

RESOLUTION NO. 2018-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, APPROVING A MITIGATED NEGATIVE DECLARATION FOR ANNEXATION #15-01, PRE-ZONING APPLICATION #15-01, AND GENERAL PLAN AMENDMENT #15-04 FOR 7.83 ACRES OF LAND GENERALLY LOCATED AT THE NORTHWEST CORNER OF NORTH HIGHWAY 59 AND SANTA FE DRIVE AND 1.0 ACRE OF LAND GENERALLY LOCATED AT THE SOUTHWEST CORNER OF NORTH HIGHWAY 59 AND SANTA FE DRIVE AND APPROVING GENERAL PLAN AMENDMENT #15-05 FOR THE 7.83 ACRES OF LAND GENERALLY LOCATED AT THE NORTHWEST CORNER OF HIGHWAY 59 AND SANTA FE DRIVE CHANGING THE GENERAL PLAN LAND USE DESIGNATION FROM OPEN SPACE (OS) TO THOROUGHFARE COMMERCIAL (C-T)

WHEREAS, the City is processing an application for a General Plan Amendment for approximately 7.83 acres of land generally located at the northwest corner of North Highway 59 and Santa Fe Drive, and being more particularly described in Exhibit A and shown on the map at Exhibit B, both attached hereto and incorporated herein by this reference, where an environmental review was required; and

WHEREAS, the Planning Commission of the City of Merced held a noticed public hearing on June 6, 2018, at which time all those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding the application; and

WHEREAS, after hearing all of the evidence and testimony, the Planning Commission adopted Resolution #3095, attached hereto as Exhibit "C," and incorporated herein by reference, recommending that the City Council approve the General Plan Amendment and Environmental Review (Mitigated Negative Declaration); and

WHEREAS, The City Council held a noticed public hearing on July 16, 2018, at which time all those interested in the matter were provided the opportunity to speak or to provide written or oral testimony regarding the application.

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

SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT.
Based upon the evidence and testimony in the record at the City Council public hearing, the City Council exercising its independent judgment and review, hereby adopts and approves the Mitigated Negative Declaration following Environmental Review #15-36 pursuant to the provisions of the California Environmental Quality Act.

SECTION 2. GENERAL PLAN AMENDMENT ADOPTION. The General Plan of the City of Merced is hereby amended by approving General Plan Amendment #15-04, which changes the General Plan Land Use designation for approximately 7.83 acres of land as described in Exhibit A, from Open Space (OS) to Thoroughfare Commercial (CT) as shown on the map at Exhibit D.

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PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2018, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney 6-15-2018
Date

EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1: A portion of lot 96 and a portion of the West 40 feet of the 100 foot wide Southern Pacific Railroad-Oakdale Branch right-of-way (now abandoned) as shown on the map entitled, **MAP OF THE CROCKER COLONY**, recorded in Volume 5 of Official Plats, Page 6, Merced County Records, said portions being described as a whole as follows:

Commencing at the Northwest corner of said Lot 96 and running thence North 85° 48' 00" East 83.54 feet along the North line of said Lot 96 to a point on the Northeasterly line of Santa Fe Drive (a County Road) said point being the true point of beginning of this description; thence South 53° 11' 13" East, 308.33 feet along said Northeasterly line of Santa Fe Drive; thence Southeasterly along said northeasterly line of Santa Fe Drive along a 1,464.11 foot radius curve to the left, the long chord of which bears south 69° 35' 30" East 825.20 feet, through a central angle of 32° 44' 12", an arc distance of 836.54 feet, thence North 18° 36' 31" East 17.45 feet along said Northeasterly line of Santa Fe Drive to a point on the West line of State Highway 59; thence North 01° 24' 30" East 375.88 feet along the West line of State Highway 59 to the southeast corner of that certain real property described as Parcel II in deed from Crocker Land Company to Merced Water Company recorded in Volume 1483, Official Records, page 111, Merced County Records; thence North 8° 35' 30" West 100.00 feet to the Southwest corner of said Parcel II; thence North 01° 24' 30" East 180.34 feet along the West line of said Parcel II to a point on the North line of the aforesaid Lot 96; thence south 83° 48' 00" West 945.081 feet along the North line of said Lot 96 to the true point of beginning, all as delineated on map entitled, "RECORD OF SURVEY FOR J.F. COLLINS CO.", recorded in Book 13 of surveys, page 35, Merced County Records.

EXCEPTING therefrom all that portion conveyed to the County of Merced for road widening by deed recorded January 13, 1984, in volume 2407, page 718, Merced County Records.

