

**RESOLUTION NO. 2019-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
APPROVING A NEGATIVE DECLARATION FOR  
GENERAL PLAN AMENDMENT #18-03,  
REVISION #4 TO THE FAHRENS CREEK  
SPECIFIC PLAN, AND SITE UTILIZATION PLAN  
REVISION #6 TO PLANNED DEVELOPMENT (P-  
D) #46 FOR 10.73 ACRES OF LAND GENERALLY  
LOCATED ON THE WEST SIDE OF SAN  
AUGUSTINE AVENUE AT PACIFIC DRIVE AND  
APPROVING GENERAL PLAN AMENDMENT  
#18-03 FOR THE SAME PROPERTY CHANGING  
THE GENERAL PLAN DESIGNATION FROM  
BUSINESS PARK (BP) TO HIGH-MEDIUM  
DENSITY RESIDENTIAL (HMD) AND  
APPROVING REVISION #4 TO THE FAHRENS  
CREEK SPECIFIC PLAN CHANGING THE LAND  
USE DESIGNATION FROM “MINI-STORAGE”  
TO “MULTI-FAMILY”**

WHEREAS, the City is processing an application for a General Plan Amendment, Revision to the Fahrens Creek Specific Plan and Site Utilization Plan Revision to Planned Development (P-D) #46 for 10.73 acres of land generally located on the west side of San Augustine Avenue at Pacific Drive, and 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 January 23, 2019, 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 #4013, attached hereto as Exhibit C, and incorporated herein by reference, recommending that the City Council approve the General Plan Amendment and Environmental Review (Negative Declaration); and

WHEREAS, The City Council held a noticed public hearing on March 4, 2019, 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 Negative Declaration following Environmental Review #18-60 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 #18-03, which changes the General Plan designation of 10.73 acres of land generally located on the west side of San Augustine Avenue at Pacific Drive from Business Park (BP) to High-Medium Density Residential (HMD) as shown on Exhibit D, attached hereto and incorporated herein by this reference.

SECTION 3. ADOPTION OF REVISION TO FAHRENS CREEK SPECIFIC PLAN. The Fahrens Creek Specific Plan is hereby revised by approving Revision #4 to the Fahrens Creek Specific Plan, for 10.73 acres of land generally located on the west side of San Augustine Avenue at Pacific Drive, which changes the land use designation from Mini-Storage to Apartments as shown on Exhibit E, attached hereto and incorporated herein by this reference.

SECTION 4. APPROVAL OF LEGISLATIVE ACTION AGREEMENT. The Legislative Action Agreement between the City of Merced and M & B Bruno Family, L.P., a California Limited Partnership, pertaining to the approvals granted herein and the development of the property subject to these approvals is hereby approved. The approvals granted herein are contingent upon the property owner executing and returning the Legislative Action Agreement and the documents being recorded. The City Manager or Assistant City Manager is hereby authorized to execute the Legislative Action Agreement on behalf of the City of Merced.

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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 \_\_\_\_\_ 2019, 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:

Shirley A. Smith 3-4-19  
City Attorney Date

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**Lot 123 of Sunrise at Compass Pointe, County of Merced, State of California, according to the Map thereof Recorded on September 18, 2001, in Volume 60 at Page 12, Official Records of Merced County.**

**APN: 206-050-017**

**EXHIBIT A**

General Plan Amendment #18-03, Revision #4 to the Fahrens Creek  
Specific Plan, & Site Utilization Plan Revision #6 to P-D #46

HWY 59

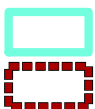
SAN AUGUSTINE

PACIFIC

EL REDONDO

COMPASS  
POINTE

YOSEMITE AVE



Subject Site

City Limit

**EXHIBIT B**

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

**Resolution #4013**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of January 23, 2019, held a public hearing and considered **General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan**, initiated by M & B Bruno Family LP, property owners. The application is a request to change the General Plan designation for approximately 10.73 acres of land on the west side of San Augustine, approximately 980 feet north of Yosemite Avenue, from Business Park (BP) to High Medium Density Residential (HMD). The request also involves a Revision to the Fahrens Creek Specific Plan and a Site Utilization Plan Revision to Planned Development (P-D) #46 to change the land use designation from “mini-storage” to “multi-family”; also known as Assessor’s Parcel No. 206-050-017; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through K of Staff Report #19-05; and,

**NOW THEREFORE**, after reviewing the City’s 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 Initial Study #18-60, and approval of General Plan Amendment #18-03, Site Utilization Plan Revision #6 to Planned Development (P-D) #46, and Revision #4 to Fahrens Creek Specific Plan, 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, Martinez, Padilla, Rashe,  
and Chairperson Dylina  
NOES: None  
ABSENT: None  
ABSTAIN: None

**EXHIBIT C**

PLANNING COMMISSION RESOLUTION # 4013

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January 23, 2019

Adopted this 23<sup>rd</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 # 4013**  
**General Plan Amendment #18-03, Site Utilization Plan #6 to Planned Development (PD) #46, and Revision #4 to Fahrens Creek Specific Plan**

