

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

**MINUTES**

Merced City Council Chambers  
Wednesday, June 6, 2018

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

**ROLL CALL**

Commissioners Present: Sonia Alshami, Mary Camper, Travis Colby, Jeremy Martinez, Peter Padilla, and Chairperson Robert Dylina

Commissioners Absent: None, (one vacancy)

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 ALSHAMI-COLBY, and carried by unanimous voice vote (one vacancy), to approve the Agenda as submitted.

**2. MINUTES**

M/S ALSHAMI-COLBY, and carried by unanimous voice vote (one vacancy), to approve the Minutes of May 23, 2018, as submitted.

**3. COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Conditional Use Permit (CUP) #1226, initiated by Jana Nairn on behalf of Mark McAuley and Jeanne McAuley, Trustees, property owner. This application involves a request to establish a food truck parking area (for multiple food trucks with outdoor seating) within the parking lot at 825 W. Main Street, generally located on the north side of Main Street, approximately 150 feet west of O Street, within a Central Commercial (C-C) Zone.

Commissioner CAMPER recused herself 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 #18-13.

Staff noted an email provided by Commissioner COLBY prior to the meeting, regarding public comment on the project site.

Public testimony was opened at 7:14 p.m.

Speaker from the Audience in Favor:

DEBRA TANACHIM, Representative for applicant, Winton

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

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

M/S PADILLA-COLBY, to adopt a Categorical Exemption regarding Environmental Review #18-47, and approve Conditional Use Permit #1226, subject to the Findings and twenty-eight (28) Conditions set forth in Staff Report #18-13 (RESOLUTION #3094):

AYES: Commissioners Alshami, Colby, Martinez, Padilla, and Chairperson Dylina

NOES: None

ABSENT: None, (one vacancy)

ABSTAIN: Commissioner Camper

Commissioner CAMPER returned to the dais.

- 4.2 Extension of Vesting Tentative Subdivision Map (VTSM) #1291 (“Bright Homes”), initiated by Bright Development. This application involves a request for an extension of time for filing a final map for VTSM #1291. VTSM #1291 was approved on January 16, 2007, to allow the subdivision of 39.8 acres of land into 168 single-family lots generally located on the east side of G Street at Merrill Place (extended) within an R-1-5 zone with a General Plan designation of Low Density Residential (LD). This extension request was referred to the Planning Commission for final action by the City’s Site Plan Review Committee on March 15, 2018. (Item continued from meeting of April 18, 2018).

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #18-10.

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

Speakers from the Audience in Favor:

DAVE BUTZ, Bright Development, Applicant, Modesto

RICK TELEGAN, Exposition Properties, LLC., Fresno

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

Public testimony was completed at 7:32 p.m.

M/S PADILLA-COLBY, to approve the Extension of Vesting Tentative Subdivision Map #1291 (“Bright Homes”), subject to the Findings and twenty-nine (29) Conditions set forth in Staff Report #18-10, with additional Conditions #30 and #31 (RESOLUTION #2904):

AYES: Commissioners Alshami, Camper, Colby, Martinez, Padilla, and Chairperson Dyline

NOES: None

ABSENT: None, (one vacancy)

ABSTAIN: None

- 4.3 Annexation and Pre-zoning #15-01, General Plan Amendment #15-04, and associated Pre-Annexation Development Agreement, initiated by Louann Bianchi, and Quad LLC, property owners. This application involves annexing 8.83 acres of land at the northwest and southwest corners of North Highway 59 and Santa Fe Drive into the City of Merced; changing the General Plan designation for the northwest corner from Open Space (OS) to Thoroughfare Commercial (CT) and pre-zoning the northwest corner as Thoroughfare Commercial (C-T) for the Thoroughfare Commercial development. The General Plan designation for the southwest corner would remain Industrial (IL) and this corner would be pre-zoned Light Industrial (I-L).

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #18-14.

Public testimony was opened at 7:56 p.m.

Speakers from the Audience in Favor:

SURINA MANN, 59 Petroleum Development, Representative for Applicant, Danville

ADAM REED, VVH Engineering Consulting, Project Representative, Atwater

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

Public testimony was completed at 7:59 p.m.

Commissioner PADILLA inquired what the applicants' plans were in reference to Black Rascal Creek.

Planning Manager ESPINOSA assured the Commission that the applicant would still need to meet the requirements of the City's Flood Ordinance even though the LOMAR removed it out of the floodway.

Ms. ESPINOSA explained that Black Rascal Creek lays outside the annexation area.

M/S ALSHAMI-MARTINEZ, to recommend to City Council adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program regarding Initial Study #15-36, and approval of Pending Annexation and Pre-zoning Applications #15-01 and General Plan Amendment #15-04, subject to the Findings and twenty-six (26) Conditions set forth in Staff Report #18-14 (RESOLUTION #3095):

AYES: Commissioners Alshami, Camper, Colby, Martinez, and Chairperson Dylina

NOES: Commissioner Padilla

ABSENT: None, (one vacancy)

ABSTAIN: None

4.4 Cancellation of June 20, 2018, Planning Commission Meeting due to lack of items.

M/S ALSHAMI-MARTINEZ, and carried by the following vote, to cancel the Planning Commission meeting of June 20, 2018:

AYES: Commissioners Alshami, Camper, Colby, Martinez, Padilla, and Chairperson Dylina

NOES: None

ABSENT: None, (one vacancy)

ABSTAIN: None

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

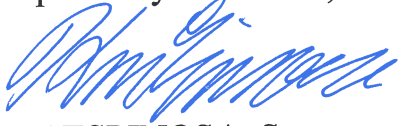
Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

June 6, 2018

6. **ADJOURNMENT**

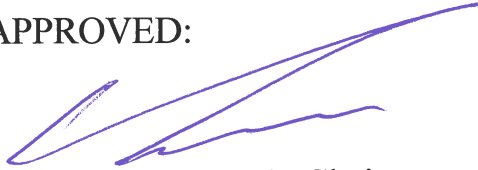
There being no further business, Chairperson DYLINEA adjourned the meeting at 8:15 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary  
Merced City Planning Commission

APPROVED:



