



Legislation Details (With Text)

**File #:** 18-324      **Version:** 1      **Name:**

**Type:** Public Hearing Item      **Status:** Agenda Ready

**File created:** 6/15/2018      **In control:** City Council/Public Finance and Economic Development Authority/Parking Authority

**On agenda:** 9/17/2018      **Final action:**

**Title:** SUBJECT: Public Hearing - Annexation and Pre-Zoning Application #15-01, General Plan Amendment #15-04, and Pre-Annexation Development Agreement, Initiated by Louann Bianchi, and Quad LLC, Property Owners

REPORT IN BRIEF

Considers approval of the proposed annexation of 8.83 acres of land generally located at the northwest and southwest corners of North Highway 59 and Santa Fe Drive, along with changes in the General Plan designation, pre-zoning, and approval of a Pre-Annexation Development Agreement.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving Resolution 2018-60, 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 North Highway 59 and Santa Fe Drive changing the General Plan land use designation from Open Space (OS) to Thoroughfare Commercial (CT); and,
- B. Approving Resolution 2018-61, a Resolution of the City Council of the City of Merced, California, to the Local Agency Formation Commission for the annexation of uninhabited property located at the northwest and southwest corners of North Highway 59 and Santa Fe Drive, as described herein; and,
- C. Introducing Ordinance 2494, an Ordinance of the City Council of the City of Merced, California, amending the official zoning map by Pre-zoning land generally located at the northwest corner of North Highway 59 and Santa Fe Drive as Thoroughfare Commercial (C-T) and the land generally located at the southwest corner of North Highway 59 and Santa Fe Drive as Light Industrial (I-L); and,
- D. Introducing Ordinance 2495, an Ordinance of the City Council of the City of Merced, California, approving a Pre-Annexation Development Agreement between the City of Merced and Lou Ann Bianchi for the Highway 59 and Santa Fe Annexation.

Sponsors:

Indexes:

Code sections:

**Attachments:** 1. Location Map, 2. Tentative Map, 3. Site Plan, 4. Zoning Table - Commercial Uses, 5. Zoning Table - Industrial Uses, 6. Flood Zone, 7. Initial Study, 8. Planning Commission Resolution #3095, 9. Planning Commission Staff Report, 10. Planning Commission Minutes Excerpt, 11. Pre-Annex Dev Agrmt\_revised 8-22-18.pdf, 12. Draft Resolution Approving Applications, 13. Draft Resolution to LAFCo, 14. Draft Ordinance amending Zoning Map, 15. Draft Ordinance approving Pre-Annexation Development Agreement

Date	Ver.	Action By	Action	Result
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9/17/2018      1      City Council/Public Finance and Economic Development Authority/Parking Authority      continued      Pass

*Report Prepared by: Julie Nelson, Associate Planner, Planning Department*

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## ALTERNATIVES

- 1. Approve the request as recommended by the Planning Commission and staff; or,
- 2. Approve subject to modifications as conditioned by the City Council; or,
- 3. Deny the request; or,
- 4. Refer back to staff for reconsideration of specific items (specific items to be addressed in the motion); or,
- 5. Continue to a future meeting (date and time to be specified in the motion).

## **AUTHORITY**

The State of California's Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, outlines the procedures governing the annexation of uninhabited territory to local jurisdictions. Title 19 of the Merced Municipal Code outlines environmental review procedures and Title 20 of the Merced Municipal Code (Zoning) regulates the use of land within the Thoroughfare Commercial (C-T) zone. Pre-annexation development agreements are authorized by Government Code Section 65864 *et seq.* and Merced Municipal Code Section 20.86.150.

## **DISCUSSION**

### Project Description

This a request to annex and pre-zone approximately 8.83 acres of land generally located at the northwest and southwest corners of North Highway 59 and Santa Fe Drive (Attachment 1). The proposal also includes a General Plan Amendment for the northwest corner of North Highway 59 and Santa Fe Drive to change the General Plan land use designation from Open Space (OS) to Thoroughfare Commercial (CT). The proposed pre-zoning designations would be Light Industrial (I-L) for the southwest corner which is consistent with the current General Plan designation, and Thoroughfare Commercial (C-T) for the northwest corner which would be consistent with the General Plan designation if the proposed General Plan Amendment is approved.

The annexation area is bounded by and includes Black Rascal Creek to the north, the Burlington Northern Santa Fe (BNSF) Railroad to the south, and North Highway 59 to the east. Vacant county land is located to the west of the annexation area. The annexation area is divided by Santa Fe Drive splitting the northern portion of the annexation area (7.83 acres) from the southern portion (1.0 acre). The property located at the southwest corner of North Highway 59 and Santa Fe Drive (3065 N. Hwy 59) is developed with a wholesale/retail business (Horizon). The 7.83 acres of land at the northwest corner of North Highway 59 and Santa Fe are currently vacant. The vacant land is comprised of two separate parcels - Assessor's Parcel Number (APN): 057-200-067 contains 7.4 acres and APN: 057-200-029 contains 0.43 acres.

