

**CITY OF MERCED**  
**Planning Commission**  
**Resolution #2817**

Amended by Minor Modification #18-02  
7/8/19

Amended by Planning Commission 5/7/08

Extended on 4/30/08, 7/15/08, 7/15/09,  
7/15/11, 7/11/13, 10/10/15 --See Pgs 8-9

Appeal to City Council Denied 6/6/05

**WHEREAS**, the Merced City Planning Commission at its regular meeting of May 4, 2005, held a public hearing and considered **Tentative Subdivision Map #1271 ("Moraga Development")**, initiated by Mid-Valley Engineering, applicants for Lakemont Communities and LWH Farms, property owners, to allow the subdivision of 117 acres into 520 single-family residential lots and one lot to serve as a neighborhood park and storm drain detention basin. The project is located east of McKee Road and south of Yosemite Avenue, within an area zoned Residential Planned Development (RP-D #52); also known as Assessor's Parcel Numbers: 008-010-053, -054, and -055.

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through Q of Staff Report # 05-31; 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 hereby resolve to adopt the Section 15162 Findings (Environmental Review #05-22), and approve Vesting Tentative Subdivision Map #1271 ("Moraga Development"), subject to the following conditions:

- 1) The proposed project shall be constructed/designed as shown on Exhibit 1 (Proposed Vesting Tentative Map) - Attachment B, subject to conditioned changes, of Staff Report #05-31.
- 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) A sufficient water supply shall be available prior to the completion of the subdivision [Government Code 66473.7(B)(1)], and no final map shall be approved until written proof of the availability of such supply, based on substantial evidence as specified in Senate Bill 221, is accepted by the City." This condition is based on the "Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001, (in the Planning library) prepared by the California Department of Water Resources. This

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- condition applies to subdivisions containing 500 or more residential dwelling units.
- 6) Community Facilities District (CFD) formation is required for annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, street lights, parks and open space. CFD procedures shall be initiated before final map approval. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.
  - 7) The developer/applicant shall indemnify, protect, defend, and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, or proceedings against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
  - 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) Comply with previous approved conditions, and mitigation measures for the annexation area, including Annexation #02-02, Developer Agreement with the Hunt Family, with Lakemont Homes, and Expanded Initial Study #02-27 (See Attachment J for Lakemont Development Agreement and Conditions).
  - 10) Lots A, B, C, F, G, ~~H, H1, H2~~, I, J, and K (open space/walkways and PG&E easement) shall not be considered as “park” or “open space” by

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City Standards. However, they are to remain unfenced and shall serve as open space. Lots A, B, C, F, G, I, J, and K shall be maintained by the Home Owners Association. ~~Lots H, H1, and H2, shall be maintained by the Community Facilities District.~~ The City agrees to assist the applicants in obtaining any necessary approvals from PG & E.

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~~11) Developer shall submit landscape/irrigation/wall plans for approval by City Engineer. All walls shall be solid masonry. A 15-foot wide irrigated landscape strip shall be developed between the masonry wall and the back of curb along the Yosemite Avenue frontage. The PG&E easement area at the Yosemite Avenue frontage shall be landscaped per Condition #11 of the conditions for Zone Change #383 (Exhibit B of Attachment J).~~

12) Developer shall develop a sewer master layout and profile plan (depth and slope), to be approved by the City Engineer, for serving the annexation area from the existing stub in Yosemite Avenue. Sanitary sewer design shall direct all sewer flow to Yosemite Avenue at Parsons Avenue. It is anticipated that a 12-inch sewer line will be extended in Yosemite Avenue with a pump station within this subdivision if necessary. Design shall also intercept flows from the subdivision to the south (known as Summer Creek) and eliminate Summer Creek's sanitary sewer pump station. The ultimate necessity for a sewer lift station within this subdivision shall be determined with the subdivision's sewer master plan. Details to be approved by City Engineer.

13) Developers shall provide, at their own expense, a storm drain master plan, subject to approval by the City Engineer. Storm drainage design shall be compatible with City Standards and also compatible with the Storm Drain Master Plan established by the Summer Creek subdivision (south of proposed Moraga development).

14) Street names are not approved. City Engineer shall approve street names in conformance with City Standards.

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~~15) The bike path shall be extended along the eastern property line. The pathway shall be developed all the way to Yosemite Avenue, subject to reimbursement per City Standards. The developer will only be responsible for the installation of landscaping within the PG&E easement and proposed subdivision.~~

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16) The Parks and Community Services Director shall review the design and the layout for the Park/Basin, ~~the northward extension of the bike path along the eastern border of the property line,~~ and for design of Lot I.

