

EXHIBIT G
PLANNING COMMISSION RESOLUTION
(With Proposed Modifications)

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**CITY OF MERCED
Planning Commission**

See Page 3 for Proposed Changes.
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Resolution #2871

WHEREAS, the Merced City Planning Commission at its regular meeting of March 22, 2006, held a public hearing and considered **Pending Annexation and Pre-zoning Applications #04-01 and Establishment of Residential Planned Development #61**, initiated by Golden Valley Engineers for applicants Bright-Homes; Absolute, L.L.C; and Leeco, L.L.C., property owners. This application involves annexing 100 acres into the City of Merced; prezoning the area R-1-5 (Single Family Residential) and Residential Planned Development #61. The annexation is located on the east side of “G” Street, approximately 1,300 feet north of Cardella Road; also known as Assessor’s Parcel Numbers 006-030-036 through -039; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through S of Staff Report #06-24; 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 recommend to City Council adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program (Exhibit A) regarding Expanded Initial Study #04-02 (“Absolute-Leeco Annexation”), and approval of Pending Annexation Application #04-01, Prezoning Application #04-01, and Establishment of Residential Planned Development (RP-D) #61, subject to the following conditions:

1. Approval of the Pending Annexation/Prezoning/Establishment of Residential Planned Development #61 is subject to the applicants entering into a written Pre-Annexation Development 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 regional traffic impact fees, a Parsons Avenue impact fee, Mello-Roos, etc.; said agreement to be approved by the City Council prior to the adoption of the ordinance or resolution.

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March 22, 2006/July 22, 2020

2. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the Engineering Department.
3. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
4. 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, 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 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 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.

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. As part of subsequent Tentative Subdivision Map entitlement processes, the applicants shall dedicate sufficient land along “G” Street (project frontage) to provide for a 128-foot right-of-way and construct their fair share of “G” Street (including safe transitions to the north and south) consistent with the Figure 4.4 of the *Merced Vision 2015 General Plan* (Major Arterial Cross-Section). ~~All the “G” Street improvements required for this annexation (amounting to 1,651 feet of frontage), shall be completed in one construction project, and not be divided by ownership or tentative maps. These improvements~~ Improvements along G Street shall include frontage improvements, traffic signals, the piping of the Six Mile Drain and the under-grounding of the existing telephone lines (details to be worked out at the tentative subdivision map process). Consistent with project Mitigation Measure 11-1, a minimum of 15-feet of additional landscaping together with a six-foot tall decorative wall (approved by City Planning Staff) shall be placed to the outside of the right-of-way to the east. The project infrastructure improvement plans for “G” Street may include a meandering sidewalk. Consistent with the City’s Water Efficient Landscaping & Irrigation Ordinance (MMC 17.60), the landscaping along “G” Street shall be comply with the water conservation measures specified in said ordinance. Each development with frontage on G Street shall be responsible for installing the above improvements along the development’s frontage.
8. Collector street locations in subsequent Tentative Subdivision Map and Conditional Use Permit entitlements shall be provided consistent with the adopted circulation plan for this project (Attachment C of Staff Report #06-24), as well as with the local “road design standards”

Changes
proposed by
applicant.

Note:

underlined text
is new text,
~~strikethrough~~
text is deleted
text.

of Planned Development #61 (Attachment F of Staff Report #06-24 – Exhibit 1).

9. As part of subsequent Tentative Subdivision Map entitlement processes, dedication of land for use as a community park, neighborhood park and the storm-drainage / open space corridor shall be provided consistent with the proposed land use designations for this project (Attachment D of Staff Report #06-24).
10. Conceptual plans for the off-street bike path route, drainage basins and aesthetically designed open space within the PG&E transmission line easements, shall be included with subsequent Tentative Subdivision Map applications. Details, including any requirements for pedestrian/bike under-crossings, will be worked out during the mapping process
11. Concurrent with any application for a Conditional Use Permit or Tentative Subdivision Map within the “Village Residential” land use designation, the applicant shall submit a plan to the City showing the minimum densities necessary to attain an average minimum 10 units per acre gross density within the entire “Village Residential” site of the “Absolute-Leeco Annexation,” along with a signed statement from the owner(s) of the other parcel(s) in the “Village Residential” site acknowledging the proposed density and of their obligation to construct a project on the remaining parcel(s) that results in an average minimum 10 units per acre gross density within the entire “Village Residential” site of the “Absolute-Leeco Annexation.”
12. Except as may be changed by project conditions of approval herein, Residential Planned Development #61 shall be constructed/designed generally as shown on Attachment F (of Staff Report #06-24 - Planned Development Standards, including “road design standards”). The Development Services Director has authority to permit minor modifications to these approved plans.

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

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March 22, 2006

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

AYES: Commissioners Acheson, Burr, Conte, Amey, Ward, and
Vice-Chairman Fisher

NOES: None

ABSENT: Chairman Shankland

Adopted this 22nd day of March, 2006



Chairman, Planning Commission
of the City of Merced, California

ATTEST:


Secretary

Exhibit A – Mitigation Monitoring Program

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**EXPANDED INITIAL STUDY #04-02
for
ABSOLUTE-LEECO ANNEXATION TO
THE CITY OF MERCED**

Appendix A
Mitigation Monitoring Program
Document Date: 2-15-06

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 the Absolute-Leeco Project shall run with the real property that is the subject of a General Plan Amendment/Annexation to the City of Merced. 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, the *Expanded Initial Study for Absolute-Leeco Annexation to the City of Merced* incorporates some mitigation measures adopted as part of the *Merced Vision 2015 General Plan Program Environmental Impact Report* (SCH# 95082050), as mitigation for potential impacts of the Project. Therefore, following the Absolute-Leeco Annexation Mitigation Monitoring Checklist is a list of these relevant General Plan mitigation measures.

