

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF APRIL 11, 2018**

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The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of April 11, 2018, are available online at [www.co.merced.ca.us/planning/plancomarchive.html](http://www.co.merced.ca.us/planning/plancomarchive.html).

**I. CALL MEETING TO ORDER**

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:00 a.m., on April 11, 2018, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL OF COMMISSIONERS**

Commissioners Present:      Commissioner Jack Mobley - Vice Chairman (Acting Chair)  
   Commissioner Fernando Aguilera  
   Commissioner Mark Erreca  
   Commissioner Robert Acheson

Staff Present:                      Mark Hendrickson, Director  
   Steve Maxey, Deputy Director  
   Kim Zinke, Recording Secretary  
   Kristin McHaney, Recording Secretary

Legal Staff:                        Jeff Grant, Deputy County Counsel

Commissioners Absent:      Commissioner Rich Ford

**IV. APPROVAL OF MINUTES**

**MOTION: M/S ACHESON – ERRECA AND CARRIED BY A VOTE OF 4 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE MEETING OF MARCH 28, 2018.**

**V. CITIZEN COMMUNICATIONS**

None

**VI. CONTINUED PUBLIC HEARINGS**

**A. CONTINUED FROM MARCH 14, 2018: MINOR SUBDIVISION APPLICATION No. MS18-005 – Edward Ellington** - A request to divide a 39 acre parcel into 3 parcels and a remainder parcel, to provide homesite parcels for multiple family members. The resulting parcel sizes will be: Parcel 1 = 1 acre, Parcel 2 = 1.66 acre, Parcel 3 = 1 acre and a 35.9 acre Remainder Parcel. The project site is located on the south side of West American Avenue, .25 mile west of North Golf Link Road, identified as Assessor's Parcel Number (APN) 045-160-060. The property is designated both Hilmar Urban Community - Low Density Residential and Neighborhood Commercial land use, and split-zoned R-1 (Single Family Residence) and C-1 (Neighborhood Commercial). CEQA: Project can be found exempt from CEQA under Section 15315 – "Minor Land Divisions". **TH**

**RECOMMENDATION(S):**

- 1) Open/close public hearing;
- 2) Determine the application can be found exempt from CEQA under Section 15315 – “Minor Land Divisions” of the CEQA Guidelines; and,
- 3) Approve Minor Subdivision Application No. 18-005 based on the findings included in the staff report and subject to the proposed conditions of approval.

Deputy Director Steve Maxey presented the Staff Report and recommendations of approval dated April 11, 2018.

The public hearing was still open from the March 14, 2018 Planning Commission hearing.

Duane Andrews, Golden Valley Engineering, feels the condition is extreme for the right-of-way of 46ft along Camden and 14ft along American Avenue. He had to revise their plot map to reflect those changes. He doesn't understand why Public Works is requiring the dedication along the entire frontage of Camden and then the remainder. The right of way will be dedicated when a subdivision map is requested. It is unfair to have the owners maintains the 46ft on Camden.

Steve Maxey, Deputy Director, explained that the Hilmar Community Plan considers improvements and extension of right of way to Camden and American. It is being requested by the Road Department since this is in the Hilmar Community Plan since it was adopted. The Community has been vocal about the development of Camden as an alleviation to traffic issues in Hilmar. Because of the need for long term planning of Roads, the County adopted an Ordinance, contained in Chapter 17, in our Subdivision Code that requires dedication of right of ways for any Minor Subdivision, where applicable. He spoke to the DPW/Roads Department and The County does have authority to require dedication along the remainder through the Subdivision Map Act, Subdivision, and Zoning Code. The recommendation is to approve the project as proposed.

Mr. Andrews asked why dedicate until the street is going to be developed. We are going to get deferments when that street does get developed. It will be a maintenance issue for the County. It will be dedicated at some point.

Deputy Director Steve Maxey said it is a requirement of the Subdivision Code that any subdivision shall dedicate. It would potentially cost the County time and money if it is not dedicated ahead of time.