### Proposed/Future Development

The owner of the property at the northwest corner is in contract with a developer to purchase and develop approximately 2.5 acres of the existing 7.4-acre parcel. The 7.4 acres would be subdivided into three separate parcels (refer to the Tentative Map at Attachment 2) with the developer purchasing Parcel 1 and Parcel 4 for development (Phase One). The remainder of the property would be developed in the future as Phase Two.

Phase One of the development would consist of a 3,764-square-foot convenience market (AM/PM), a gas station with 8 pumps (16 fueling positions), a car wash, and a 3,462-square-foot fast food restaurant with 110 seats and a drive-thru (refer to the Site Plan at Attachment 3). Parcel 4 would be developed with a drive-thru coffee shop/kiosk.

Phase Two could include a 2,695-square-foot fast-food restaurant at the western edge of the site on Parcel 2. The remainder of the site would be for the future development of commercial space totaling approximately 32,000 square feet. Development of Phase Two remains speculative at this time. The owner does not have a developer interested in constructing Phase Two. However, for CEQA

Environmental Review purposes, uses were identified and analyzed as part of the annexation.

Uses allowed within the remainder of the development would be consistent with the Thoroughfare Commercial (C-T) zone and could include:

- Retail, General (i.e., drug stores, general merchandise stores, pet stores, department stores, etc.)
- Business Support Services
- Indoor Commercial Recreation, except multi-screen (6 or more) movie theaters
- Vehicle Sales
- Warehousing, Wholesaling, and Distribution

For a full list of permitted uses as well as conditional uses and uses allowed with Site Plan Review, refer to the Table at Attachment 4.

No development is planned for the 0.43-acre parcel (Parcel 3) at the northeast corner of the site.

The existing use at the southwest corner of North Highway 59 and Santa Fe Drive will remain unchanged. The pre-zoning designation for the site is Light Industrial (I-L) which is consistent with the current General Plan designation of Industrial (IL). For a full listing of uses allowed within the I-L zone, please refer to the table at Attachment 5.

### Background

The annexation area is comprised of the northwest corner and southwest corner of North Highway 59 and Santa Fe Drive. The northwest corner of Santa Fe Drive has been vacant for many years. This property was previously identified by FEMA as an area within a floodway. Therefore, development on this property was not feasible, and the property was given a General Plan designation of Open Space (OS). However, in 2014, FEMA revised the floodway and removed the majority of this property out of the floodway making it possible to be developed (Attachment 6).

The southwest corner has been developed for many years with similar retail/wholesale businesses operating from the site.

The annexation process is a very lengthy process. It takes time to gather all the necessary documents for the environmental review process and to work out design details. City staff has been working with the applicant to obtain this information and to refine their design in order to move the annexation forward.

### General Plan Compliance/Review Criteria

General Plan Policy UE-1.3 and Implementing Action 1.3.g requires that annexation requests be evaluated against certain criteria. Below is an evaluation of the proposed annexation against those criteria:

#### Criteria 1

Is the area contiguous to the Current City Limits and within the City's Specific Urban Development

Plan (SUDP)/Sphere of Influence (SOI)? Do the annexed lands form a logical and efficient City limit and include older areas where appropriate to minimize the formation of unincorporated peninsulas?

Evaluation

The proposed annexation area is contiguous to the existing City Limits to east and south (see map at Attachment 1). The annexation area is on the western edge of the City Limits. The annexation would form a logical and efficient boundary and does not create any new islands or peninsulas.

Criteria 2

Is the proposed development consistent with the land use classification on the General Plan Land Use Diagram (Figure 3.1)?

Evaluation

The property at the southwest corner of the annexation area is consistent with the land use classification (IND) of the General Plan diagram. The northwest corner is currently designated as Open Space. However, the proposed General Plan Amendment would change the designation to Thoroughfare Commercial (CT) which would be consistent with the proposed development on that site.

Criteria 3

Can the proposed development be served by the City water, sewer, storm drainage, fire and police protection, parks, and street systems to meet acceptable standards and service levels without requiring improvements and additional costs to the City beyond which the developer will consent to provide or mitigate?

Evaluation

The City would be able to provide all services to the annexation area. All new development within the annexation area would be required to annex into the City's Community Facilities District (CFD) for services which would cover the costs of Police and Fire protection. Public Facilities Impact Fees would also be paid that would help fund future police and fire stations, parks and street improvements.