ROBERT DYLINEA, Chairperson  
Merced City Planning Commission

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

**Resolution #3094**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of June 6, 2018, held a public hearing and considered **Conditional Use Permit #1226**, initiated by Jana Nairn on behalf of Mark McAuley and Jeanne McAuley, Trustees, property owner. This application involves a request to establish a food truck parking area (for multiple food trucks with outdoor seating) within the parking lot at 825 W. Main Street, generally located on the north side of Main Street, approximately 150 feet west of O Street, within a Central Commercial (C-C) Zone.; also known as Assessor's Parcel Number 031-123-010; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through I of Staff Report #18-13; 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 #18-47, and approve Conditional Use Permit #1226, 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 COLBY and carried by the following vote:

AYES: Commissioners Alshami, Colby, Martinez, Padilla, and Chairperson Dylina

NOES: None

ABSENT: None, (One Vacancy)

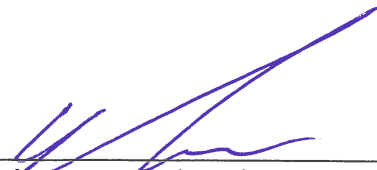
ABSTAIN: Commissioner Camper

PLANNING COMMISSION RESOLUTION # 3094

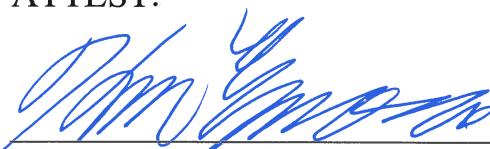
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June 6, 2018

Adopted this 6<sup>th</sup> day of June 2018

  
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Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

  
\_\_\_\_\_  
Secretary

Attachment:

Exhibit A – Conditions of Approval

n:\shared\planning\PC Resolutions: CUP#1226 (Tri-Tipery food truck)



**Conditions of Approval**  
**Planning Commission Resolution # 3094**  
**Conditional Use Permit #1226**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (photos of food truck exterior) - Attachments B and C of Staff Report #18-13, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) 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 applicant and all participating food truck vendors onsite shall comply with all City of Merced business licensing requirements and with all requirements of the Merced County Environmental Health Department. The applicant shall be responsible for ensuring that all food truck vendors meet this requirement.
8. At least two trash receptacles per food truck shall be provided while food is being served. The site and the immediate surrounding area shall be maintained free of all debris and trash generated from this use. Any permanent trash receptacles placed within the outdoor seating area shall be of the tamperproof variety.
9. All signing shall be contained on the food trucks. No A-frame signs, banners, inflatable signs, feather signs, pennant signs, flags, or other moving or portable signs shall be permitted for this use anywhere onsite. (Some of these signs may be allowed during the applicant's 30-day grand opening period only).
10. The hours of operation shall be any span of time between 7:00 a.m. and 9:00 p.m. and the business may be open 7 days a week. If the applicant wishes to extend the business hours in the future, they must obtain approval from the Director of Development Services and the Police Chief, or if deemed necessary by the Director of Development Services, be referred back to the Planning Commission for action.
11. If the business is open after dark, lights shall be provided on the vehicle or on the property that are sufficient to light the vehicle and at least a 50-foot radius around the vehicle. If lights are not provided, the business shall close at sundown.
12. Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility.

13. The applicant shall ensure that all food truck vendors onsite comply with the Water Quality Control Division's (WQCD) Best Management Practices regarding the disposal of cooking grease and proper cleaning of kitchen equipment, as shown on Attachment D, or as otherwise required by the WQCD.
14. If problems arise as a result of this business that may require excessive Police Department service calls to the site or within the immediate area including, but not limited to, excessive harassment, malicious property damage, lewd and/or disorderly conduct, this approval may be subject to review and revocation by the City of Merced.
15. In the future, if there are excessive calls for police assistance, the Police Chief may require the applicant to install exterior video surveillance cameras. Any video related to criminal investigations must be accessible immediately for viewing by the Merced Police Department or any other law enforcement agency. A recorded copy of surveillance video, requested in connection with a criminal investigation, must be reasonably accessible and available within 24 hours when requested by law enforcement. The business owner is responsible for maintaining the video surveillance equipment in an operable manner at all times.
16. Food trucks shall be oriented in a manner that allows room for customers to gather without being in danger of collisions from vehicles entering/exiting the site. The food truck shall not block the driving aisle or access to the alley.
17. It shall be the applicant's responsibility to ensure all customers park in an orderly fashion and do not block the driveway entrances or interfere with other customers driving through the site to access the adjacent parcel to the east.
18. The applicant shall comply with all regulations found in Merced Municipal Code Section 20.44.020 - Food Trucks in Fixed Locations, except as modified by these conditions.
19. The applicant shall provide parking at a ratio of 2 parking stalls per food truck onsite or 1 parking stall per every 2.5 seats, whichever number is greater. The new parking spaces shall be designed to meet Zoning requirements and the City's Engineering Standards.
20. The parking stalls shall be striped with paint.

21. Food truck activities shall in no way interfere with the operation of nearby businesses, including noise, litter, loitering, and traffic circulation. Public safety must be a high priority.
22. The owner shall ensure that restroom facilities are available for the employees. These restrooms shall be provided in a permanent building that meets the Health Department's requirements for distance from the business operation. Portable toilets shall not be allowed.
23. The sale of alcohol is prohibited.
24. The applicant shall submit a design review application for the outdoor seating area prior to installing it.
25. The applicant shall either install bollards around the outdoor fence or incorporate them into the fence, as required by the Building Department.
26. Minor adjustments to the site plan may be reviewed and approved by the Director of Development Services, or if deemed necessary, be referred to the Planning Commission.
27. Any music (live or played over outdoor speakers) shall be kept to a minimum noise level so as not to travel outside the immediate area and disturb the surrounding businesses. Music may be played anytime between the hours of 7:00 a.m. and 9:00 p.m.
28. Any outdoor heating units used onsite shall be listed and approved by the Fire Department.

n:shared:planning:PC Resolutions: CUP #1226 Exhibit A

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

**Resolution #2904**

|                                                          |
|----------------------------------------------------------|
| AMENDED by Planning Commission on<br>6/6/18 – see pg. 10 |
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| Extended on 7/15/08, 7/15/09, 7/15/11, 7/11/13,<br>and 10/10/15–See Pages 9-10 |
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|-------------------------------------------|
| AMENDED by City Council on 1/16/07 – Pg 3 |
|-------------------------------------------|