ALSO EXCEPTING therefrom the property and property rights and reserved in deeds recorded August 4, 1961, in Volume 1539, page 504, as Instrument No. 14501, Official Records, March 3, 1971, in Volume 1881, page 555, as Instrument No. 3989, Official Records and March 3, 1972, in volume 1881, page 572, as Instrument No. 3991, Official Records, being all oil, gas and other hydrocarbons and all other mines and minerals found in solid, gaseous or viscid state lying below a depth of 500 feet.

APN: 057-200-067

PARCEL 2: A portion of Lot 96 and a portion of the West 40 feet of the 100 foot wide Southern Pacific Railroad-Oakdale Branch right-of-way (now abandoned), according to the map entitled, **MAP OF CROCKER COLONY**, filed June 7, 1911, in book 5 of Maps, page 6 Merced County Records, and more particularly described as follows:

Commencing at a point that is the Southeast corner of said Lot 96, said point also being on the Northerly line of the Santa Fe Railroad right-of-way; thence South 88° 35' 30" East, 40.00 feet; thence North 01° 24' 30" West, a distance of 697 feet, to the true point of beginning; thence north 88° 25' 30" West, a distance of 100.00 feet; thence North 01° 24' 30" East, a distance of 189.93

LEGAL DESCRIPTION

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feet; thence South $51^{\circ} 47' 00''$ East, a distance of 74.78 feet; thence South $40^{\circ} 05' 55''$ East, a distance of 60.36 feet; thence South $01^{\circ} 24' 30''$ West, a distance of 100.00 feet to the true point of beginning.

EXCEPTING therefrom the property and property rights excepted and reserved in deeds recorded August 4, 1961, in Volume 1539, page 504, as Instrument No. 14501, Official Records, March 3, 1971, in Volume 1881, page 555, as Instrument No. 3989, Official Records and March 3, 1972, in Volume 1881, page 572, as Instrument No. 3991, Official Records, being all oil, gas and other hydrocarbons and all other mines and minerals found in solid, gaseous or viscid state lying below a depth of 500 feet.

APN: 057-200-029

GENERAL PLAN AMENDMENT #15-04

SUBJECT SITE

BLACK RASCAL BP

SANTA FE

SANTA FE

59

OLIVE

COOPER



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:

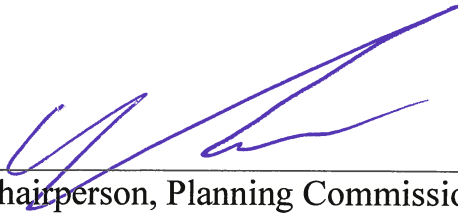
AYES: Commissioners Alshami, Camper, Colby, Martinez, and Chairperson Dylina
NOES: Commissioner Padilla
ABSENT: None, (One Vacancy)
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 3095

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June 6, 2018

Adopted this 6th 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

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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.

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<p style="text-align: center;">ENVIRONMENTAL REVIEW #15-36 Mitigation Monitoring Program</p>
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MITIGATION MONITORING CONTENTS

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

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

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

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

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

- 1) The requirements of the adopted mitigation monitoring program for 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:

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

A) Aesthetics				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
<i>AES-4</i>	<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.</i></p> <p><i>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	

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
AES-4	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	
D) Biological Resources				
BIO-1	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	

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
BIO-3	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/ Engineering Department	
CUL-1	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 Services/ Planning Department	

EXHIBIT B

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
CUL-3	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/ Panning Department	

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
CUL-4	<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/ Panning Department	

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
	<ul style="list-style-type: none"> <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> <i>The descendant identified fails to make a recommendation.</i> <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> <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/ Panning Department	
GEO-2	<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	

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
GEO-2	<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>	
GEO-4	<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>	
HAZ-5	<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>	
HYD-1	<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

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
HYD-1	<p><i>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:</i></p> <ul style="list-style-type: none"> <i>• Comply with the requirements of the State of California's most current Construction Stormwater Permit.</i> <i>• Temporary erosion control measures shall be implemented on all disturbed areas.</i> <i>• Disturbed surfaces shall be treated with erosion control measures during the October 15 to April 15 rainy season.</i> <i>• Sediment shall be retained on-site by a system of sediment basins, traps, or other BMPs.</i> <i>• 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.</i> <i>• 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)</i> 	<i>Grading Permit</i>	<i>Inspection Services/Engineering</i>	

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
HYD-1	<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>			
HYD-1	<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>	

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
HYD-5	<i>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.</i>	<i>Grading Permit</i>	<i>Inspection Services/ Engineering</i>	
HYD-8	<i>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). 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)</i>	<i>Grading Permit</i>	<i>Inspection Services/ Engineering</i>	

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
NOI-1	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	
NOI-1	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: Road/Railroad Required Setback Santa Fe Drive 54 Ft. North Highway 59 89 Ft. BNSF Railroad 137 Ft.	Building Permit	Inspection Services/ Planning	
TRA-1	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.			

Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
TRA-1	<p>TRA-1b 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"> • 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 median island separating eastbound and right turning traffic. Reconstruct the eastbound Santa Fe Drive approach to provide dual left turn lanes. 	<i>Building Permit</i>	<i>Planning</i>	
TRA-6	<p>TRA-6 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>	<i>Building Permit</i>	<i>Planning</i>	

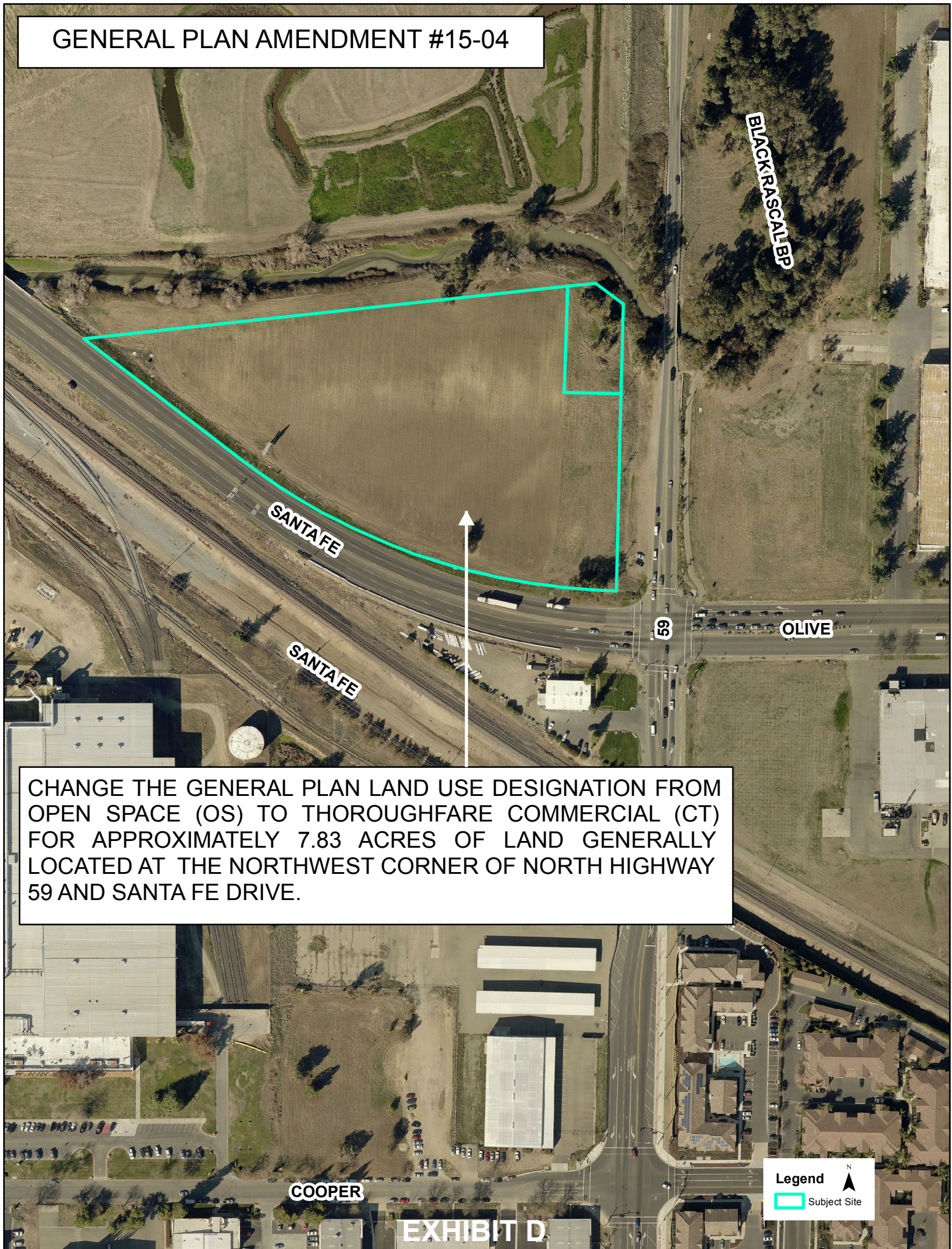
Certificate of Completion:

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

GENERAL PLAN AMENDMENT #15-04



CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM OPEN SPACE (OS) TO THOROUGHFARE COMMERCIAL (CT) FOR APPROXIMATELY 7.83 ACRES OF LAND GENERALLY LOCATED AT THE NORTHWEST CORNER OF NORTH HIGHWAY 59 AND SANTA FE DRIVE.

Legend
N
Subject Site

EXHIBIT D