Criteria 4

Will this annexation result in the premature conversion of prime agricultural land as defined in the Important Farmland Map of the State Mapping and Monitoring Program? If so, are there alternative locations where this development could take place without converting prime soils?

Evaluation

The annexation area is not listed as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency.

### Criteria 5

Will a non-agricultural use create conflict with adjacent or nearby agricultural uses? If so, how can these conflicts be mitigated?

### Evaluation

The proposed development would not conflict with any nearby agricultural uses. The land directly to the north of the site is currently vacant. Beyond the vacant land is property planted with almond trees. Other than this use, there are no other agricultural uses nearby. Therefore, there would be no conflict with agricultural uses.

### Criteria 6

Does the annexation area help the City reach one of the following goals?

- a) Does annexation of the area bring the City closer to annexation of the UC Merced campus and University Community?
- b) Does the area contain significant amounts of job-generating land uses, such as industrial, commercial, office, and business/research and development parks?
- c) Does the project provide key infrastructure facilities or other desirable amenities such as the extension of major roads, utility trunk lines, parks and recreational facilities, etc.?

### Evaluation

- a) The proposed annexation does not bring the City closer to annexation of the UC or UC Community area. This annexation is on the western edge of the City approximately 7 miles from UC Merced.
- b) The proposed commercial development at the northwest corner of North Highway 59 and Santa Fe would generate a small number of jobs within the City. The first phase of the development would include a fast-food restaurant, gas station/mini-market/car wash, and drive-thru coffee kiosk. The jobs generated by these uses would typically be part-time jobs, but would include some full-time jobs. The future development of Phase Two would most likely include more retail-type uses. The exact number of jobs created is not currently available, but it is certain that new jobs would be available due to development of this site.
- c) The development proposed for the northwest corner of North Highway 59 and Santa Fe Drive would be required to extend utility services across the full length of the project frontage as development occurs.

### Traffic/Circulation

The proposed development at the northwest corner includes two driveways on Santa Fe Drive and one on Highway 59. A traffic analysis was prepared by Ken Anderson and Associates (KDA) which analyzed the traffic generated by the proposed uses and the proposed access to the site. The traffic analysis is available at Attachment L of the Initial Study found at Attachment 7. Caltrans reviewed the traffic analysis and is in agreement with the analysis and proposed mitigation measures.

The eastern driveway along Santa Fe Drive (serving Parcel One) was originally proposed to allow right-in/right-out movements. However, based on comments received through the Environmental Review process, it was determined this driveway should be limited to be an entrance-only access or a continuous auxiliary acceleration-deceleration lane would be required between the eastern and western driveways on Santa Fe Drive (refer to Mitigation Measure TRA-1 at Attachment O of the Initial Study found at Attachment 7). Additionally, a two-way left-turn (TWLT) lane would be required east of the western access to help improve the Level of Service by accommodating two-step left turns (Mitigation Measure TRA-1). A traffic signal may be required at the western driveway in the future if it's determined to be needed by the City Engineer based on warrants associated with preventable accidents. The cost of the traffic signal would be the responsibility of the owner/developer (Mitigation Measure TRA-1).

The driveway on Highway 59 would allow right-in/right-out turning movements. Mitigation Measure TRA-1a requires the left-turn lane on Highway 59 be lengthened to accommodate the additional traffic from the site. Caltrans reviewed the project and is in agreement with the proposed design and mitigation measures.

Other traffic-related mitigation measures include the following (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 median island separating eastbound and right turning traffic. Reconstruct the eastbound Santa Fe Drive approach to provide dual left turn lanes.

## Public Improvements/City Services

### Streets/Sidewalks/Curb/Gutter

Santa Fe Drive and North Highway 59 shall be widened to the full width along the north side of Santa Fe Drive and the west side of Highway 59 as part of the development of the retail center. All public improvements shall be installed in this area including, but not limited to, sidewalk, curb, gutter, street lights, and street trees [Condition #13 of Planning Commission Resolution #3095 (all conditions of approval are also included in the Pre-Annexation Development Agreement)]. The developer shall work with Caltrans and obtain all necessary permits for all work done within the state right of way (Condition #14 of Planning Commission Resolution #3095).

### Sewer/Water

The City's current water and wastewater system is capable of handling the annexation area and future development of the proposed project at the northwest corner of North Highway 59 and Santa Fe Drive. There is an existing sewer line in Olive Avenue. The project would be required to extend the main line to their site and across the entire frontage of their property (approximately 1,000 feet) as development occurs. A sewer line also exists in Highway 59, south of Olive Avenue, that would serve the existing development in that area.

There is a water line in North Highway 59 which extends along the property frontage within the entire annexation area. This water line would serve both the existing development and future development.

