lot Z, Lot 17-A and all other lands designated as “Park” on the Master Development Plan or otherwise agreed upon by the applicant and City shall be dedicated with the Final Map.
18. Street frontage improvements for the dedicated park areas within Lot Z and Lot V17-A shall be installed as follows: Lot Z – with the development of Lots V21-B, V21-A, V22-A, and V-22B; Lot V17-A – with the development of Lot V17-C.
19. The Fahrens Creek flood channel/open space corridor shall be dedicated by Final Map. Prior to or concurrent with submittal of a Final Map, the applicant shall provide the Engineering Department with a plan showing the 12-foot-wide path within the 25-foot-wide linear park way along Fahrens Creek.
20. Consistent with Condition #20 of the BRMDP, Site Plan Review is required prior to any grading permits and/or construction of any improvements within the Fahrens Creek corridor including, but not limited to, bicycles/pedestrian paths, tree plantings, habitat installation, aesthetic enhancement, landscape design and landscape construction plans, with input from the California Department of Fish and Wildlife.
21. Developer shall provide landscape/irrigation/wall plans for all areas to be maintained by the City through the Community Facilities District (CFD) for each Village as development occurs within the Village.
22. Project infrastructure improvement plans shall include the provision of adequately sized utilities adjacent to school sites consistent with the BRMDP.
23. Prior to the submittal of the Large Lot Final Map, the developer shall submit a Development and Improvement Phasing Implementation Plan (DIPIP) showing the improvements to be constructed with each Large Lot and the order of expected development. This Plan shall be approved by the City Engineer and will be included as part of the Subdivision Agreement for the Large Lot Final Map. If the proposed large lots are

EXHIBIT A

OF PLANNING COMMISSION RESOLUTION #3097

developed in such a manner that they are not contiguous to existing improvements (i.e., water, sewer, roads, etc.), all intervening improvements between the existing improvement and the Large Lot being developed shall be installed. The DIPIP may require the construction of a road for circulation purposes, an all-weather surface shall be constructed to provide access to the utilities. All street frontage improvements shall include the construction of two-thirds street width with full improvements (sidewalk, curb, gutter, etc.) on the side where the development is occurring. The remainder of the street improvements shall be the responsibility of the large lot that shares the street frontage. Reimbursement for these improvements may be available per Merced Municipal Code (MMC) Sections 15.40.070 and 15.40.080 for sewer and water improvements and Section 17.58.020 for street improvements. Reimbursement for sewer and water lines shall not occur past the 10<sup>th</sup> anniversary of the date the lines were accepted by the City and shall not occur past the 15<sup>th</sup> anniversary of the date the street improvements were accepted by the City.

24. All infrastructure required per Table 6.1 of the BRMDP (or as amended as allowed by the Master Development Plan, Development Agreement, or by City Council) shall be installed at time of development of each large lot.

N:\SHARED\PLANNING\PC RESOLUTIONS\RESOLUTIONS\ Exhibit A VTSM #1308 (BRW big lots).docx