**WHEREAS**, the Merced City Planning Commission at its regular meeting of November 8, 2006, held a public hearing and considered **Vesting Tentative Subdivision Map #1291** (“Bright Development”), initiated by Golden Valley Engineering, applicants for Bright Homes Corporation, property owner, to allow the subdivision of 39.8 acres into 168 single-family residential lots. The area is located east of G Street, and ¼ mile north of Cardella Road within an R-1-5 (Low Density Residential, 5,000-square-foot lot minimum) pre-zone; also known as Assessor’s Parcel No. 061-030-017 and -038; and,

**WHEREAS**, the Merced City Planning Commission does not concur with Findings A through V of Staff Report #06-41 – 4<sup>th</sup> Addendum, and finds as follows in additional Finding W:

“W. During their testimony during the public hearing, the project applicants indicated that they wanted changes to Condition Numbers 2, 16, 20, & 21 and the deletion of Condition #29. Planning staff indicated that these changes were not recommended since they appeared to be in conflict with the Voting Rights Act and the adopted Pre-Annexation Development Agreement signed by the applicants. The Planning Commission reviewed various documents regarding the Annexation Agreement and the City Attorney clarified the delay with the recordation of the annexation pending required pre-clearance under the Voting Rights Act.

“At that time, the Commission indicated that they didn't feel they had enough information to make a decision to approve the project at this point and they did not want to contradict the previous agreements. However, the applicants had asked that a decision be made at this meeting due to the previous continuances. Given the above, the Planning Commission voted to deny the applications and informed the applicants that they could appeal their decision to the City Council.”

**WHEREAS**, after reviewing the City’s Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning

PLANNING COMMISSION RESOLUTION #2904

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November 8, 2006 / January 16, 2007 / August 3, 2010 / July 15, 2011 / July 11, 2013 /  
October 10, 2015 / June 6, 2018

**WHEREAS**, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby deny Vesting Tentative Subdivision Map #1291.

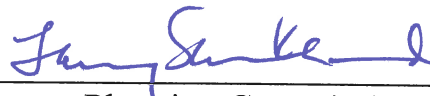
Upon motion by Commissioner Amey, seconded by Commissioner Burr, and carried by the following vote:

AYES: Commissioners Acheson, Amey, Burr, and Chairman Shankland

NOES: Commissioner Ward

ABSENT: Commissioners Conte and Fisher

Adopted this 8<sup>th</sup> day of November, 2006



Chairman, Planning Commission of  
the City of Merced, California

ATTEST:

  
Secretary

## PLANNING COMMISSION RESOLUTION #2904

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November 8, 2006/January 16, 2007/July 15, 2008/July 15, 2009/July 15, 2011/July 11, 2013/Oct. 10, 2015/June 6, 2018

**January 16, 2007:** At their regularly scheduled City Council meeting of January 16, 2007, the City Council considered the Applicant's appeal of the Planning Commission Denial of Vesting Tentative Subdivision Map #1291 ("Bright Development") and took the following action:

Upon Motion by Council Member Gabriault-Acosta, Seconded by Council Member Pollard, duly carried, resolved, to approve Findings A through S, finding that the previous environmental review [Expanded Initial Study #04-02 (Mitigated Negative Declaration) for the Absolute/Leeco Annexation] remains sufficient and no further documentation is required (Subsequent EIR/ND Section 15162 Findings), and approves Vesting Tentative Subdivision Map Application No. 1291 ("Bright Development"), subject to the amended conditions as recommended by Staff to the Planning Commission on November 8, 2006, and modification of Condition #21 of Staff Report No. 06-42 – 4<sup>th</sup> Addendum, as follows:

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (Proposed Vesting Tentative Map) - Attachment C, subject to the listed conditions.
2. All conditions contained in Resolution #1175-Amended ("Standard Tentative Subdivision Map Conditions") shall apply, as well as conditions and mitigation measures spelled out in the Pre-Annexation Development Agreement for Absolute/Leeco Annexation (including the need to comply with the 6-minute emergency response time in the Pre-Annexation Development Agreement), adopted April 17, 2006, and any subsequent amendments (see Attachment F for mitigation measures).
3. The proposed project shall comply with all standard Municipal Code (including R-1-5 design standards) 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.

## PLANNING COMMISSION RESOLUTION #2904

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5. 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. 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.
6. The developer/applicant shall indemnify, protect, defend, 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, or proceedings 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. 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. Street names to be approved by City Engineer.
9. Dedicate, by Final Map, all interior street rights-of-way and all necessary easements and as needed for irrigation, utilities, drainage,



## PLANNING COMMISSION RESOLUTION #2904

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- landscaping, and open space, including any right-of-way necessary to reflect the modified alignment of the north-south oriented collector road in the eastern portion of the project located adjacent to the park and linear open space corridor.
10. Developer shall design storm drainage with consideration as to whether the shared pump station pumping rate can or needs to be constructed in phases. Developer shall share costs of pump station with the subdivision to the north (“Palisades Park”) if joint use occurs, or if pump station is necessary. Storm drainage shall comply with City Storm Drainage Master Plan.
  11. Developer shall design sanitary sewer with consideration as to whether the shared pump station pumping rate can or needs to be constructed in phases. Developer shall share costs of pump station with the subdivision to the north (“Palisades Park”) if joint use occurs, or if pump station is necessary.
  12. Dedicate additional G Street right-of-way and easements to match *Merced Vision 2015 General Plan* requirements for 128-foot wide arterial, plus landscape and public facilities easements of 15-feet in width, including the construction of a 6-foot high masonry wall. Consistent with Planning Commission Resolution #2871 (Absolute Leeco Annexation), all of “G” Street within the annexation boundary shall be constructed at the time of improvements for the first tentative map, along with all other requirements listed in Condition #7 of said Resolution.
  13. Dedicate additional right-of-way and easements along the northern half of Merrill Avenue to match *Merced Vision 2015 General Plan* requirements for 74-foot wide collector (37-feet of ROW), plus landscape and public facilities easements varying from 10-feet to 12-feet in width, including the construction of a 6-foot high masonry wall along the northern portion of the roadway. These improvements shall terminate at the northeast corner of the intersection of Merrill Avenue and “K” Drive as indicated on the Tentative Map.

