

Appendix A:
Notice of Preparation and Responses

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A.1 - Notice of Preparation

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City of Merced
Notice of Preparation and Notice of Public Scoping Meeting
Merced Gateway Master Plan Project

Date: Tuesday, October 13, 2015

To: Public Agencies and Interested Parties

From: Bill King, City of Merced

Subject: Notice of Preparation of an Environmental Impact Report and Public Scoping Meeting

The City of Merced will be the Lead Agency and will prepare an Environmental Impact Report (EIR) for the project identified herein. The project description, location, and potential environmental effects of the Merced Gateway Master Plan Project are listed in the attached materials.

The City of Merced is soliciting comments from public agencies, organizations, and members of the public regarding the scope and content of the EIR, and the environmental issues and alternatives to be addressed in the EIR. Public agencies may need to use the EIR when considering permitting or other approvals that are germane to the agencies' responsibilities in connection with the project.

Because of time limits mandated by state law, public agencies must submit any comments in response to this notice at the earliest possible date but not later than 30 days after receipt of this notice. The City also will accept comments during this time period from other interested parties regarding this notice. Accordingly, please provide your written response to the address shown below by **5:00 p.m., Friday, November 20, 2015 (postmarks are acceptable)**. If you wish to be placed on the notification list for this project, or if you have any questions or need additional information, please contact the person below.

Mr. Bill King, Principal Planner
City of Merced
Planning Department
678 W. 18th Street
Merced, CA 95340
Phone: (209) 385-6858
Fax: (209) 725-8775
Email: kingB@cityofmerced.org

Public Scoping Meeting

A public scoping meeting will be held on **Tuesday, October 27, 2015, starting at 7:00 p.m.** in the Sam Pipes Room, Merced Civic Center, 678 W. 18th Street, Merced, CA 95340. At this meeting, public agencies, organizations, and members of the public will be able to review the proposed project application materials and provide comments on the scope of the environmental review process.

MERCED GATEWAY MASTER PLAN PROJECT

1.1 - Project Location

The 77.5-acre project site is located in the City of Merced, Merced County, California (Exhibit 1). The project site is bounded by two non-continuous segments of S. Coffee Street (west), E. Gerard Avenue (north), undeveloped land (east), and E. Mission Avenue (south); refer to Exhibit 2. The Campus Parkway Expressway bisects the site. The project site is located on the Merced, California, United States Geological Survey 7.5-minute topographic quadrangle map, Township 7 South, Range 14 East, Section 34 (Latitude 37°16'12" North; Longitude 120°25'52" West).

1.2 - Existing Conditions

1.2.1 - Land Use Activities

The 77.5-acre project site contains undeveloped land that is regularly disked. Weedy vegetation is present throughout the project site. A barbed wire fence is located around the perimeter of the project site. Wooden signs advertising the project as available for commercial development face the intersection of Campus Parkway/S. Coffee Street.

1.2.2 - Roadways

Campus Parkway, a four-lane divided expressway, bisects the project site in an east-to-west direction. The roadway features a landscaped median, incomplete curb and gutter improvements, and street lighting along the project frontage. A multi-use pathway is located on the north side of the roadway.

Coffee Street is divided into two segments that are not connected. The northern segment terminates approximately 100 feet north of Parsons Avenue. The segment of S. Coffee Street along the project frontage consists of a two-lane undivided roadway with curb, gutter, sidewalk, and street lighting on the west side of the roadway. The east side of the roadway is unimproved.

The segment of E. Gerard Avenue along the project frontage consists of a two-lane undivided roadway with curb, gutter, sidewalk, and street lighting on the north side of the roadway. The south side of the roadway is unimproved.

The segment of E. Mission Avenue along the project frontage consists of a two-lane undivided roadway with no improvements along either side.

1.2.3 - Land Use Designations and Zoning

The project site has two General Plan land use designations and two zoning designations. Approximately 20 acres of the project site abutting E. Gerard Avenue is designated "Medium to High Density Residential" in the *Merced Vision 2030 General Plan*, and is zoned "R-3-2". Approximately 57.5 acres located on both sides of Campus Parkway are designated "Regional Community Commercial" by the *Merced Vision 2030 General Plan*, and is zoned "C-C."

1.3 - Project Description

1.3.1 - Project Characteristics

General Plan Amendment and Zone Change

The project applicant is proposing General Plan Amendments and Zone Changes that would re-configure the boundary between the residential and commercial portions of the project site. Overall, the General Plan Amendments and Zone Changes would increase the amount of commercial acreage by 12 acres (67.5 acres total) and reduce the amount of residential acreage by approximately 12 acres (8 acres total). Although this results in a reduction in the medium density residential designation acreage, the Master Plan concept includes a 178-unit, high-density multi-family residential complex (21 units per acre) which results in a total number of units consistent with the anticipated unit count in the General Plan. This will comply with the City’s goals for the regional housing allocation reflected in the City’s Housing Element.

The General Plan Amendment also includes an amendment to the Circulation Element to: (1) facilitate a through connection between the two existing non-continuous segments of S. Coffee Street; (2) eliminate a planned extension of S. Parsons Avenue through the project site; (3) eliminate a planned extension of Pluim Drive (collector level street) along the east side of the site; and, (4) to add right turn in and out driveways along the Campus Parkway Expressway (see discussion under “Circulation Alterations”).