Chairman Mobley said you need to have the dedication now.

The public hearing closed at 9:14 a.m.

**MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINES THE APPLICATION CAN BE FOUND EXEMPT FROM CEQA UNDER SECTION 15315 – “MINOR LAND DIVISIONS” OF THE CEQA GUIDELINES.**

**MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 11, 2018, AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES MINOR**

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**SUBDIVISION APPLICATION No. MS18-005 SUBJECT TO THE 10 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Merced County Community and Economic Development Department

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant shall comply with all applicable County, State and Federal regulations.
3. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 97-1.

Merced County Division of Environmental Health

4. If a dwelling is to be demolished, any associated septic tank shall be destroyed under permit from Merced County Division of Environmental Health (MCDEH) either concurrently or prior to demolition of the dwelling.
5. If a dwelling is to be connected to community sewer, all associated septic tanks shall be destroyed under permit from Merced County Division of Environmental Health (MCDEH). The permit shall be obtained prior to connection to community sewer and tank demolition shall be completed no later than 30 days after connection.

Merced County Roads Division

6. Applicant shall install paved residential driveway approaches, per Merced County Standards, along all the access points along American Avenue. An Encroachment Permit shall be obtained and paid for prior to starting any construction along the County right-of-way.
7. Per the Hilmar Community Plan, right-of-way dedication is required to fulfill the property owner's portion of an 98' ultimate right-of-way for Camden Drive, and a portion of a 68' ultimate right-of-way for American Avenue fronting the property:
  - a. American Avenue has an existing 40' right-of-way with 20' lying on the owner's side of the road centerline. Consequently, the owners shall dedicate an additional 14' right-of-way along the American Avenue frontage of the property.
  - b. Camden Drive has an existing 52' right-of-way with 22' lying on the owner's side of the road centerline. Consequently, the owners shall dedicate an additional 46' right-of-way along the whole Camden Drive frontage of the property.
8. The recorded parcel map shall identify the right-of-way dedication along American Avenue and Camden Drive as described in the Condition of Approval 7.

9. Applicant shall install Level 1 Improvements on the frontage of the property along American Avenue and Camden Drive. Per Merced County Code Ch. 16.08.040 “Mandatory Improvements”, Level 1 Improvements include, but are not limited to:
  - a. Dedicating right-of-way or easements
  - b. Widening the abutting half of all existing roadways to conform to Merced County Standards & Specifications
  - c. Installing street lights (forming or annexing into a lighting maintenance zone of benefit)
  - d. Designing and installing a storm drainage system, Applicant shall enter into a Deferment of Construction agreement with DPW to defer construction of required improvements to a later time.

County Counsel

10. **INDEMNITY AND HOLD HARMLESS AGREEMENT:**

EDWARD R. ELLINGTON AND BARBARA J. ELLINGTON, TRUSTEES, have the contracted duty (hereinafter "the duty") to defend, indemnify and hold harmless the County of Merced, its Board of Supervisors, commissions, officers, employees, agents, and assigns (hereinafter "COUNTY") from any claim, action, or proceeding arising out of, or in connection with the COUNTY's approval of the project including, but not limited to, COUNTY's actions regarding related environmental determinations. This obligation shall extend to any such claim, action, or proceeding against COUNTY to attack, set aside, void, or annul, an approval by COUNTY. This duty shall arise at the first claim, action, or proceeding against COUNTY. In the event that a claim, action, or proceeding is brought, COUNTY shall promptly notify the applicant and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

- B. CONTINUED FROM MARCH 28, 2018: MAJOR SUBDIVISION No. MAS17-002 - "RANCHO PROSPERIDAD" – Coy Stark -** A request to subdivide a 4.6 acre lot into 23 single family residential lots on property located at the southeast corner of North Merced Avenue & West Letteau Avenue. The property is identified as Assessor's Parcel No. (APN) 009-310-001 and is designated Delhi Urban Community - Low Density Residential land use in the General Plan and zoned R-1 (Single Family Residential). CEQA: The project is exempt from further analysis under section 15183 of the CEQA guidelines. **BG**

**RECOMMENDATION(S):**

- 1) Open/Close the public hearing;
- 2) Determine the application can be found exempt from CEQA under Section 15183 – “Consistent with a Community Plan or Zoning” of the CEQA Guidelines; and,
- 3) Approved Major Subdivision Application No. MAS17-002, based on the findings included in the staff report and subject to the proposed conditions of approval.