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14. Provide for City review and approval of landscape/irrigation plans, prepared by a licensed landscape architect, for all areas of landscaping that are to be maintained by City.
15. Compliance with the 40-foot visual corner is required for corner lots (approximately 20 lots), and may result in the applicant constructing smaller homes on these lots or increasing the front yard setbacks. A 4-foot encroachment for the porch area can be allowed within this area. Details to be worked out with staff.
16. The effective date of this tentative map approval shall be the effective date of the final annexation for Absolute/Leeco. (Annexation to the City has not yet been finalized and is subject to pre-clearance under the Voting Rights Act before the Annexation can become effective.)
17. The proposed Community Park shall be designed for park and recreational use only. Basin or storm-water retention allowed within this park shall be consistent with the Park Master Plan. All bike trails within the linear park shall be a minimum width of 10-12 feet as per the Park Master Plan.
18. Refuse containers shall be stored out of site of the general public, including those homes located on the private driveways. A concrete pad (3 x 6 foot minimum) shall be installed in the side or back yard of each unit to house refuse containers with a paved path to the street.
19. There shall be no valley (cross) gutters installed within this subdivision.
20. Merrill Avenue shall be constructed to include a paved travel lane that is 23.5 feet wide curb-to-curb, with a 6-inch vertical asphalt curb along the south boundary line. The north side of Merrill Avenue will need to include curb and gutter, park strip, and a 5-foot sidewalk. Developer shall construct the roadway prior to issuance of the first certificate of occupancy. Developer shall complete the intersection of Foothill Drive and G Street by expanding the intersection to a 4-way, signalized intersection prior to the issuance of the 50<sup>th</sup> building permit. This

## PLANNING COMMISSION RESOLUTION #2904

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- includes a median at the intersection of G Street and Merrill Avenue. The Developer shall coordinate the design of this roadway, to the extent feasible, with the adjoining property owner to the south.
21. The drainage basins along the PG&E power-line easements and within the neighborhood park/basins shall be designed in an open manner with no barriers, fences, etc., hindering their use as open space. All basins will need to be constructed and functional with City acceptance prior to issuance of the first certificate of occupancy. The linear and neighborhood parks will need to be transferred to the City of Merced per the terms of the Pre-Annexation Development Agreement.
  22. The secondary access point shall be located at the intersection of Foothill Drive and G Street. The secondary access point shall be installed prior to the issuance of the 1<sup>st</sup> certificate of occupancy permit.
  23. City staff encourages and recommends the applicant to seek a water agreement with Merced Irrigation District for the usage of non-potable water for the use of irrigation of the City Landscaped areas such as Park-Strips, Parks, and any other area where non-potable water is allowed to be used and is approved by the Public Works Director.
  24. The street tree and street light locations shall be approved by City Staff prior to approval of the first Final Map.
  25. The cul-de-sac bulb, 'J' Court, shall be open-end style including sidewalk connectors to adjacent linear parks (within the PG&E easement) and local streets and walls from back-of-house to back-of-house. The linear park and PG&E Easement shall be designed in an open manner, with no fences or other hindrances that would impede pedestrian accessibility of both easements as they intersect with each other and 'J' Court.
  26. The cul-de-sac bulb labeled as 'D' Court shall be designed with park-strips due to its extended length.

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27. City utility service (water and sewer) connections shall be located under the driveway for each lot that faces a City street. Water lines are privately owned and maintained between the meter and the home. Sewer lines are privately owned and maintained from the point of connection to the City-owned main sewer line.
28. Fire Hydrants to be provided and spaced in accordance with City of Merced standards. The maximum spacing between hydrants is 500 feet. Due to width issues of G Street, fire hydrants will need to be placed along the east side of this arterial roadway. The number and placement of fire hydrants to be worked out with the Fire Department.
29. The following design features shall be added to the elevations for the homes throughout the subdivision:
  - a. *Garages Doors:* Design features such as windows and door molds, or driveway pavement treatments, such as aggregate, integral color, and stamped patterns, shall be added. These designs shall be varied from one lot to the other.
  - b. *Front Elevations:*
    - i. All proposed elevations show stucco as the primary building facia material. At least one of the plans shall be amended to show wood siding as the primary facia material, or stone or brick panels (approximately 3 feet high) along the bottom of the facia as a required element, not an option.
    - ii. Each elevation is to be evenly distributed throughout the site. Prior to submittal of building permits, the applicant shall provide the Development Services Director with a “distribution plan” showing the: house plan elevation, color, roof material, porch design, and garage door/pavement design selected for each lot. In no case, shall any more than two adjacent lots in a row have the same elevation.

PLANNING COMMISSION RESOLUTION #2904

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November 8, 2006/January 16, 2007/July 15, 2008/July 15, 2009/July 15, 2011/July 11, 2013/Oct. 10, 2015/June 6, 2018

- iii. Blank rear and side elevations visible from a street are not permitted. The elevation shall include functional features (windows and doors, or be adorned with attractive features in addition to landscaping).
- iv. The color palette for houses shall be varied (at least 6 distinct sets of colors) and be consistent with the style of the house.
- v. High quality aesthetically pleasing materials (wood, stone, iron, pre-formed plastic fencing, etc.) shall be used.

BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: SPRIGGS, CORTEZ, GABRIALT-ACOSTA, POLLARD, SANDERS, WOOTEN

NOES: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: OSORIO

**July 15, 2008/July 15, 2009:** On July 15, 2008, the State of California gave a one-year extension to all active (not expired) tentative maps that were otherwise scheduled to expire on or before December 30, 2010. On July 15, 2009, the State of California gave a second, two-year extension. Therefore, this Tentative Map #1291 hereby has its expiration date extended to January 16, 2012.

**July 15, 2011:** On July 15, 2011, the State of California gave a 24-month extension to all active (not expired) tentative maps that were otherwise scheduled to expire on or before January 1, 2014. Therefore, Vesting Tentative Subdivision Map #1291 hereby has its expiration date extended to January 16, 2014.

**July 11, 2013:** On July 11, 2013, the State of California gave a 24-month extension to all active (not expired) tentative maps that were approved on or after January 1, 2000. Therefore, Vesting Tentative Subdivision Map #1291 hereby has its expiration date extended to January 16, 2016.

