

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

**MINUTES**

Merced City Council Chambers  
Wednesday, January 9, 2019

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: Mary Camper, Scott G. Drexel, Michael Harris, Jeremy Martinez, Peter Padilla, Sam Rashe, and Chairperson Robert Dylina

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Principal Planner Hren, Associate Planner Nelson, Interim Deputy City Attorney Flores, and Recording Secretary Davis

1. **APPROVAL OF AGENDA**

M/S PADILLA-HARRIS, and carried by unanimous voice vote, to approve the Agenda as submitted.

2. **MINUTES**

M/S PADILLA-HARRIS, and carried by unanimous voice vote, to approve the Minutes of November 7 and 14, 2018, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Vesting Tentative Map #1305 (“Bellevue Ranch North, Village 23”), initiated by Benchmark Engineering, applicant for Bellevue North 250, LLC, property owner. This application involves the subdivision of approximately 23.2 acres into 59 single-family lots within a gated community. This property is generally located on the west side of G Street, north of Farland Avenue, within Planned Development (P-D) #42 with Low Density (LD) General Plan Designation.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #19-03.

Public testimony was opened at 7:12 p.m.

Speaker from the Audience in Favor:

RICK MUMMERT, Benchmark Engineering, representative for Applicant, Modesto, CA

Mr. MUMMERT took time to thank City staff for their input and guidance regarding the project and gave a brief overview of the project.

The Commission asked questions regarding minimum square-footage of the homes, and whether or not the developer will be providing incentives to UC Merced staff.

No one spoke in opposition to the project.

Public Testimony was completed at 7:17 p.m.

Commissioner PADILLA and CAMPER acknowledged a trend of gated communities and favored the chosen density of the project.

M/S PADILLA-CAMPER, and carried by the following vote, to find that the previous environmental review [Environmental Impact Report (EIR) for the Bellevue Ranch Master Development (SCH #9212055)]

remains sufficient and no further documentation is required (CEQA Section 15162 Findings), and approve Vesting Tentative Subdivision Map #1305, subject to the Findings and forty-four (44) Conditions set forth in Staff Report #19-03 (RESOLUTION #4012):

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

ABSTAIN: None

- 4.2 Appeal of Zoning Determination #18-01, by WB Pharms. Appellant is appealing the determination of the Director of Development Services regarding the prohibition in the General Commercial zone of all cannabis cultivation facilities, including indoor cultivation utilizing exclusively artificial lighting.

Commissioner PADILLA requested a recess to confer with Counsel at 7:20 p.m. He returned to the dais at 7:21 p.m.

Principal Planner HREN reviewed the report on this item. For further information, refer to Staff Report #19-01.

Commissioner HARRIS asked staff to clarify the comparison of mixed-light versus artificial light cultivation and whether that was a factor in the decision.

Mr. HREN explained that the comparison between mixed-light and artificial light was used interchangeably in the Cannabis Ordinance; he referenced the determination letter written by the Director of Development Services which states that the specific use of light was not addressed when the zoning standards for cultivation were established.

Public testimony was opened at 7:30 p.m.

Speaker from the Audience in Favor (of the appeal):

BYRON BOGARD, CEO WB Pharms, Appellant, Stockton, CA

No one spoke in opposition to the appeal.

Public Testimony was completed at 7:41 p.m.

Commissioner PADILLA recalled that at previous study sessions regarding the drafting of the Cannabis Ordinance, it was the intent of the City not to have cultivation outside the industrial zones.

Commissioner MARTINEZ voiced a concern with the language of the Cannabis Ordinance and with variances with state definitions not being defined clearly in local ordinances.

M/S DREXEL-RASHE, and carried by the following vote, to affirm the decision of the Development Services Director regarding Zoning Determination #18-01 (RESOLUTION #4011):

AYES: Commissioners Camper, Drexel, Harris, Padilla, Rashe, and Chairperson Dylina

NOES: Commissioner Martinez

ABSENT: None

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.