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 the Absolute-Leeco Annexation. 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.
Verification:	These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

Absolute-Leeco Annexation 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).

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
2. AGRICULTURAL RESOURCES			
2-1 A provision shall be recorded by the applicants/developer or successors, at time of sale of any residentially-zoned property within the project that lies within 1,000 feet of the external boundary of any non-project property which currently has an active agricultural operation (including 4-H projects), or has had an agricultural operation on it during the calendar year preceding the year within which the sale takes place. This provision shall notify the buyer(s) and any subsequent owner(s) of the possible inconvenience or discomfort of farming operations, arising from the use of agricultural chemicals, including pesticides, and fertilizers, as well as from the pursuit of agricultural operations including plowing, spraying, and harvesting which occasionally generate dust, smoke, noise and odor, and the priority to which Merced County places on agricultural operations.	<i>Building Permits</i>	<i>City Planning & Inspection Services</i>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
3) AIR QUALITY			
3-1. The design and construction of the Project within the Village Residential Portion of the Project shall adhere to <i>the Merced Vision 2015 General Plan</i> “Urban Design Goals, Policies and Actions” (Chapter 6).	<i>Tentative Subdivision Map</i>	<i>City Planning & Inspection Services</i>	
3-2. The high-voltage power line easements shall be developed with a Class I Bike Path / pedestrian way, open space and linear open space storm drain basin, that provides residents an off-street connection to neighborhood parks, schools and commercial areas.	<i>Tentative Subdivision Map</i>	<i>City Planning & Inspection Services</i>	
3-3. Roads between the core-commercial area (in the Bandoni Annexation Project Area to the south) and adjacent and surrounding residential areas shall be provided in a manner where they converge at the core commercial area south of the annexation area. In order to implement this design, the Project shall adhere to the General Plan policies as depicted in the Project’s “Planned Development Standards,” including its road design standards (Appendix F).	<i>Tentative Subdivision Map</i>	<i>City Planning & Inspection Services</i>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
3-4. Development within the Village Residential areas shall be “pedestrian in scale” and shall provide direct and easy access to the core commercial area and transit stop. Residential buildings in the urban village shall “front” onto the street (no long uninterrupted walls). Building facades should be varied and articulated to provide visual interest to pedestrians. All through streets shall contain park strips with shade trees. In order to implement this design, the Project shall adhere to these General Plan policies as depicted in the Projects “Planned Development Standards,” including its road design standards (Appendix F).	<i>Conditional Use Permit</i>	<i>City Planning & Inspection Services</i>	
5) CULTURAL RESOURCES			
5-1. If evidence of archaeological artifacts or paleontologic resources are discovered during construction, all operations within an area at and adjacent to the discovered site shall halt until a qualified archaeologist determines the extent of significance of the site.	<i>Building Permits</i>	<i>City Planning</i>	
5-2. If evidence of human remains are discovered during construction, all operations at and adjacent to the discovered site shall halt, and the Merced County Coroner shall be contacted.	<i>Building Permits</i>	<i>City Planning</i>	
5-3. On-site preservation of a resource is the preferred alternative. Preserving a cultural deposit maintains the artifacts in context and may prevent inadvertent discovery of, or damage to, human burials. Preservation may be accomplished through a number of means such as capping or covering the site with a layer of soil, fencing the site area, and/or incorporation of the resource in a park area.	<i>Building Permits</i>	<i>City Planning</i>	

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
11) NOISE			
11-1. Prior to or concurrent with submittal of a tentative subdivision map, the applicant shall provide a project development plan that includes a six-foot tall wall and a landscaped area between said wall and edge of the "G" Street right-of-way (behind the sidewalk) of no less than 15 feet.	<i>Tentative Subdivision Map</i>	<i>City Planning & Inspection Services</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

APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR— ABSOLUTE-LEECO ANNEXATION

<i>Mitigation Measure</i>	<i>Timing</i>	<i>Agency or Department Consultation</i>	<i>City Verification (date and initials)</i>
<i>Plant/Animal Life</i>			
3-a) When site-specific development proposals are submitted to the City for review and action, surveys should be conducted for special-status species prior to the disturbance of potentially suitable habitat. All surveys will be conducted in accordance with applicable state and federal guidelines.	<i>Annexation</i>	<i>City Planning</i>	<i>Completed in March 2004 and 2005 with Biological Resources Inventory by Live Oaks Associates (Appendix D)</i>
<i>Traffic/Circulation</i>			
7-a) Appropriate traffic studies shall be prepared for all development projects which can be expected to reduce a road segment or intersection levels of service below “D.”	<i>Annexation</i>	<i>City Planning</i>	<i>Not Applicable (roads operating at LOS D or better.</i>
7-b) The City shall require all development proposals to contribute, based on their proportionate share of impact, to circulation system improvements necessary to maintain at least a level of service “D” on all road segments and intersections impacted by the development project.	<i>Certificate of Occupancy</i>	<i>City Planning</i>	
<i>Public Facilities/Services</i>			
8c) Site designs will need to be reviewed to assure that development does not hinder efficient and cost-effective public services delivery.	<i>Tentative Subdivision Map</i>	<i>City Planning</i>	
8-d) Development projects will be required to pay public facilities impact fees as established by the City in accordance with the requirements of State law.	<i>Certificate of Occupancy</i>	<i>City Planning</i>	