PLANNING COMMISSION RESOLUTION #2904

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November 8, 2006/January 16, 2007/July 15, 2008/July 15, 2009/July 15, 2011/July 11, 2013/Oct. 10, 2015/June 6, 2018

**October 10, 2015:** On October 10, 2015, the State of California gave a 24-month extension to all active (not expired) tentative maps that were approved on or after January 1, 2002, and not later than July 11, 2013. Therefore, Vesting Tentative Subdivision Map #1291 hereby has its expiration date extended to January 16, 2018.

**June 6, 2018:** At their regularly scheduled meeting of June 6, 2018, the Planning Commission approved the Extension of Vesting Tentative map #1291 (“Bright Homes”) for one year (to January 16, 2019), subject to the following additional conditions:

30. A revised vesting tentative map shall be submitted within 60 days of the date this extension is granted. The revised map shall include the following:
  - a. All lots shall be on property owned by the applicant.
  - b. All roads through the subdivision shall be on property owned by the applicant.
  - c. Access from Merrill Place into the subdivision on Palisades Drive shall be on property owned by the applicant or the right-of-way must have been dedicated to the City of Merced prior to submitting the revised map.
31. If after 60 days the above conditions have not been met, Vesting Tentative Map #1291 will automatically expire.

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

AYES: Commissioners Alshami, Camper, Colby, Martinez, Padilla, and Chairperson Dylina

NOES: None

ABSENT: None, (One vacancy)

ABSTAIN: None

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

**Resolution #3095**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of June 6, 2018, held a public hearing and considered **Pending Annexation and Pre-zoning Applications #15-01 and General Plan Amendment #15-04**, initiated by Louann Bianchi, and Quad LLC, property owners. This application involves annexing 8.83 acres of land at the northwest and southwest corners of North Highway 59 and Santa Fe Drive into the City of Merced; changing the General Plan designation for the northwest corner from Open Space (OS) to Thoroughfare Commercial (CT) and pre-zoning the northwest corner as Thoroughfare Commercial (C-T) for the Thoroughfare Commercial development. The General Plan designation for the southwest corner would remain Industrial (IL) and this corner would be pre-zoned Light Industrial (I-L); also known as Assessor's Parcel Numbers 057-200-029, 057-200-067, and 057-200-042; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through M of Staff Report # 18-14; and,

**WHEREAS**, 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 #15-36, and approval of Pending Annexation and Pre-zoning Applications #15-01 and General Plan Amendment #15-04, subject to the Conditions set forth in Exhibit A attached hereto.

Upon motion by Commissioner ALSHAMI, seconded by Commissioner MARTINEZ, and carried by the following vote:

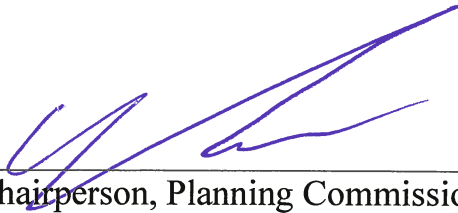
|          |                                                                        |
|----------|------------------------------------------------------------------------|
| AYES:    | Commissioners Alshami, Camper, Colby, Martinez, and Chairperson Dylina |
| NOES:    | Commissioner Padilla                                                   |
| ABSENT:  | None, (One Vacancy)                                                    |
| ABSTAIN: | None                                                                   |

PLANNING COMMISSION RESOLUTION # 3095

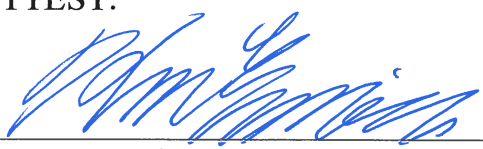
Page 2

June 6, 2018

Adopted this 6<sup>th</sup> day of June, 2018

  
\_\_\_\_\_  
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\ANX-PREZ#15-01 & GPA#15-04 NorCal Foods



**Conditions of Approval**  
**Planning Commission Resolution #3095**  
**Pending Annexation and Pre-zoning Applications #15-01**  
**and General Plan Amendment #15-04**

1. All new construction within the annexation area (including modifications to the developed site at the southwest corner of North Highway 59 and Santa Fe Drive) shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
2. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
3. Approval of Pre-Annexation #15-01, Pre-zoning Application #15-01, and General Plan Amendment #15-04 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.
4. 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.

5. The developer/applicant shall construct and operate all future projects within the annexation area 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.

The following conditions apply to new construction within the annexation area:

6. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, public landscaping within State rights-of-way, street trees, street lights, parks and open space. CFD procedures shall be initiated before final map or first building 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.

The following conditions apply to the future development at the northwest corner of North Highway 59 and Santa Fe Drive:

7. All development shall be subject to the Mitigation Measures outlined in the Mitigation Monitoring Program for Initial Study #15-36.

8. Site Plan Review is required prior to construction on the northwest corner, the Site Plan Review Committee shall review the site design and determine which alternative at the western driveway is best to reduce the expected impacts. The alternatives may include those alternatives included in the traffic analysis or another alternative such as moving the driveway further to the west. The developer shall provide any additional documentation or studies needed for the Site Plan Review Committee to make this determination (Mitigation Measure TRA-1).
9. The southbound left-turn lane on SR 59 shall be lengthened as determined by the City Engineer and approved by Caltrans (Mitigation Measure TRA-1a).
10. The development shall contribute its fair share to the cost of improvements for the intersection of SR 59 and Olive Avenue (Mitigation Measure TRA-1b):
  - Reconstruct westbound Olive Avenue to provide dual left turn lanes on southbound SR 59; and,
  - Reconfigure the westbound right turn lane to create a combination through and right turn lane, and extend that through lane across SR 59 along the project's frontage; and,
  - Reconstruct the existing northbound right turn lane as a "free" right turn with a median island separating eastbound and right-turning traffic. Reconstruct the eastbound Santa Fe Drive approach to provide dual left turn lanes.
11. Prior to the issuance of a building permit, the developer shall work with the Merced County Transit Authority (aka: The Bus) to determine if a bus stop is needed at this location. If a bus stop is required, the stop shall be in an area to allow the bus to move completely out of the travel lanes. The location of all bus stops shall be subject to approval by the City Engineer and Caltrans if along SR 59 (Mitigation Measure TRA-6).
12. Any outdoor dining areas or other outdoor uses shall have the following setbacks to maintain an acceptable noise level of 70 dB for outdoor uses (Mitigation Measure NOI-2):
  - Road/Railroad - Required Setback
  - Santa Fe Drive - 54 Ft.