Commissioner MARTINEZ informed the Commission of his tentative attendance to the January 23<sup>rd</sup> meeting due to a possible work conflict.

Planning Manager ESPINOSA announced the upcoming League of California Cities Planning Commission Academy in Long Beach in March to the Commission for those interested to attend.

January 9, 2019

Chairperson DYLINE addressed Planning staff in regards to the displacement of Cinema Café. Development Services Director McBRIDE informed the Chairperson that this particular issue falls between the tenant and the landlord. He added that the owner of Cinema Café has discussed options of new locations with the City Economic Development Department, but has not found a new location at this time.

6. **ADJOURNMENT**

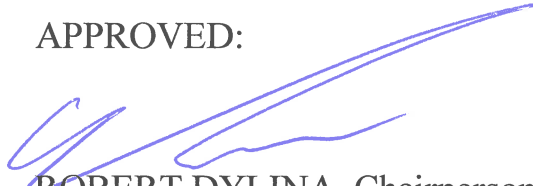
There being no further business, Chairperson DYLINE adjourned the meeting at 7:53 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary  
Merced City Planning Commission

APPROVED:



ROBERT DYLINE, Chairperson  
Merced City Planning Commission

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

**Resolution #4011**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of January 9, 2019, held a public hearing and considered an **Appeal to Zoning Determination #18-01**, by WB Pharms. Appellant is appealing the determination of the Director of Development Services regarding the prohibition in the General Commercial zone of all cannabis cultivation facilities, including indoor cultivation utilizing exclusively artificial lighting; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through C of Staff Report #19-01; and,

**NOW THEREFORE**, after discussing all the issues, the Merced City Planning Commission does resolve to hereby affirm the decision of the Development Services Director regarding Zoning Determination #18-01.

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

AYES: Commissioners Camper, Drexel, Harris, Martinez, Padilla, Rashe, and Chairperson Dylina

NOES: None

ABSENT: None

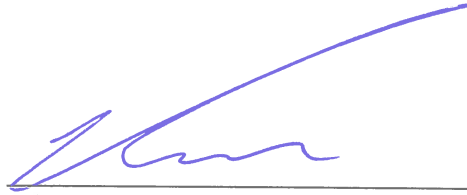
ABSTAIN: None

PLANNING COMMISSION RESOLUTION # 4011

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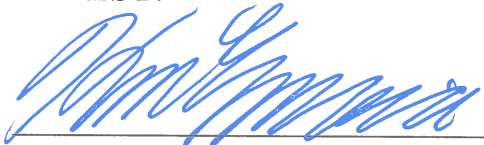
January 9, 2019

Adopted this 9<sup>th</sup> day of January 2019



Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:



Secretary

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

**Resolution #4012**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of January 9, 2019, held a public hearing and considered **Tentative Subdivision Map #1305 (“Bellevue Ranch North, Village 23”)**, initiated by Benchmark Engineering, applicant for Bellevue North 250, LLC, property owner. This application involves the subdivision of approximately 23.2 acres into 59 single-family lots within a gated community. This property is generally located on the west side of G Street, north of Farmland Avenue, within Planned Development (P-D) #42 with a Low Density (LD) General Plan Designation; also known as Assessor’s Parcel Number (APN) 052-230-086; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through I of Staff Report #19-03; 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 find that the previous environmental review [Environmental Impact Report (EIR) for the Bellevue Ranch Master Development Plan (SCH #9212055)] remains sufficient and no further documentation is required (CEQA Section 15162 Findings), and approve Vesting Tentative Subdivision Map #1305, 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 CAMPER, and carried by the following vote:

AYES: Commissioners Camper, Drexel, Harris, Padilla, Rashe, and Chairperson Dylina

NOES: Commissioner Martinez

ABSENT: None

ABSTAIN: None



PLANNING COMMISSION RESOLUTION # 4012

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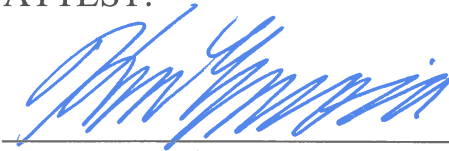
January 9, 2019