1. The proposed project shall be constructed/designed in substantial compliance with the Revised Site Plan (Attachment E of Planning Commission Staff Report #19-05) and the building elevations and floor plans (Attachments C and D of Planning Commission Staff Report #19-05), except as modified by the conditions. The Site Plan Review Committee shall approve the final design for the project, and may approve up to 176 units.
2. The Project shall comply with the applicable conditions set forth in Planning Commission Resolution #2675 (Attachment F of Planning Commission Staff Report #19-05) for Annexation Application #00-03, Pre-Zone Application #00-03, General (including Specific) Plan Amendment #00-09, and Environmental Review #00-31 (including the Mitigation Monitoring Program found at Attachment G of Planning Commission Staff Report #19-05) previously approved for this project, except as amended by this action.
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. Approval of the General Plan Amendment, Revision to the Fahrens Creek Specific Plan, and Site Utilization Plan Revision are subject to the applicant's entering into a written (legislative action) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.

6. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
7. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
8. Community Facilities District (CFD) formation is required for annual operating costs for 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 the issuance of the first building permit. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.

9. In compliance with Merced Municipal Code Section 20.20.020 Q, Site Plan Review approval is required prior to development to address conformance with the standards of Planned Development (P-D) #46.
10. All public improvements shall be installed along the project frontage to meet City Standards. Any existing improvements that have been damaged or otherwise do not meet current City Standards shall be repaired or replaced to meet City Standards. This includes, but is not limited, to sidewalk curb, gutter, street trees, and street lights. All public improvements shall be installed along the SR 59 property frontage in compliance with Caltrans Standards, as well as City of Merced Standards. This may include sidewalk, curb, gutter, street lights, and landscaping along the SR 59 street frontage.
11. Street trees shall be planted along the project frontage on San Augustine Avenue in compliance with City Standards.
12. The project applicant shall contribute to the cost of the future traffic signal at San Augustine Avenue and Yosemite Avenue. This amount shall be determined by the City Engineer based on the proportion of vehicle trips generated by this project expected to utilize the intersection. This amount shall be paid or bonded for prior to the issuance of the first building permit.
13. The project 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).
14. The project shall extend the sewer line in San Augustine Avenue, south across the entire property frontage or as required by the City Engineer.
15. All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards, subject to a storm drain plan approved by the City Engineer.
16. All new utilities shall be installed underground.
17. The fire access lanes shall be constructed to withstand the weight of a fire truck, but still provide green space and pedestrian access. The use of a turf-block material is recommended or another similar type material, approved by the Fire Department and Site Plan Review Committee.

18. 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.
19. Bicycle parking shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.
20. An Emergency Vehicle Access from SR 59 onto the project site shall be granted prior to the issuance of a building permit. This access shall be constructed to meet Fire Department Standards. This access shall be gated to only allow emergency vehicle access and shall be equipped with a knox-box or other device approved by the Fire Department.
21. The property owner shall dedicate an additional 14 feet of right-of-way along SR 59 prior to the issuance of a building permit, unless otherwise approved by the City Engineer and City Land Surveyor, based on Caltrans requirements.
22. The drive aisles through the parking lot shall be posted as "no parking," unless otherwise approved by the City Fire Department.
23. The applicant shall provide written documentation from PG&E agreeing to allow the proposed parking spaces within their easement area. This documentation shall be provided with the submittal of the first building permit that includes the parking in this area.
24. Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Division if required.
25. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
26. All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.
27. 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.

EXHIBIT A  
OF PLANNING COMMISSION RESOLUTION #4013

28. 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.
29. 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.
30. 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. No trees shall 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.
31. The on-site landscape design shall include the use of xeriscape landscaping and comply with all California Building Code regulations or other applicable state and/or local requirements as well as Chapter 20.36 of the City's Zoning Ordinance.
32. The median between the driveways shall be provided with low-lying landscaping. Nothing in this area shall be taller than 2 ½ feet.
33. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.
34. All parking lot and other exterior lighting shall be oriented in such a way so that it does not spillover onto adjacent properties.
35. All mechanical equipment shall be screened from public view.
36. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall

General Plan Amendment #18-03

Amend General Plan  
Designation from  
Business Park (BP)  
to  
High/Medium Density (HMD)



HWY 59


SAN AUGUSTINE

PACIFIC

EL REDONDO

COMPASS  
POINTE

YOSEMITE AVE

-  Subject Site
-  City Limit



# Revision #4 to Fahrens Creek Specific Plan

Amend Fahrens Creek Specific Plan Land Use Designation  
from  
"Mini-Storage"  
to  
"Apartments"

HWY 59

SAN AUGUSTINE

PACIFIC

EL REDONDO

COMPASS  
POINTE

YOSEMITE AVE

Subject Site

City Limit

N

EXHIBIT E