- North Highway 59 - 89 Ft.
  - BNSF Railroad - 137 F
13. At the time of construction, all required public improvements shall be installed along the property frontage. This includes, but is not limited to, sidewalk, curb, gutter, street lights, and street trees.
  14. The developer shall work with Caltrans and obtain all necessary permits for all work done within the state right of way.
  15. All construction shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
  16. All new utilities serving the site shall be installed underground.
  17. All City sewer, water, and storm drain lines serving the site shall be extended across the full frontage of the property unless it is determined by the Public Works Director that these lines are not likely to be extended to serve any other property (consistent with Merced Municipal Code Section 15.40.030).
  18. All storm water shall be contained onsite and metered out to the City's storm water system in accordance with City Standards.
  19. 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 or as required by the Fire Department.
  20. The future commercial development shall provide pedestrian and bicycle access throughout the site. Connectivity throughout the site shall be provided by pedestrian pathways. Bicycle parking shall be provided as required by the City's Zoning Ordinance.
  21. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
  22. All landscaping shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Section 20.36 – Landscaping. This shall include the use of xeriscape landscaping as appropriate.

23. Irrigation for all onsite landscaping shall be provided by a low-volume 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.
24. All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or parkstrips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.
25. 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 1 tree for every 6 parking spaces. A reduced number of trees may be required where there are carports with solar panels over the parking spaces. However, if all the parking spaces are covered by a carport with solar panels, then additional trees may be required at the discretion of the Development Services Director. Trees within the PG&E easement shall comply with the regulations of this easement which limits the height of trees to a maximum of 15 feet at full maturity.
26. All mechanical equipment shall be screened from public view.

n:\shared\planning\PC Resolutions\ANX-PREZ#15-01 & GPA#15-04 Exhibit A

|                                                                                                                |
|----------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;"><b>ENVIRONMENTAL REVIEW #15-36</b><br/><b>Mitigation Monitoring Program</b></p> |
|----------------------------------------------------------------------------------------------------------------|

#### **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 Annexation and Pre-Zone Application #15-01 and General Plan Amendment #15-04 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 #15-36 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 Annexation and Pre-zone Application #15-01 and General Plan Amendment #15-04. The columns within the tables are defined as follows:**

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

**Annexation and Pre-Zone Application #15-01 and General Plan Amendment #15-04  
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).



| <b>A) Aesthetics</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                  |                             |                                              |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------------------|----------------------------------------------|
| <b>Impact No.</b>    | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>Timing</b>    | <b>Agency or Department</b> | <b>City Verification (date and initials)</b> |
| <b>AES-4</b>         | <p>AES-4) <i>Lighting should be designed to provide ambiance, safety, and security without unnecessary spillover or glare onto adjacent properties.</i></p> <p><i>The quality of light, level of light (measured in foot-candles) and the type of bulb or source should be carefully addressed. Lighting levels should not be so intense as to draw attention to the flow or glare of the project site. The lighting plan should incorporate current energy-efficient fixtures and technology.</i></p> <p><i>Glare from any site lighting should be shielded from adjacent properties and directed at a specific object or target area. Exposed bulbs shall not be used.</i></p> <p><i>Wall-mounted light fixtures shall not extend above the height of the wall to which the fixtures are mounted.</i></p> <p><i>Blinking and flashing lights used to illuminate building facades or to outline buildings shall not be used.</i></p> <p><i>When security lighting is necessary, it should be recessed, hooded and located to illuminate only the intended area. Off-site glare and light trespass is prohibited.</i></p> <p><i>Pedestrian areas, sidewalks, parking lots, and building entrances shall be adequately lit to provide safety and security.</i></p> <p><i>All exterior lighting fixtures shall be efficient in terms of design and energy use.</i></p> | Building Permits | Planning Department         |                                              |

| <b>Impact No.</b>              | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>Timing</b>    | <b>Agency or Department</b> | <b>City Verification (date and initials)</b> |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------------------|----------------------------------------------|
| <b>AES-4</b>                   | AES4a - <i>The project shall comply with Mitigation Measure 3.1-4 required by the Mitigation and Reporting Program for the Merced Vision 2030 General Plan EIR.</i>                                                                                                                                                                                                                                                                                                                                                                                   | Building Permits | Planning Department         |                                              |
| <b>D) Biological Resources</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                  |                             |                                              |
| <b>BIO-1</b>                   | BIO-1) <i>Pre-construction surveys by a qualified biologist or other qualified professional shall be conducted for nesting Swainson's hawks within 0.25 miles of the project site shall be done if construction commences between March 1 and September 15. If active nests are found, a qualified biologist shall determine the need (if any) for temporal restrictions on construction. The determination shall utilize criteria set forth by CDFW (CDFG 1994).</i>                                                                                 | Building Permit  | Planning Department         |                                              |
|                                | BIO-1a) <i>Pre-construction surveys by a qualified biologist or other qualified professional shall be conducted for western pond turtles and their nests shall be conducted if construction commences between April 1 through October 31. This survey shall include a search for nests in uplands adjacent to the creek. If nest sites are located, a 50-foot buffer area around the nest, a 50-foot buffer area around the nest shall be established and work shall be delayed until hatching is complete and the young have left the nest site.</i> | Building Permit  | Planning Department         |                                              |
|                                | BIO-1b) <i>Pre-construction surveys by a qualified biologist or other qualified professional shall be conducted for birds protected by the Migratory Bird Treaty Act of 1918. If nesting birds are found, work in the vicinity of the nest shall be delayed until the young fledge.</i>                                                                                                                                                                                                                                                               | Building Permit  | Engineering Department      |                                              |