Deputy Director Steve Maxey presented the Staff Report and recommendations of approval dated April 11, 2018.

The public hearing opened at 9:20 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:21 a.m.

**MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINES THE APPLICATION CAN BE FOUND EXEMPT FROM CEQA UNDER SECTION 15183 – “CONSISTENT WITH A COMMUNITY PLAN OR ZONING” OF THE CEQA GUIDELINES.**

**MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 11, 2018, AND MAKES THE 11 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MAJOR SUBDIVISION APPLICATION NO. MAS17-002 SUBJECT TO THE 26 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Community and Economic Development Department

1. A Final Map shall be recorded within two years of the Planning Commission approval date as required by the Merced County Subdivision Code and the Subdivision Map Act.
2. The applicant shall comply with all applicable local, state and federal standards and regulations.
3. For the purpose of conditions monitoring, an inspection fee in the amount of **\$243** shall be required. This fee shall be paid within 30 days of approval of the project. Should additional inspections be required, inspection time shall be billed to the applicant/property owner at the established hourly rate at the time of the inspection. This permit will not be considered valid until the conditions monitoring fee has been paid.
4. Prior to submitting building permits associated with the project, complete drawings shall be submitted to the Planning Department for review and approval of design. Drawings shall include:
  - a. Project landscape plans;
  - b. Typical lot landscape plans (shall be compliant with MWEL0 and the Delhi Community Plan);
  - c. Project site plan, including roads, all property lines and dimensions, existing easements, proposed floor plan/project type for each lot, and proposed building footprints;
  - d. Phasing map, if applicable;
  - e. Full-color building elevation drawings for each floor plan or product type; Shall include material types, dimensions, textures, color schemes, shading to give graphic dimension, grade to ridge dimensions.
5. Project design shall create a pedestrian friendly environment by including porches, windows, entries, and living spaces that are oriented towards the street. In addition, covered seating areas as part of front porches are encouraged.

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6. Building heights and front yard setbacks shall be varied to provide articulation at the street level.
7. A minimum of one tree shall be planted in the front yard setback area of each lot.
8. No more than 25 percent of the residences on a block should have the same architectural elevations.
9. Garages shall not exceed 40 percent of the first floor front elevations.
10. The applicant shall avoid installing wood burning stoves and consult with the San Joaquin Valley Air Pollution Control District regarding the establishment of a Voluntary Emissions Reduction Agreement.
11. The applicant shall conduct pre-construction surveys for nesting Swainson's Hawks within 0.25 miles of the project site if construction commences between March 1 and September 15. If active nests are found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determination should utilize criteria set forth by CDFW (CDFG, 1994).
12. Additionally, if required, mitigation of impacts from loss of Swainson's Hawk foraging habitat if such impacts exist, conditions shall include performance standards contained in the Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California.
13. The applicant shall conduct a pre-construction survey and protective measures to protect nesting migratory birds per the Migratory Bird Treaty Act of 1918. If tree removal is scheduled during the nesting season of raptors (January 1 through July 31), a pre-construction survey for nesting raptors is required. If other vegetation removal or construction commences during the general avian nesting season (March 1 through July 31), a pre-construction survey for all species of nesting birds is recommended. If active nests are found, work in the vicinity of the nests should be delayed until the young fledge.
14. If archaeological or paleontological resources or human remains are discovered during ground disturbance activities, the applicant shall stop work and consult with a cultural resources specialist to determine preservation or mitigation of impacts.