Adopted this 9<sup>th</sup> day of January 2019



Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

**Conditions of Approval**  
**Planning Commission Resolution #4012**  
**Vesting Tentative Subdivision Map # 1305**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (Vesting Tentative Subdivision Map for Bellevue Ranch Village 23).
2. All conditions contained in Resolution #1175-Amended ("Standard Tentative Subdivision Map Conditions") 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. All previously adopted conditions, mitigation measures, and guiding principles contained in Appendices D, E, and F of the Bellevue Ranch Master Development Plan (BRMDP) adopted by the Merced City Council on May 15, 1995, which are applicable to this project, shall apply to this tentative map and all subsequent final maps, improvement plans, building permits, and discretionary approvals.
6. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and 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.

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. Should any conflicts arise between the tentative map conditions contained herein and those conditions, mitigation measures, and guiding principles contained in the BRMDP, Appendices D, E, and F, or any other pertinent Sections/Appendices of the BRMDP, said conditions, mitigation measures, guiding principles, and sections/appendices shall take precedence.
9. Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before Final Map approval. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the Development Services Director to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
10. Per the BRMDP, all exterior building materials shall consist of stucco, masonry, or architectural grade wood siding, and roofing materials shall consist of tile, wood shake (with acceptable fire rating), and architectural composition shingles.
11. All dwellings shall be designed to include fire sprinklers as required by the California Fire Code.
12. All garages shall have a minimum setback of 20 feet measured from the property line or back of sidewalk, whichever is closest to the front of the garage. Per the BRMDP, the setback for the living area portion of the house may be reduced to 15 feet and shall be measured from the property line, whichever is closest to the living area portion of the house. Lot coverage shall not exceed 55% for all lots.

13. The building facades shall be of high quality design providing varied elevations and color schemes. All designs shall be consistent with the requirements of the BRMDP and Planned Development (P-D) #42 and shall be approved by Planning Staff at the building permit stage.
14. All mechanical equipment shall be screened from public view.
15. Each lot within the subdivision shall be provided with one driveway. No residential driveways shall front on any arterial or collector street.
16. The project shall comply with all requirements of the California Building Code and all flood requirements of the Federal Emergency Management Agency (FEMA), as well as the requirements for the California Urban Level of Flood Protection (CA 200-year flood).
17. All necessary documentation related to the construction of the residential uses shall be provided at the building permit stage.
18. The project shall comply with all the Post Construction Standards required to comply with state requirements for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
19. All landscaping within the public right-of-way shall comply with state and local requirements for water conservation. All irrigation provided to street trees or other landscaping shall be provided with a drip irrigation or micro-spray system and shall comply with the City's Water Efficient Landscape Ordinance (MMC Section 20.36.030).
20. Prior to final inspection of any home, all front yards and side yards exposed to public view shall be provided with landscaping to include, ground cover, trees, shrubs, and irrigation in accordance with Merced Municipal Code Section 20.36.050. Irrigation for all on-site landscaping shall be provided by a drip system or micro-spray 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. All landscaping shall comply with the City's Water Efficient Landscape Ordinance (MMC Section 20.36.030).
21. A 6-foot-tall masonry wall shall be installed along G Street and Farmland Avenue. The 28-foot-wide "park strip" as shown on the tentative map, including landscaping, shall be installed on Farmland Avenue with the first phase of construction. A minimum 15-foot-wide landscape strip shall be installed G Street. The landscaping on G Street for Phase A shall

commence prior to the issuance of the 30<sup>th</sup> building permit. The remainder of the landscaping on G Street would be installed prior to the first Certificate of Occupancy for Phase B.