## EXHIBIT B

| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Timing</b>   | <b>Agency or Department</b>                       | <b>City Verification (date and initials)</b> |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------------------------------------------|----------------------------------------------|
| <b>BIO-3</b>      | BIO-3) <i>Avoidance of jurisdictional Waters of the U.S. is recommended, if possible. If complete avoidance of Black Rascal Creek is infeasible, impact shall be minimized to the maximum extent practicable, and permits from ACOE, CDFW, RWQCB, and possibly CVFPS shall be secured prior to the placement of any fill material (e.g., culverts, fill dirt, rock) within jurisdictional Waters of the U.S.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Building Permit | Planning/<br>Engineering<br>Department            |                                              |
| <b>CUL-1</b>      | CUL-1) <i>In the event that buried historic or archaeological resources are discovered during construction, operations shall stop within 50 feet of the find and a qualified archaeologist shall be consulted to evaluate the resource in accordance with CEQA Guidelines 15064.5. The applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If the resource does not qualify as a significant resource, then no further protection or study is necessary. If the resource does qualify as a significant resource then the impacts shall be avoided by project activities. If the resource cannot be avoided, adverse impacts to the resource shall be addressed. The archaeologist shall make recommendations concerning appropriate mitigation measures that shall be implemented to protect the resources, including but not limited to excavation and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. Any previously undiscovered resources found during construction within the project area should be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms and evaluated for significance in terms of CEQA criteria.</i> | Grading         | Inspection<br>Services/<br>Planning<br>Department |                                              |

## EXHIBIT B

| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Timing</b> | <b>Agency or Department</b>                | <b>City Verification (date and initials)</b> |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|--------------------------------------------|----------------------------------------------|
| <b>CUL-3</b>      | CUL-3) <i>In the event that fossils or fossil-bearing deposits are discovered during construction activities, excavations within a 50-foot radius of the find shall be temporarily halted or diverted. The project contractor shall notify a qualified paleontologist to examine the discovery. The applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The paleontologist shall document the discovery as needed in accordance with Society of Vertebrate Paleontology standards and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction activities are allowed to resume at the location of the find. If the Applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of construction activities on the discovery. The plan shall be submitted to the City of Merced for review and approval prior to implementation, and the Applicant shall adhere to the recommendations in the plan.</i> | Grading       | Inspection Services/<br>Panning Department |                                              |

| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Timing</b> | <b>Agency or Department</b>                | <b>City Verification (date and initials)</b> |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|--------------------------------------------|----------------------------------------------|
| <b>CUL-4</b>      | <p>CUL-4) <i>Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code (PRC) Sections 5097.94 and 5097.98 must be followed. If during the course of project development there is accidental discovery or recognition of any human remains, the following steps shall be taken:</i></p> <p>1. <i>There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the County Coroner is contacted and determines if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the most likely descendant (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.</i></p> <p>2. <i>Where the following conditions occur, the landowner or his or her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the most likely descendant or on the project site in a location not subject to further subsurface disturbance:</i></p> | Grading       | Inspection Services/<br>Panning Department |                                              |

| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>Timing</b>                 | <b>Agency or Department</b>                | <b>City Verification (date and initials)</b> |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|--------------------------------------------|----------------------------------------------|
|                   | <ul style="list-style-type: none"> <li><i>The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission.</i></li> <li><i>The descendant identified fails to make a recommendation.</i></li> <li><i>The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner.</i></li> </ul> <p><i>Additionally, California Public Resources Code Section 15064.5 requires the following with regards to Native American Remains:</i></p> <p><i>When an initial study identifies the existence of, or the probable likelihood of, Native American Remains within a project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code Section 5097.98. The applicant may develop a plan for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American Burials with the appropriate Native Americans as identified by the NAHC.</i></p> | Grading                       | Inspection Services/<br>Panning Department |                                              |
| <b>GEO-2</b>      | <i>GEO-2) Prior to the approval of a tentative subdivision map or building permit, the City shall review plans for drainage and storm water run-off control systems and their component facilities to ensure that these systems are non-erosive in design.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Tentative Map Building Permit | Engineering Department                     |                                              |

| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Timing</b>                           | <b>Agency or Department</b>             | <b>City Verification (date and initials)</b> |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------------------------|----------------------------------------------|
| <b>GEO-2</b>      | <i>GEO-2a) Upon completion of phased construction, subsequent phases 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 or to avoid negative impacts to nearby agricultural activities, subject to the approval of the City.</i>                                        | <i>Building Permit</i>                  | <i>Inspection Services</i>              |                                              |
| <b>GEO-4</b>      | <i>GEO-4 A geotechnical study shall be provided prior to the issuance of a building or grading permit for this site. All recommendations for addressing expansive soils and site grading shall be implemented as well as any other recommendations determined relevant by the Chief Building Official or City Engineer.</i>                                                                                                                                             | <i>Building Permit</i>                  | <i>Inspection Services/ Engineering</i> |                                              |
| <b>HAZ-5</b>      | <i>HAZ-5 Prior to the issuance of any subsequent land use entitlement for construction of a building or the issuance of a building permit, the developer shall demonstrate compliance with the requirements of the Merced County Airport Land Use Compatibility Plan (ALUCP). If compliance is not feasible, the development plan shall be modified to make compliance possible.</i>                                                                                    | <i>Site Plan Review/Building Permit</i> | <i>Planning Department</i>              |                                              |
| <b>HYD-1</b>      | <i>HYD 1a Prior to the issuance of grading permits, the applicant shall file a "Notice of Intent" with and obtain a facility identification number from the State Water Resources Control Board. The project shall also submit a Stormwater Pollution Prevention Plan (SWPPP) to the City of Merced that identifies specific actions and Best Management Practices (BMP's) to prevent stormwater pollution during construction activities. (continued on next page)</i> | <i>Grading Permit</i>                   | <i>Inspection Services/ Engineering</i> |                                              |

