

RESOLUTION NO. 2015-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING A 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, AND
APPROVING GENERAL PLAN AMENDMENT
#14-04 AND REVISION #2 TO THE FAHRENS
CREEK SPECIFIC PLAN CHANGING THE
LAND USE DESIGNATION FROM LOW
DENSITY RESIDENTIAL (LD) TO VILLAGE
RESIDENTIAL (VR) FROM AN
APPROXIMATELY 6 ACRE PORTION OF AN
APPROXIMATELY 10.42 ACRE PARCEL
LOCATED AT THE SOUTHEAST CORNER OF
PACIFIC DRIVE AND HORIZONS AVENUE**

WHEREAS, the City is processing an application for a General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision for approximately 6 acres of an approximately 10.42 acre parcel located at the southeast corner of Pacific Drive and Horizons Avenue, and more fully described in the legal description attached as Exhibit "A" and the map attached as Exhibit "B," both of which are incorporated herein by this reference; and

WHEREAS, environmental review was required for this project; and

WHEREAS, the Planning Commission of the City of Merced held a noticed public hearing on May 20, 2015, at which time all those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding the application; and

WHEREAS, after hearing all of the evidence and testimony, the Planning Commission adopted Resolution #3050, attached hereto as Exhibit "C," and incorporated herein by reference, recommending that the City Council approve General Plan Amendment #14-04, Revision #2 to the Fahrens Creek Specific Plan, and Environmental Review #14-26 (Mitigated Negative Declaration); and

WHEREAS, the City Council held a noticed public hearing on July 20, 2015, at which time all those interested in the matter were provided the opportunity to speak or to provide written or oral testimony regarding the application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MERCED AS FOLLOWS:

SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT.
Based upon the evidence and testimony in the record at the City Council public hearing, the City Council exercising its independent judgment and review, hereby adopts and approves the Mitigated Negative Declaration following Environmental Review #14-26 pursuant to the provisions of the California Environmental Quality Act.

SECTION 2. GENERAL PLAN AMENDMENT ADOPTION. The General Plan of the City of Merced is hereby amended by approving General Plan Amendment #14-04, which changes the General Plan designation for approximately 6 acres of an approximately 10.42 acre parcel located at the southeast corner of Pacific Drive and Horizons Avenue from Low Density Residential (LD) to Village Residential (VR).

SECTION 3. ADOPTION OF REVISION TO FAHRENS CREEK SPECIFIC PLAN. The Fahrens Creek Specific Plan is hereby revised by approving Revision #2 to the Fahrens Creek Specific Plan, which changes the land use designation from Low Density Residential (LD) to Village Residential (VR) for approximately 6 acres of an approximately 10.42 acre parcel located at the southeast corner of Pacific Drive and Horizons Avenue.

SECTION 4. APPROVAL OF DEVELOPER AGREEMENT. The Developer Agreement between the City of Merced and L.J. Steiner, LLC, a California Limited Liability Company, pertaining to the approvals granted herein and the development of the property subject to these approvals is hereby approved. The approvals granted herein are contingent upon the property owner executing and returning the Developer Agreement and the documents being recorded. The City Manager is hereby authorized to execute the Developer Agreement on behalf of the City of Merced.

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PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2015, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
JOHN M. BRAMBLE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Ken Rydell 7/15/15
City Attorney Date

EXHIBIT A

An approximately 6.76 acre portion on the easterly side of Parcel B as shown on that certain map entitled "Parcel Map for Mathew and Barbara Bruno.," recorded in Volume 95, Page 16 of Merced County Records; also known as Assessor's Parcel Number (APN): 206-070-006.

GENERAL PLAN AMENDMENT #14-04 &
REVISION #2 TO THE FAHRENS CREEK SPECIFIC PLAN

ST TROPEZ

DAYLIGHT

EARLY LIGHT

PINNACLE

SUNLIGHT

SUNUP

SOLSTICE

DAYBREAK

PACIFIC

GENERAL PLAN AMENDMENT #14-04 &
REVISION #2 TO THE FAHRENS CREEK
SPECIFIC PLAN:

Change from Low Density Residential (LD)
to Village Residential (VR)

MORNING DOVE

HORIZONS

COMPASS POINT

STINSON

YOSEMITE

ESPLANADE

Legend

-  General Plan Amendment
-  Specific Plan Revision

CA
LAGUNA

MAZATLAN

CLARO

EXHIBIT B



CITY OF MERCED
Planning Commission

Resolution #3050

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

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

D) *Storm Drainage*

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

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

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

AYES: Commissioners Padilla, Smoot, Smith, Colby, and Chairperson Williams
NOES: None
ABSENT: Commissioner McCoy (one vacancy)
ABSTAIN: None

EXHIBIT C

PLANNING COMMISSION RESOLUTION # 3050

Page 2

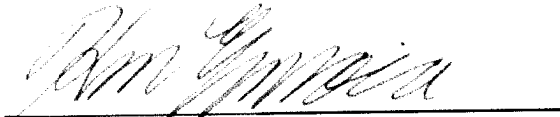
May 20, 2015

Adopted this 20th day of May 2015



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Exhibit B – Mitigation Monitoring Program

n:\shared\planning\PC Resolutions\GPA#14-04\REV#2 to FCSP\SUP REV#4 to PD#46 Bruno

