

CITY OF MERCED
Planning Commission

Resolution #4109

WHEREAS, the Merced City Planning Commission at its regular meeting of April 5, 2023, held a public hearing and considered **General Plan Amendment #22-05, Fahrens Creek Specific Plan Amendment #5, Zone Change #432, and the Establishment of Residential Planned Development (RP-D) #78**, initiated by ISEA International, property owner, for an approximately 10.76 acre parcel generally located on the south side of Cardella Road, between El Redondo Drive and Horizons Avenue (1250 Cardella Road). The General Plan Amendment would change the General Plan land use designation from Office Commercial (CO)/Neighborhood Commercial (CN) to Low Density Residential (LD). The Fahrens Creek Specific Plan Amendment would change the land use designation for the Specific Plan from Office Commercial/Neighborhood Commercial to Low Density Residential. The Zone Change would change the Zoning designation from Planned Development (P-D) #50 to Residential Planned Development (RP-D) #78. These changes would allow the subdivision of the parcel into 53 single-family lots, ranging in size from 5,000 square feet to 6,718 square feet. The subject site is more particularly described as Parcel 1 as shown on the map entitled “Parcel Map for YCH” recorded in Volume 102, Page 16, in Merced County Records; also known as a portion of Assessor’s Parcel Number (APN) 206-030-017; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through F of Staff Report #23-289 (Exhibit B of Planning Commission Resolution #4109); and,

NOW THEREFORE, after reviewing the City’s Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Negative Declaration regarding Environmental Review #22-50, and recommend approval of General Plan Amendment #22-05, Fahrens Creek Specific Plan Amendment #5, Zone Change #432, and Establishment of Residential Planned (RP-D) #78, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioner(s)
NOES: Commissioner(s)
ABSENT: Commissioner(s)
ABSTAIN: Commissioner(s)

ATTACHMENT A

PLANNING COMMISSION RESOLUTION #4109

Page 2

April 5, 2023

Adopted this 5th day of April 2023

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Exhibits:

Exhibit A – Conditions of Approval

Exhibit B – Findings/Considerations

Conditions of Approval
Planning Commission Resolution # 4109
General Plan Amendment #22-05, Fahrens Creek Specific Plan Amendment
#5, Zone Change #431, Establishment of Residential Planned Development
(RP-D) #78

1. The proposed General Plan Amendment, Fahrens Creek Specific Plan Amendment and Zone Change shall be as shown on the Proposed Land Use Map at Attachment D of Planning Commission Staff Report #23-289.
2. Approval of the General Plan Amendment, Fahrens Creek Specific Plan Amendment, Zone Change, and Residential Planned Development Establishment is subject to the applicant(s) entering into a written (developer) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and/or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as required by the City Engineering Department.
4. The Project shall comply with all applicable conditions set forth in the resolutions for Annexation No. 190 (Fahrens Creek North Annexation) previously approved for this site as well as all applicable conditions of the Fahrens Creek Specific Plan.
5. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
6. Community Facilities District (CFD) annexation 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.

7. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City including, but not limited to, City's attorney's fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and to provide all required deposits to fully fund the City's defense immediately but in no event later than five (5) days from that date of a demand to do so from City. In addition, the developer/applicant shall be required to satisfy any monetary obligations imposed on City by any order or judgment.
8. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

9. Residential Planned Development #78 shall have the same development standards set forth for the R-1-5 Zoning District. Residential Planned Development #78 shall also comply with the design requirements set forth in Merced Municipal Code Section 20.46.020.

Findings and Considerations
Planning Commission Resolution #4109
General Plan Amendment #22-05, Fahrens Creek Specific Plan
Amendment #5, Zone Change #432, Establishment of Residential Planned
Development (RP-D) #78

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) If the General Plan Amendment is approved, the proposed project would comply with the General Plan land use designation of Low Density Residential (LD) which allows 2 to 6 dwelling units per acre. The proposed 53 lot subdivision would provide a density of 4.93 units/acre. The project would also comply with the Zoning designation of Residential Planned Development (RP-D) #78 if the Zone Change and Establishment of RP-D #78 are approved.

The proposed project, with conditions of approval, will help achieve the following General Plan land use policies:

- Policy L-1.5: Protect existing neighborhoods from incompatible developments.
- Policy L-1.6: Continue to pursue quality single-family residential development.
- Policy L-1.8: Create livable and identifiable residential neighborhoods.
- Policy L-9: Ensure connectivity between existing and planned urban areas.