County Counsel

**15. INDEMNITY AND HOLD HARMLESS AGREEMENT:**

Coy Stark has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of

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mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of Coy Stark.

Coy Stark's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of the Applicant, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. Coy Stark will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following Major Subdivision Application No. MAS17-002 approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

### Public Works/Road Division

16. Satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code, which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, streetlighting, storm drainage system and underground or relocate utilities and irrigation facilities.
17. The project shall be subject to the following current and adjusted for inflation fees:
  - a. Law Enforcement Facilities Impact Fee established by Resolution No. 2004-149
  - b. Fire Facilities Impact Fee established by Resolution No. 2004-149
  - c. Delhi Bridge and Major Thoroughfare Area of Benefit fee, established by Resolution No. 2008-123
  - d. Recreational Parkland Space and Improvement fee as required by Merced County Ordinance No. 1090 (payable prior to or concurrent with the recording of the Final Map).
18. Developer/Applicant shall comply with all storm water regulations and requirements as set forth by Ordinance No. 1923, "Regulation of Stormwater" (Merced County Code, Ch. 9.53). A completed "Regulated Project Checklist", found in the Merced County Storm Drainage Design Manual, shall be submitted for our records.
19. Release and relinquish all abutters' rights of access to and from the entire Merced Avenue, Letteau Avenue, and Melinda Avenue frontages of the residential lots.

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20. Developer shall be responsible for annexing to or forming a lighting zone of benefit, and a drainage zone of benefit. The developer shall provide all documentation and pay necessary fees for annexing to or forming the benefit zone.
21. The applicant shall provide centerline stripping for the first 200 feet for those new roads which intersect the peripheral street.
22. The proposed project shall include reconstruction of the abutting half of Letteau Avenue and Merced Avenue fronting the project site. The improvements shall conform to the respective standard drawings per the Merced County Standards and Specifications, Chapter 4 “Roadway Design and Alignment”.
23. All lot grading shall be completed, all underground improvements shall be installed and aggregate base material on all new streets shall have been rough graded and compacted, prior to the issuance of any building permits. The developer shall enter into an agreement with Public Works that no occupancy shall take place until such time as all improvements are completed.
24. Developer/Applicant is advised that he/she may be obligated to comply with all applicable requirement of the San Joaquin Valley Air Pollution Control Districts. Regulation VIII Record Keeping Forms and District Rules and Regulations may be obtained at [www.valleyair.org](http://www.valleyair.org) or by calling (209) 557-6400.

Merced County Fire Prevention Bureau

25. 505.1 Address identification. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their back-ground. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

Merced County Division of Environmental Health

26. The water well and the septic tank shall be destroyed under permit from MCDEH prior to issuance of the building permit to destroy the residence.

**VI. PUBLIC HEARINGS**

None

**VII. COMMISSION ACTION ITEM (S)**

None



**VIII. DIRECTOR'S REPORT**

General Plan Annual Progress Report Guidance – as required by Government Code Section 65400, the County must present an annual report on the status of the General Plan and progress in its implementation. The Community and Economic Development Department has prepared the required annual report. The action requested is to review and approve the General Plan Annual Progress Report, and instruct staff to forward the report to the Governor's Office of Planning and Research and Housing and Community Development as required by Government Code Section 65400.

**MOTION: M/S ACHESON – ERRECA, AND CARRIED BY A VOTE OF 4 – 0, THE COMMISSION DIRECTS PLANNING STAFF TO FORWARD THE GENERAL PLAN ANNUAL PROGRESS REPORT GUIDANCE PACKAGE TO THE GOVERNOR'S OFFICE OF PLANNING AND RESEARCH AND HOUSING AND COMMUNITY DEVELOPMENT.**

**IX. COMMISSIONERS COMMENTS**

None

**X. ADJOURNMENT**

There being no further business, the meeting adjourned at 9:24 a.m.