22. At the building permit stage, the site plans for each lot shall include a minimum 3-foot by 6-foot concrete pad located in the side yard or backyard for the storage of 3 refuse containers.
23. Developer shall construct full public improvements on Farmland Avenue, east of the entry road (including, but not limited to, curb and gutter, pavement, sidewalk, street lights, landscaping, and utilities) with the first phase of construction. Farmland Avenue, west of the entry road shall be completed with a future phase per Table 6.1 of the BRMDP.
24. All cul-de-sac bulbs shall have a minimum diameter of 96 feet and shall be posted as “no parking” in compliance with Fire Department Standards adopted by Merced Municipal Code Section 17.32.
25. All streets within the subdivision shall be private streets and shall be privately maintained. An easement for utilities and access shall be granted to the City of Merced with the Final Map.
26. Any work done by the City of Merced to maintain utilities shall be restored to City Standards. Any decorative treatments shall be the responsibility of the Homeowner’s Association (HOA) to repair/replace.
27. The gates at the entrances shall be setback a minimum of 20 feet from the roadway to allow stacking room for at least two vehicles. The gates shall be provided with a “click-to-enter” access and controls shall be provided to the City of Merced Police, Fire, and Public Works Departments. The device used shall be approved by the City prior to installation.
28. According to Table 6.1 of the Bellevue Ranch Master Development Plan (BRMDP), complete improvements to G Street are required with the construction of Village 26. A subsequent General Plan Amendment may move the responsibility for these improvements to another Village due to biological issues with Village 26.
29. If the G Street access is not constructed with the construction of Phase A, an emergency vehicle access (EVA) shall be provided for this Phase. The location of the EVA shall be approved by the City Fire Department and City Engineer. The EVA shall be constructed to Fire Department standards.

30. Village 23 shall provide the necessary improvements for the entrance off of G Street for the subdivision, including required landscaping with the construction of Phase B.
31. The necessary right-of-way along G Street shall be dedicated with the final map to provide for ½ the width of a 128-foot major arterial and additional 15-foot landscape area on each side of the street. Some of the right-of-way has been previously dedicated, but may need to be modified to make sure the right-of-way is in the correct location. The project engineer shall work with the City Engineer to determine the areas to be dedicated or modified.
32. Fire hydrants shall be installed along street frontages to provide fire protection to the area. The hydrants shall meet all City of Merced standards and shall comply with all requirements of the City of Merced Fire Department. Final location of the fire hydrants shall be determined by the Fire Department.
33. Traffic control signs, street markings, and striping shall be as directed by the City Engineer.
34. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
35. Provide all utility services to each lot, including sanitary sewer, water, electric power, gas, telephone, and cable television. All new utilities are to be undergrounded.
36. Install appropriate street name signs and traffic control signs with locations, names, and types approved by the City Engineer.
37. Developer shall provide construction plans and calculations for all landscaping and public maintenance improvements. All such plans shall conform to City standards and meet approval of the City Engineer.
38. The developer shall establish a Homeowner's Association (HOA) (or approved alternative) governing this project. The HOA shall be responsible for the maintenance of all streets and landscaping within the development as well as sweeping/cleaning of all interior streets. Prior to the Final Map approval, the HOA and any Conditions, Covenants and Restrictions (CC&R's) shall be reviewed and approved by the City Attorney.

39. If the final map for this small lot subdivision is not recorded prior to the Large Lot subdivision map for Bellevue Ranch North (VTSM #1280), then VTSM #1280 shall be modified to reflect the change to Village 23 that is approved with this map (VTSM #1305).
40. Dedication by Final Map of all necessary easements will be made as shown on Vesting Tentative Subdivision Map #1305 and as needed for irrigation, utilities, drainage, landscaping, open space, and access.
41. All entryway and subdivision signs shall be administratively approved by Planning Staff prior to the issuance of a building permit.
42. Landscaping and irrigation details shall be provided by the applicant with final maps for each phase and are subject to approval by the City.
43. Should the Tentative Map trigger any improvements/alternations to any water way, the applicant shall have completed all Federal and State permitting requirements for such phase. Documentation of such permits shall be provided to the City prior to approval of a final map.
44. Should the Federal and/or State permitting process relative to wetlands and/or waters of the United States cause the design of the Tentative map to be modified, the applicant shall reconcile the modification(s) with the City of Merced through an amended tentative map process.

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