Urban Village Concept

The Urban Village Concept goes back to 1990 with the *Merced 2030 – How Should We Grow?* process. This process was a study that analyzed the various growth and expansion options available to the City. As a result of this study, it was determined that Merced's growth pattern for new development areas should be based on mixed-use, pedestrian friendly, and transit-friendly design principles, known as the Urban Village Concept. As a follow-up to this planning process, the City commissioned an urban design study for an 8,000-acre portion of Northern Merced which resulted in the publication of the North Merced Conceptual Land Use Plan and Merced Villages Design Guidelines

in late 1991. This established the basic “Urban Design” policy direction used in preparation of the *Merced Vision 2015 General Plan* and *Merced Vision 2030 General Plan*.

Approval of this proposal would prevent the creation of the Urban Village Residential Neighborhood that was originally intended for this area when it was annexed into the City in 2003. Urban Villages are intended to create a high-density neighborhood (through multi-family, town houses, small single-family lots, etc.) that surround a regional commercial center (minimum of 10 acres). The subject site was reserved to be the neighborhood commercial center for this area. The residential zone surrounding the commercial is called an Inner Village that allows a density between 10-36 dwelling units per acre. Surrounding the Inner Village is the Outer Village which has a reduced density between 4-12 dwelling units per acre.

The commercial land is the central part of the Urban Village Residential concept which is intended to be sustained by the surrounding high density uses where residents can easily walk to either work, commercial amenities (retail/restaurants), and entertainment opportunities (similar to Downtown Merced). This land use concept is intended to promote active walkable neighborhoods with accessible amenities that would not be car-dependent, resulting in less pollution and more environmentally friendly development. The approval of this land use change would eliminate the commercial that is needed for the Urban Village Residential concept to function. With the loss of commercial land there would also be a loss in job creation and amenities to the community, but a gain in housing inventory.

The General Plan addresses the Urban Village Residential Concept in various sections of the General Plan. Shown below are some goals and policies that would be impacted by approving this proposal.

- Policy L-2.6 – Provide Neighborhood Commercial Centers in Proportion to Residential Development in the City
- Policy L-2.7 – Locate and Design New Commercial Developments to Provide Good Access from Adjacent Neighborhoods and Reduce Congestion on Major Streets

In addition, the below sections from Chapter 3 – Land Use, discuss encouraging Urban Villages in new growth areas.

- Sections 3.6.1 – Mixed Uses, and 3.6.2 Merced Urban Villages – for promoting “pedestrian and transit-friendly areas (in) the

Urban Village, also known as Transit Ready Development. Urban Villages are compact, mixed-use districts that will accommodate projected growth, help maintain Merced's present quality of life, and help ensure its continued economic vitality."

- Promoting Section 6.4 Merced's Urban Villages (Transit Ready Development)

Mandatory Findings

B) Chapter 20.80 (Zoning Ordinance Amendments) and 20.82 (General Plan Amendments) outlines procedures for considering Zone Changes and General Plan Amendments, but does not require any specific findings to be made for approval. In addition, to amend specific plans, such as the Fahrens Creek Specific Plan, there are no specific findings that need to be made. However, Planning practice would be to provide objective reasons for approval or denial, but these can take whatever form deemed appropriate by the Planning Commission and City Council. Based on State law and case law, the following findings are recommended:

1. *The proposed amendment is deemed to be in the public interest.*

The proposed amendment is deemed to be in the public interest because it will provide needed housing.

2. *The proposed amendment is consistent and compatible with the rest of the General Plan and any implementation programs that may be affected.*

The proposed amendment is not consistent or compatible with the rest of the General Plan, but it does provide needed housing for the community.

3. *The potential impacts of the proposed amendment have been assessed and have been determined not to be detrimental to the public health, safety, or welfare.*

The proposed project does not include any uses that would be detrimental to the public health, safety, and welfare of the City. Implementation of the conditions of approval and adherence to all applicable Building Codes, Fire Codes, and City Standards would prevent the project from having any detrimental effect on the health, safety, and welfare of the City.

4. *The proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA).*

Planning staff has conducted an environmental review (#22-50) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Negative Declaration (see Attachment K of Planning Commission Staff Report #23-289) has been recommended.

Neighborhood Impact (Loss of Urban Village Neighborhood)

- C) As mentioned under Finding A, this area was originally reserved for an Urban Village Residential Neighborhood. Approval of this proposal would prevent the creation of the Urban Village Residential Neighborhood that was originally intended for this area when it was annexed into the City in 2003. Approval of the proposed General Plan Amendment, Specific Plan Amendment, Zone Change, and Establishment of Residential Planned Development (RP-D) #78 would change the character envisioned for this neighborhood by the General Plan and Fahrens Creek Specific Plan. Commercial uses would have to be located farther away from the neighborhood. However, the change would provide more needed housing and expand the existing residential uses in the area.

The property owner has indicated that there has been minimal interest from commercial developers to develop this land given the location of the subject site being on the edge of the City limits in a part of town that is mostly undeveloped with low traffic counts. Due to these challenges in attracting commercial development, the property owner is requesting a land use change to low density residential for a single-family home subdivision to fulfill a high housing demand in Merced with insufficient inventory and vacancy rates under 1%.