## EXHIBIT B

| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Timing</b>  | <b>Agency or Department</b>      | <b>City Verification (date and initials)</b> |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------------|----------------------------------------------|
| <b>HYD-1</b>      | <p>The SWPPP shall identify a practical sequence for BMP implementation, site restoration, contingency measures, responsible parties, and agency contacts. The SWPPP shall include, but not be limited to, the following elements:</p> <ul style="list-style-type: none"> <li>• Comply with the requirements of the State of California's most current Construction Stormwater Permit.</li> <li>• Temporary erosion control measures shall be implemented on all disturbed areas.</li> <li>• Disturbed surfaces shall be treated with erosion control measures during the October 15 to April 15 rainy season.</li> <li>• Sediment shall be retained on-site by a system of sediment basins, traps, or other BMPs.</li> <li>• The construction contractor shall prepare Standard Operating Procedures for the handling of hazardous materials on the construction site to eliminate discharge of materials to storm drains.</li> <li>• BMP performance and effectiveness shall be determined either by visual means where applicable (e.g., observation of above-normal sediment release), or by actual water sampling in cases where verification of contaminant reduction or elimination (such as inadvertent petroleum release) is required by the Central Valley Regional Water Quality Control Board to determine adequacy of the measure. (continues on next page)</li> </ul> | Grading Permit | Inspection Services/ Engineering |                                              |



| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Timing</b>         | <b>Agency or Department</b>             | <b>City Verification (date and initials)</b> |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------------------------|----------------------------------------------|
| <b>HYD-1</b>      | <i>In the event of significant construction delays or delays in final landscape installation, native grasses or other appropriate vegetative cover shall be established on the construction site as soon as possible after disturbance, as an interim erosion control measure throughout the wet season.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                       |                                         |                                              |
| <b>HYD-1</b>      | <i>HYD-1b Prior to the issuance of building permits, the project applicant shall submit a final Storm Water Mitigation Plan (SWMP) to the City of Merced for review and approval. The plan shall be developed using the California Stormwater Quality Association's "New Development and Redevelopment Handbook." The SWMP shall identify pollution prevention measures and BMPs necessary to control stormwater pollution from operational activities and facilities, and provide for appropriate maintenance over time. The SWMP shall include design concepts that are intended to accomplish a "first flush" objective that would remove contaminants from the first 2 inches of stormwater before it enters area waterways. The project applicant shall also prepare and submit an Operations and Maintenance Agreement to the City identifying procedures to ensure that stormwater quality control measures work properly during operations.</i> | <i>Grading Permit</i> | <i>Inspection Services/ Engineering</i> |                                              |

| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Timing</b>  | <b>Agency or Department</b>      | <b>City Verification (date and initials)</b> |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------------|----------------------------------------------|
| <b>HYD-5</b>      | HYD-5 Prior to the issuance of a building permit for this project, the applicant shall demonstrate to the City that proposed storm drainage facilities are adequate to meet the Project demands and that improvements are consistent with the City's Storm Drainage Master Plan and the Post Construction Standards for the City's Phase II MS4 permit.                                                                                                                                                                                                                                                                                                                                 | Grading Permit | Inspection Services/ Engineering |                                              |
| <b>HYD-8</b>      | HYD-8 Development of the site is required to provide fill dirt to raise the elevation of the site and achieve protection from flooding. The fill must be elevated above the computed 200-year flood elevation and freeboard is highly recommended by DWR (note: freeboard is the difference between the fill elevation and the computed flood elevation).<br><br>A freeboard of 1-foot or greater will help to account for the inherent uncertainty in estimating peak flood discharges and the computed flood elevations. A Summary of the proposed fill elevations is provided in the Table below. The required fill elevation ranges from 168.4 to 167.7 ft. (NAVD88 vertical datum) | Grading Permit | Inspection Services/ Engineering |                                              |

| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Timing</b>    | <b>Agency or Department</b>      | <b>City Verification (date and initials)</b> |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|----------------------------------|----------------------------------------------|
| <b>NOI-1</b>      | NOI-1 The construction contractor shall limit all noise-producing construction activities, including deliveries and warming up of equipment, to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No such work shall be permitted on Sundays or federal holidays without prior approval from the City.                                                                                                                                                                                                                                                                                                                        | Grading Permit   | Inspection Services/ Engineering |                                              |
| <b>NOI-1</b>      | NOI-2 Any outdoor dining areas or other outdoor uses shall have the following setbacks to maintain an acceptable noise level of 70 dB for outdoor uses:<br><br><div style="display: flex; justify-content: space-between;"> <div>Road/Railroad</div> <div>Required Setback</div> </div> <div style="display: flex; justify-content: space-between;"> <div>Santa Fe Drive</div> <div>54 Ft.</div> </div> <div style="display: flex; justify-content: space-between;"> <div>North Highway 59</div> <div>89 Ft.</div> </div> <div style="display: flex; justify-content: space-between;"> <div>BNSF Railroad</div> <div>137 Ft.</div> </div> | Building Permit  | Inspection Services/ Planning    |                                              |
| <b>TRA-1</b>      | TRA-1 Prior to construction, the Site Plan Review Committee shall review the site design and determine which alternative at the western driveway is best to reduce the expected impacts. The alternatives may include those alternatives included in the traffic analysis or another alternative such as moving the driving further to the west. The developer shall provide any additional documentation or studies needed for the Site Plan Review Committee to make this determination.                                                                                                                                                | Site Plan Review | Planning                         |                                              |
|                   | TRA-1a The southbound left-turn lane on SR 59 shall be lengthened as determined by the City Engineer and approved by Caltrans.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                  |                                  |                                              |

| <b>Impact No.</b> | <b>Mitigation Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>Timing</b>   | <b>Agency or Department</b> | <b>City Verification (date and initials)</b> |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------------------|----------------------------------------------|
| <b>TRA-1</b>      | <p><b>TRA-1b</b> The development shall contribute its fair share to the cost of improvements for the intersection of SR 59 and Olive Avenue:</p> <ul style="list-style-type: none"> <li>• Reconstruct westbound Olive Avenue to provide dual left turn lanes on southbound SR 59; and,</li> <li>• Reconfigure the westbound right turn lane to create a combination through and right turn lane, and extend that through lane across SR 59 along the project's frontage; and,</li> <li>• Reconstruct the existing northbound right turn lane as a "free" right turn with median island separating eastbound and right turning traffic. Reconstruct the eastbound Santa Fe Drive approach to provide dual left turn lanes.</li> </ul> | Building Permit | Planning                    |                                              |
| <b>TRA-6</b>      | <p><b>TRA-6</b> Prior to the issuance of a building permit, the developer shall work with the Merced County Transit Authority (aka: The Bus) to determine if a bus stop is needed at this location. If a bus stop is required, the stop shall be in an area to allow the bus to move completely out of the travel lanes. The location of all bus stops shall be subject to approval by the City Engineer and Caltrans if along SR 59.</p>                                                                                                                                                                                                                                                                                            | Building Permit | Planning                    |                                              |

**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