

CITY OF MERCED
Planning Commission

Resolution #3093

WHEREAS, the Merced City Planning Commission at its regular meeting of Wednesday, May 9, 2018, held a public hearing and considered **Zone Change #425**, and Environmental Review #18-11, initiated by Merced Gateway LLC. This application involves amending the Zoning of two parcels from Agricultural (A-1-20) to Business Park (B-P), consistent with the parcels' existing General Plan designations. The parcels total 71.135 acres and are located approximately 1,300 feet east of Coffee Drive along the north and south sides of Campus Parkway to approximately 264 feet west of the intersection of Gerard Avenue and Campus Parkway, between Gerard Avenue and Mission Drive.; also known as Assessor's Parcel Numbers 061-250-094 and 061-250-050; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #18-07 2nd Addendum; 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 recommend to City Council to find that the previous environmental review (Merced Vision 2030 General Plan EIR, SCH# 2008071069) remains sufficient and no further documentation is required (CEQA Section 15162), and recommend approval of Zone Change #425 and Environmental Review #18-11, 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, Padilla, and Chairperson Dylina
NOES: None
ABSENT: Commissioners Alshami and Colby
ABSTAIN: None

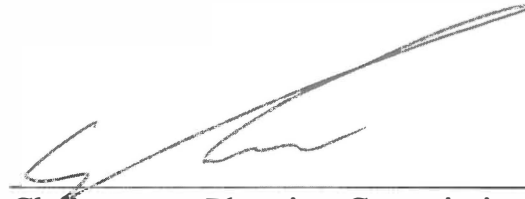
ATTACHMENT 3

PLANNING COMMISSION RESOLUTION # 3093

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May 9, 2018

Adopted this 9th day of May, 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 3093
Zone Change #425

1. The Zoning Designation shall be changed from Agricultural (A-1-20) to Business Park (B-P) for the property shown in Attachment A of Staff Report #18-07 2nd Addendum.
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 applicable mitigation measures set forth in Expanded Initial Study #97-22 for the Lyons Annexation to the City of Merced, Attachment E of Planning Commission Staff Report #18-07 (Item M-5 is for improvements not located on the site of the Project and is not applicable).
4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
5. Approval of the Zone Change is subject to the applicant's entering into a written Legislative Action 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. 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

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #3093

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 storm drainage, public landscaping within State Highway rights-of-way, street trees, and street lights. CFD procedures shall be initiated before any final permit approval. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
9. All development on the site would be subject to the Interface Regulations of Chapter 20.32 of the City's Zoning Ordinance. Therefore, all permitted uses on lots of the site that are across Gerard Avenue from homes in the R-1-5 Zone would be subject to Site Plan Review.
10. Access to Campus Parkway will be limited solely to Pluim Drive; no other curb cuts to Campus Parkway shall be permitted.

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