Public hearing notices were sent to all property owners within 300 feet of the project site. At the time that this report was prepared, the City had not received any comments regarding this project.

Affordability Requirements

- D) In April 2022, the City Council approved Resolution 2022-15 regarding the requirement for 12.5% affordable housing for new single-family residential subdivisions and multifamily residential projects. This requirement is triggered by two qualifiers that need to be met; entitlement type and number

of units created. For single-family residential developments, the affordability requirement is triggered by a legislative action agreement (through annexations, general plan amendments, site utilization plan revisions, or zone changes) for projects with over 60 homes. Subdivisions with less than 60 homes are not required to provide affordable units. The proposed 53-unit subdivision is exempt from having to provide affordable units, as even though the proposal does require a legislative action agreement it contains less than the 60 units needed to trigger the affordability requirement.

Finding for Residential Planned Developments

E) Per Merced Municipal Code Section 20.20.20 (J) Planned Development (P-D) Zoning Districts, approval of an application for Planned Development Establishment or Revision with accompanying Preliminary Site Utilization Plan only if the following findings can be made:

1. *The proposed development is consistent with the goals, policies, and actions of the General Plan and any applicable specific plan and community plan.*

The proposed development requires a General Plan Amendment so it is not consistent with the General Plan. However, as shown under Finding A, the proposal provides much needed housing for the community and meets some of the goals and policies regarding promoting residential developments.

2. *The site for the proposed development is adequate in size and shape to accommodate proposed land uses.*

The project site is approximately 10.76 acres, which exceeds the 1-acre minimum requirements for a Residential Planned Development as shown under Merced Municipal Code Section 20.20.020 (D.2) Planned Development (P-D) Zoning Districts.

3. *The site for the proposed development has adequate access considering the limitations of existing and planned streets and highways.*

The subject site would improve the street network in the areas by extending both El Redondo Drive and Horizons Avenue north connecting with Cardella Road. This would allow the surrounding neighborhoods to the south to have a more direct access to northern roads in Merced.

4. *Adequate public services exist or will be provided to serve the proposed development.*

City utilities such as water and sewer main lines are directly available to the south at El Redondo Drive and Horizons Avenue.

5. *The proposed development will not have a substantial adverse effect on surrounding property, will be compatible with the existing and planned land use character of the surrounding area, and will enhance the desirability of the area and have a beneficial effect.*

The surrounding parcels to the south, east, and west have been entitled for residential developments. The property to the south is a residential subdivision for single-family homes (Sage Creek) that is currently under construction. To the north, across Cardella Road, is County Jurisdiction with a General Plan Designation of Office Commercial. Given the other surrounding residential entitlements, the proposed low-density residential subdivision would be compatible with the surrounding area.

6. *The proposed development carries out the intent of the Planned Development zoning district by providing a more efficient use of the land and an excellence of site design greater than that which could be achieved through the application of established zoning standards.*

The proposed development provides efficient use of land by proposing a “U-Shaped” street network that does not include the use of cul-de-sacs, that normally result in terminated streets.

7. *Each individual unit of the proposed development, in each phase as well as the total development, can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development.*

The proposed subdivision (Lotus) does not include multiple phases, and is intended to be constructed in one phase. All off-site public improvements would be required to be bonded for at the final map stage, and installed prior to home constructions.

8. *Any deviation from the standard ordinance requirements is warranted by the design and additional amenities incorporated in the development plan, which offer certain unusual redeeming features to compensate for any deviations that may be permitted.*

The proposed subdivision does not include any deviations from the City's standard ordinance requirements as the proposal would be required to comply with the City's R-1-5 Standards.

9. *The principles incorporated in the proposed development plan indicate certain unique or unusual features, which could not otherwise be achieved under the other zoning district.*

The proposed development does not include any unique or unusual features, but it does provide much needed housing for the community and extends utilities north to an area with a lot of missing infrastructure (roads, sewer, water, etc.).

Environmental Clearance

- F) Infill projects over 5 acres or projects that don't comply with Zoning/General Plan designations require an Initial Study, per the California Environmental Quality Act (CEQA). In this case, the project site is not consistent with Zoning or the General Plan and is over 5 acres (at 10.7 acres) – thus an Initial Study was required. An Initial Study includes a wide range of analysis required by the State covering an array of subjects including, but not limited to, impacts on vehicle miles traveled, air quality, biological resource, public services, cultural resources, and City utilities. Planning staff has conducted an environmental review of the project in accordance with the requirements of CEQA, and concluded that Environmental Review #22-50 results in a Negative Declaration as the proposal would not have a significant effect on the environment and does not require the preparation of an Environmental Impact Report. A copy of the Initial Study with a Negative Declaration can be found at Attachment K of Planning Commission Staff Report #23-289.