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

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

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

6. In accordance with Merced Municipal Code Section 20.42.130, this project will be constructed according to the following development schedule: construction shall begin no later than January 1, 2016 with completion of construction by June 1, 2017. On each anniversary of the approval of this application until the entire project is constructed, an updated development schedule shall be submitted to the Planning Division.
7. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

8. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
9. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before final map approval or the issuance of a building permit. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
10. Conditional Use Permit approval is required prior to development of any project on this site.
11. At the time this site is developed, all public improvements shall be installed along the property frontage (including frontage on Pacific Drive, Stinson Drive, Horizons Avenue, and Compass Pointe Avenue).
12. Any development on the site shall comply with all mitigations measures outlined in Initial Study #14-26 (Attachment H of Planning Commission Staff Report #15-05 – 3rd Addendum) and described in the mitigation monitoring program found at Attachment L of Attachment H of Planning Commission Staff Report #15-05 – 3rd Addendum.

n:\shared\planning\PC Resolutions\GPA#14-04\Rev#2 to FCSP\SUP Rev#4 to PD#46 Bruno Exhibit A

ENVIRONMENTAL REVIEW #14-26 Mitigation Monitoring Program
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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
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				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
O-1	O-1) The project shall comply with all applicable mitigation measures for Expanded Initial Study #00-31 for Pending Annexation #00-03, Pre-zoning #00-03, and General Plan Amendment #00-09 (Attachment A).	Building Permit	Inspection Services / Planning Department / Engineering	

Certificate of Completion:

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

 Environmental Coordinator

 Date

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

Appendix C
Mitigation Monitoring Program

MITIGATION MONITORING CONTENTS

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

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

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

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

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

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

MITIGATION MONITORING PROCEDURES

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

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

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

GENERAL PLAN MITIGATION MEASURES

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

NONCOMPLIANCE COMPLAINTS

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

MONITORING MATRIX

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

Mitigation Measure:	Summarizes the Mitigation Measure (referenced by number) identified in Expanded Initial Study #00-31.
Timing:	Identifies at what point in time or phase of the project that the mitigation measure will be completed.
Agency/Department Consultation:	This column references any public agency or City department with which coordination is required to satisfy the identified mitigation.
Verification:	These columns will be 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 Consulted	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	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultant</i>	<i>City Verification (date and initials)</i>
B-5 Construction site vehicle speeds shall be limited to 15 miles per hour.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-6 If used, petroleum-based dust palliatives shall meet the road oil requirements of the District's rule regarding Cutback Asphalt Paving Materials.	<i>Building Permits</i>	<i>SJVUAPCD</i>	
B-7 Streets adjacent to the Project site shall be swept as needed to remove silt and/or mud that may have accumulated from construction activities. The streets are required to be wet prior to or in conjunction with rotary sweeping.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-8 All internal combustion engine-driven equipment shall be properly maintained and well tuned according to the manufacturer's specifications.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-9 When reasonably available and economically feasible, diesel powered or electric equipment shall be utilized in lieu of gasoline powered engines.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-10 Construction activities shall minimize obstruction of through traffic lanes adjacent to the site and a flag person shall be retained to maintain safety adjacent to existing roadways.	<i>Building Permits</i>	<i>City Inspection Services</i>	
B-11 Prior to issuance of a grading permit, the project will be required to comply with District Regulation VIII. Specifically, the rules that apply to this project are: Rule 8010 (Administrative Requirements) and Rule 8020 (Construction, Demolition, Excavation, and Extraction Activities). Additional rules that may apply to this project depending on construction practices employed are: Rule 8030 (Handling and Storage of Bulk Materials), Rule 8060 (Paved and Unpaved Roads), and Rule 8070 (Parking, Shipping, Receiving, Transfer, Fueling, and Service Areas).	<i>Building Permits</i>	<i>SJVUAPCD</i>	
B-12 At the City Planner's discretion, subsequent projects within the Project boundaries may be required to submit an air quality analysis to the City prior to construction. Such studies shall outline any impacts associated with specific processes or activities to be present on-site.	<i>Site Plan Approval</i>	<i>City Planning</i>	
(B-13) (General Plan 1-d) Development construction activity shall implement appropriate dust (PM10) suppression techniques as required by the SJVRAPCD.	<i>Building Permit/Construction</i>	<i>City Inspection Services</i>	

Mitigation Measure	Timing	Agency or Department Contribution	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 <i>Merced County Critical Area Flooding and Drainage Plan</i> 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	
(C-8) (General Plan 2-b) Water conservation policy of the City should be periodically reviewed to determine need, appropriateness, and feasibility of implementing conservation practices suggested in the Merced Water Supply Plan.	Subdivision maps/Parcel maps/ 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 Avenue: a) provide environmental awareness training to contractors doing work in this area; b) restrict construction along the Creek to only the snake's active season (May 1 through September 30); and c) have a qualified biologist conduct pre-construction surveys 24 hours in advance of construction activities.	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	

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

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 future 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 diskings) 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				
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: _____