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- 17) In the interest of public safety, Lot 'E' shall be converted into a through street to improve the overall circulation of the project, improve emergency response times, and help the residents of the area have an easier time trying to move around the development.
- 18) Deleted
- 19) Regarding the signal at Yosemite Avenue and McKee Road, the Moraga developers shall install the signal with the City reimbursing them 75% of the cost. This refers to the 25% share in Mitigation Monitoring Program (EIS #02-27, Item #15). The installation of the signal and intersection improvements shall be completed prior to issuance the 51<sup>st</sup> building permit on the site, or the City Engineer may grant an extension if substantial progress has been made.
- 20) Regarding the signal at Via Moraga, the Moraga developers shall install the signal with the City reimbursing them 50% of the cost. This refers to the 50% share in Mitigation Monitoring Program (EIS #02-27, Item #15). The installation of the intersection shall be completed prior to issuance of the 250<sup>th</sup> building permit on the site.
- 21) In referring to Condition 13 of Zone Change #383, the developers will need to establish an approved Home Owners Association (HOA) (or approved alternative) governing this project. The HOA will be responsible for parking enforcement and\_sweeping/cleaning of the on-street parking spaces (outside of right-of-way), and requiring that refuse containers, basketball hoops and other items cannot be placed in the fire lanes. All "fire lanes" ( 20 foot travel areas) shall be designated as "Tow Away" zones. Articles of incorporation for the HOA and CC&R'S shall be reviewed by the City Attorney prior to Final Map approval.
- 22) All 20-foot wide roadways through the subdivision will need to be posted as "fire lanes".
- 23) All access roads in excess of 150 feet are required to be provided with an approved turnaround. The multi-residential unit driveways that have been submitted have seven (7) "dead end" roads that are in excess of 150 feet required by the fire code. These areas must be provided with an approved through "fire lane", turnaround or other mitigation including but not limited to fire sprinklers in addition to an all-weather driving surface. Details to be worked out with the Fire Department prior to Final Map approval.

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- 24) Fire Hydrants to be provided and spaced in accordance with City of Merced standards. The minimum spacing between hydrants is 500 feet.
- 25) All undeveloped area, including the dual-use park/basin and Lot “H” easement, will need to be maintained free of weeds and other debris.
- 26) A minimum turning radius of 33 feet inside, 47 feet curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided for all areas of the subdivision.
- 27) With the valley gutters splitting the parking bays from the through traffic lanes, and since the paving area between the gutter and curb would be so small, the parking lane between the gutter and the curb shall be constructed of reinforced concrete.
- 28) The proposed map indicates that Lots A-C, F-G, and I-K are designated as “open space” and proposed to be owned by the City. These lots shall be owned by the Home Owner’s Association. These lots may be maintained with the Community Facilities District at the City’s discretion. Details to be worked out at the final map stage. Water meters serving the homes located on the green-belts (Lots 42-47, 137-140, 187-191, 243-247, 389-393, 441-445, and 518-520) shall be placed in the City-owned street or sidewalk adjacent to the green-belt to facilitate the electronic reading of said meters.
- 29) Water meters serving the homes located on the green-belts (Lots 42-47, 137-140, 187-191, 243-247, 389-393, 441-445, and 518-520) shall be placed in the City-owned street or sidewalk adjacent to the green-belt to facilitate the electronic reading of said meters.
- 30) Emergency vehicles shall have the ability to transverse the green-belts and/or driveways from one street to the next. This requires the placement of some form of traffic bearing surface, such as turf block or turf grid of sufficient width to allow deployment of fire department vehicles.
- 31) Refuse containers utilized by homes on the green-belts shall be placed on the City-owned street for collection. City refuse vehicles will not travel on the green-belt driveways to collect refuse.
- 32) Refuse containers shall be stored out of site of the general public, including those homes located on the greenbelts. A concrete pad (3 x 6 foot minimum) shall be installed in the site or back yard of each unit to house refuse containers.

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- 33) City utility service (water and sewer) connections shall be located under the driveway for each lot that faces a City street. Water lines are privately owned and maintained between the meter and the home. Sewer lines are privately owned and maintained from the point of connection to the City-owned main sewer line.
- 34) All green space, except the specifically identified City owned park/storm basin ~~and Class 1 bikeways~~, will be fully maintained by CFD's, and shall not be dedicated to the City of Merced.
- 35) The park/storm basin ~~and Class 1 bikeways~~ within the specific site shall be dedicated to the City and shall be maintained by a combination of City and CFD funds, as allowed by law. The specific combination will be determined at a later date.
- 36) Yosemite Avenue improvements shall be installed as part of the first Final Map (see Expanded Initial Study #02-27, No. 15-3), including left turn lane at Yosemite Avenue and Lake Road. Yosemite Avenue median improvements, from McKee Road to Perch Road, as submitted by developer (Attachment E) are acceptable. The City shall defer a median in Yosemite Avenue east of Perch Road until a U-turn at Lake Road (eastbound Yosemite Avenue to westbound Yosemite Avenue) can occur. This would require additional pavement width on the north side of Yosemite Avenue west of Lake Road. If deferred, the developer shall not be responsible for the cost to construct the raised median. Yosemite Avenue improvements shall include curb, gutter, parkstrip and sidewalks on the north frontage of the Pretzer property. Landscaping of the parkstrip will be provided as part of the future development of the Pretzer property. The City won't reimburse the applicant for these improvements because the Public Facilities Financing Plan does not cover these (curb, gutter, sidewalk) on Pretzer's property. That is for reimbursement from Mrs. Pretzer when it develops unless she has an agreement with Lakemont to the contrary.
- 37) Improvements on McKee Road (see Expanded Initial Study #02-27, No. 15-4) shall be installed as part of the second Final Map or with the McKee Road at Yosemite Avenue traffic signal, whichever occurs first.