### Storm Drainage

Any future development within the annexation area would be required to provide on-site storm drainage facilities that would connect to the City's storm drain system (Condition #18 of Planning Commission Resolution #3095). Details regarding this system would be addressed prior to issuance of any building permits for development. Prior to the issuance of a building permit for this project, the applicant would be required to 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 (Mitigation Measure HYD-5 and Condition #15 of Planning Commission Resolution #3095).

### Police and Fire Protection

The annexation area is located within the City's Police and Fire emergency response times. All new construction within the annexation area would be required to annex into the City's Community Facilities District (CFD) for services which helps cover the cost of Police and Fire response. In addition, all new development would be required to pay the City's Public Facilities Impact Fees (PFIF) to help fund future Police and Fire stations.

### Parks and Recreation

The existing use and proposed uses within the annexation area are all commercial or industrial in nature. These uses would not produce a need for additional parks and recreation facilities. However, a portion of the PFIF fees paid go towards the development of new parks within the City.

### Neighborhood Impact

Public hearing notices were mailed to all property owners within 300 feet of the annexation area. To date, no one has expressed any concerns with the proposed annexation or subsequent development.

### Timeliness of Annexation

This annexation would be the first since the Mather Road Annexation in 2009. In 2016, the City and County reached an agreement for a new Revenue Sharing Agreement which paved the way for new annexations.

### Pre-Annexation Development Agreement

Section 20.86.150 of the Zoning Ordinance requires a property owner to enter into a Pre-Annexation Development Agreement prior to annexation. This agreement shall not become operative unless annexation proceedings are completed by the Local Agency Formation Commission (LAFCO). The Pre-Annexation Development Agreement (Attachment 11) has been signed by the property owner on the northwest corner where future development would occur. Because the southwest corner is already developed, a Pre-annexation Development Agreement is not required. The Pre-annexation Development Agreement binds the owner and her successors to certain conditions and requirements related to the development of the land.

## Environmental Clearance

The Planning staff has conducted an environmental review (Initial Study #15-36) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Mitigated Negative Declaration (i.e., no significant effects in this case because of the mitigation measures and/or modifications described in Initial Study #15-36 is being recommended (Attachment 7). The Initial Study was available for review prior to the Planning Commission meeting on June 6, 2018. During that time, comments were received from the San Joaquin Valley Air Pollution Control District (SJVAPCD), the Merced County Economic and Community Development Department, and Merced County LAFCo. A response to their comments and an errata sheet of changes made to the Initial Study are found at Attachments P and Q of the Initial Study found at Attachment 7.

## Planning Commission

The Planning Commission held a duly noticed public hearing on this matter on June 6, 2018. At the meeting, the project proponent spoke in favor of the project and no one spoke in opposition. The Planning Commission voted 5 ayes, 1 no (1 vacancy) to recommend approval of this project. Planning Commission Resolution #3095 may be found at Attachment 8. The Planning Commission Staff Report is available at Attachment 9 and a minutes excerpt from the Planning Commission meeting is available at Attachment 10.

## City Council Action

The Planning Commission and Planning Staff recommend approval of Environmental Review #15-36, an application to LAFCo regarding Annexation and Pre-Zoning Applications #15-01, and General Plan Amendment #15-04. In order for the Council to approve these items, a motion should be made to adopt the Resolutions at Attachments 12 and 13 and introduce the Ordinances at Attachments 14 and 15.

## **IMPACT ON CITY RESOURCES**

Any new development within the annexation area would be required to annex into the City's Community Facilities District (CFD) for Services to help cover the costs of Police and Fire protection, landscape maintenance, storm drain maintenance, and the costs for street lights. Additionally, all new construction pays impact fees as part of the City's Public Facilities Financing Plan, which helps pay for Police and Fire stations, parks, streets, bridges, and traffic signals.

The southwest corner would not be paying any fees at this time since they are not proposing any development.

The annexation of land into the City would increase the demand for City services. However, this area is not proposed for residential development, so the impact to sewer and water facilities would not be significant. The biggest impact would be to the Police and Fire Departments due to the increase in coverage area. The northwest corner would be contributing to these costs as development occurs. It is unlikely the southwest corner would develop any further in the near future, so there would be no cost recovery for services to this portion of the annexation area.

## **ATTACHMENTS**

1. Location Map
2. Tentative Map
3. Site Plan
4. Zoning Table - Commercial Uses
5. Zoning Table - Industrial Uses
6. Flood Zone
7. Initial Study
8. Planning Commission Resolution #3095
9. Planning Commission Staff Report
10. Planning Commission Minutes Excerpt
11. Pre-Annexation Development Agreement
12. Draft Resolution Approving Applications
13. Draft Resolution to LAFCo
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