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McKee Road improvements shall be limited to the intersection improvements including the traffic signal and right turn lane (from McKee Road to Yosemite Avenue only).


- 38) The proposed road improvement design of transitioning from two lanes to one lane (eastbound traffic at Lake Road) is not acceptable to the City. An acceptable design shall be provided prior to the review of the first final map for the Project.

See pg. 9 for Condition #39.

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

AYES: Commissioners Shankland, Acheson, Fisher, Eisenhart, Conte, and Chairman Burr  
NOES: None.  
ABSENT: Pollard

Adopted this 4th day of May, 2005

  
Chairman, Planning Commission of  
the City of Merced, California

ATTEST:

  
Secretary

June 6, 2005: At their regular meeting of June 6, 2005, the City Council considered the appeal of the Planning Commission's approval of Vesting Tentative Subdivision Map #1217 and DENIED the appeal and thereby upholding the Planning Commission's approval. For Findings in Support of Denial of the Appeal, refer to the Attached City Council Resolution #2005-70.

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**April 30, 2008:** Note: October 26, 2007, is the recordation of the Partial Notice of Completion of Moraga of Merced, Unit No. 1. The Final Map was recorded on March 27, 2006. This recordation qualified the Moraga Tentative Map (VTSM #1271) for an automatic 3-year extension under the Subdivision Map Act. The new expiration date is May 4, 2010.

**May 7, 2008:** At their regularly scheduled meeting of May 7, 2008, the Merced City Planning Commission considered and approved (6-0-1, 1-Absent) a modification to Finding P of Staff Report #05-31 and a modification to Condition #11 of Planning Commission Resolution #2817 as noted below.

### Modification to Finding P

- P) Special provisions have been added to the project conditions regarding the Landscape Strip along Yosemite Avenue and Whitewater Way. With the improvements to the PG&E Easement being deferred to Phase 2, these improvements are separated from the current Phase 1 and they will directly benefit Phases 2 and 3 (Condition #11).

### Modification to Condition #11

- 11) Developer shall submit landscape/irrigation wall plans for approval by City Engineer. All walls shall be solid masonry. A 15-foot wide irrigated landscape strip shall be developed between the masonry wall along the Yosemite Avenue frontage and the PG&E easement per Condition #11 of the Development Agreement (Attachment J of Staff Report #05-31). The improvements shall be installed and bonded with Phase 2.

**July 15, 2008/July 15, 2009:** On July 15, 2008, the State of California gave a one-year extension to all active (not expired) tentative maps that were otherwise scheduled to expire on or before December 30, 2010. On July 15, 2009, the State of California gave a second two-year extension. Therefore, Vesting Tentative Subdivision Map #1271 hereby has its expiration date extended to May 4, 2013.

**July 15, 2011:** On July 15, 2011, the State of California gave a 24-month extension to all active (not expired) tentative maps that were otherwise



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scheduled to expire on or before January 1, 2014. Therefore, Vesting Tentative Subdivision Map #1271 hereby has its expiration date extended to May 4, 2015.

**July 11, 2013:** On July 11, 2013, the State of California gave a 24-month extension to all active (not expired) tentative maps that were approved on or after January 1, 2000. Therefore, Vesting Tentative Subdivision Map #1271 hereby has its expiration date extended to May 4, 2017.

**October 10, 2015:** On October 10, 2015, the State of California gave a 24-month extension to all active (not expired) tentative maps that were approved on or after January 1, 2002, and not later than July 11, 2013. Therefore, Vesting Tentative Subdivision Map #1271 hereby has its expiration date extended to May 4, 2019.

**July 8, 2019:** Minor Modification #18-02 was administratively approved by the Development Services Director. This approval removed Lots H, H-1, and H-2 from the tentative map and removed any requirements for a bike path within those lots. Minor Modification #18-02 also eliminated the connection on Paseo Pizarro and X Streets from Moraga Phase II to the adjacent property to the east. Boundary Adjustment #17-02 adjusted the property line between APN's: 008-010-074 and 008-010-071 moving the area shown as Lots H, H-1, and H-2 from APN 008-010-074 to APN 008-010-071. The Revised Tentative Subdivision Map for Moraga of Merced Phase II shown as Attachment 6 of Minor Modification #18-02, is now the official tentative map for Moraga Phase II. See additional Condition #39 below.

- 39) The Revised Tentative Subdivision Map provided at Attachment 6 of Minor Modification #18-02 is hereby approved for Phase II of the Moraga Subdivision and supersedes the Map at Attachment 2 for Phase II.