Planned Development Zone/Master Plan

The third component of the application is a request to establish a Planned Development Zone with an accompanying Master Plan for the site that defines the overall site development concept. The Planned Development Zone would permit the development of up to 601,127 square feet of commercial uses and up to 178 multi-family dwelling units. The commercial square footage would be located on both sides of Campus Parkway, with 358,535 square feet on the north side and 242,592 square feet on the south side. End uses would include retail, restaurant, fuel station, movie theatre, and hotel. Additionally, 1.53 acres would be reserved for a future Merced Fire Station at the intersection of S. Coffee Street/E. Gerard Avenue. Table 1 summarizes the proposed project. Exhibit 3 depicts the conceptual site plan.

Table 1: Merced Gateway Master Plan Project Summary

Use	Buildout Potential
Commercial	601,127 square feet
Multi-Family Residential	178 dwelling units
Fire Station	1.53 acres
Source: RRM, September 2015.	

Vehicular Access

Vehicular access to the commercial uses on the south side of Campus Parkway is proposed to be taken from a full access point on S. Coffee Street; two right-in, right-out points on Campus Parkway; and two full access points on E. Mission Avenue.

Vehicular access to the commercial uses on the north side of Campus Parkway are proposed to be taken from two full access points on S. Coffee Street (below the current cul-de-sac); two full access points on Gerard Avenue; and two right-in, right-out points on Campus Parkway. Reciprocal access is proposed to the multi-family residential uses.

Vehicular access to the multi-family residential uses would be taken from a full access point on E. Gerard Avenue and via reciprocal access from the commercial uses.

Circulation Alterations

Currently, S. Coffee Street consists of two non-continuous segments that are separated by a roadblock at S. Parsons Avenue. (The northern segment of S. Coffee Street dead-ends at this roadblock, while the southern segment intersects with S. Parsons Street.) This configuration was established in conjunction with the development of the SR-99/Campus Parkway interchange in the late 1990s in order to prevent freeway traffic from traveling on the segment of S. Coffee Street past Pioneer Elementary School.

The applicant has proposed a General Plan Amendment to the Circulation Element to establish a through connection between the two non-continuous segments of S. Coffee Street and re-designate the segment between E. Gerard Avenue and S. Parsons Avenue as a “Collector” consistent with the existing designation of S. Coffee Street south of S. Parsons Avenue. Additionally, a planned extension of S. Parsons Avenue east through the project site and a planned extension of Plum Drive south along the eastern boundary of the site would be eliminated as part of this General Plan Amendment. Finally, the project proposes to add four right turn in and out driveways, connecting the project to the Campus Parkway Expressway. As part of this environmental review process, a Traffic Study will be prepared.

Utilities

Underground storm drainage, water, sewer, electrical, and natural gas are located within adjacent roadways. The proposed project would connect to these existing facilities. Additionally, as part of this environmental review process, a Water Supply Assessment will be prepared.

1.4 - Required Approvals and Intended Uses

The proposed project requires the following discretionary approvals from the City of Merced:

- General Plan Amendment
- Zone Change and Establishment of a Planned Development
- EIR Certification

1.5 - Environmental Review

1.5.1 - Potential Environmental Effects

The EIR will evaluate whether the proposed project may potentially result in one or more significant environmental effects, which will be evaluated in the relevant EIR sections listed below.

- Aesthetics, Light, and Glare
- Agricultural Resources
- Air Quality & Greenhouse Gas Emissions
- Biological Resources
- Cultural Resources
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise
- Public Services and Utilities
- Transportation

1.5.2 - Effects Found Not To Be Significant

Unless specific comments are received during the NOP public comment period that indicate a potential for the project to result in significant impacts, the following issues will be addressed in the “Effects Found Not To Be Significant” section of the EIR.

Geology, Soils, and Seismicity

The project site contains flat relief and no known earthquake faults exist in the project vicinity. These conditions make it unlikely that the proposed project would be exposed to significant hazards during a seismic event. Furthermore, the proposed project’s construction activities would involve grading and soil engineering activities intended to abate any adverse soil conditions that may exist, and would ensure that project buildings have adequate structural support. No impacts would occur.

Mineral Resources

The project site contains undeveloped land and does not support mineral extraction operations. Neither the State nor the City of Merced designates the project site as a location of known mineral deposits. These conditions preclude the possibility of a loss of mineral resources of statewide or local importance. No impacts would occur.

Population and Housing

The project site is currently located within the Merced City Limits and is contemplated to support future residential and commercial development by the City of *Merced Vision 2030 General Plan*. The proposed project would reduce the residential development potential by 12 acres and increase the commercial development potential by 12 acres. However, the applicant is proposing a 178-unit, high-density residential development on the residential portion of the project, which would maintain the anticipated unit count assumed by the General Plan for the project site. Thus, there would be no change in the population growth potential from what is currently contemplated by the General Plan. Additionally, the project site does not contain any existing dwelling units, which precludes the possibility of displacement of existing residents. No impacts would occur.

Recreation

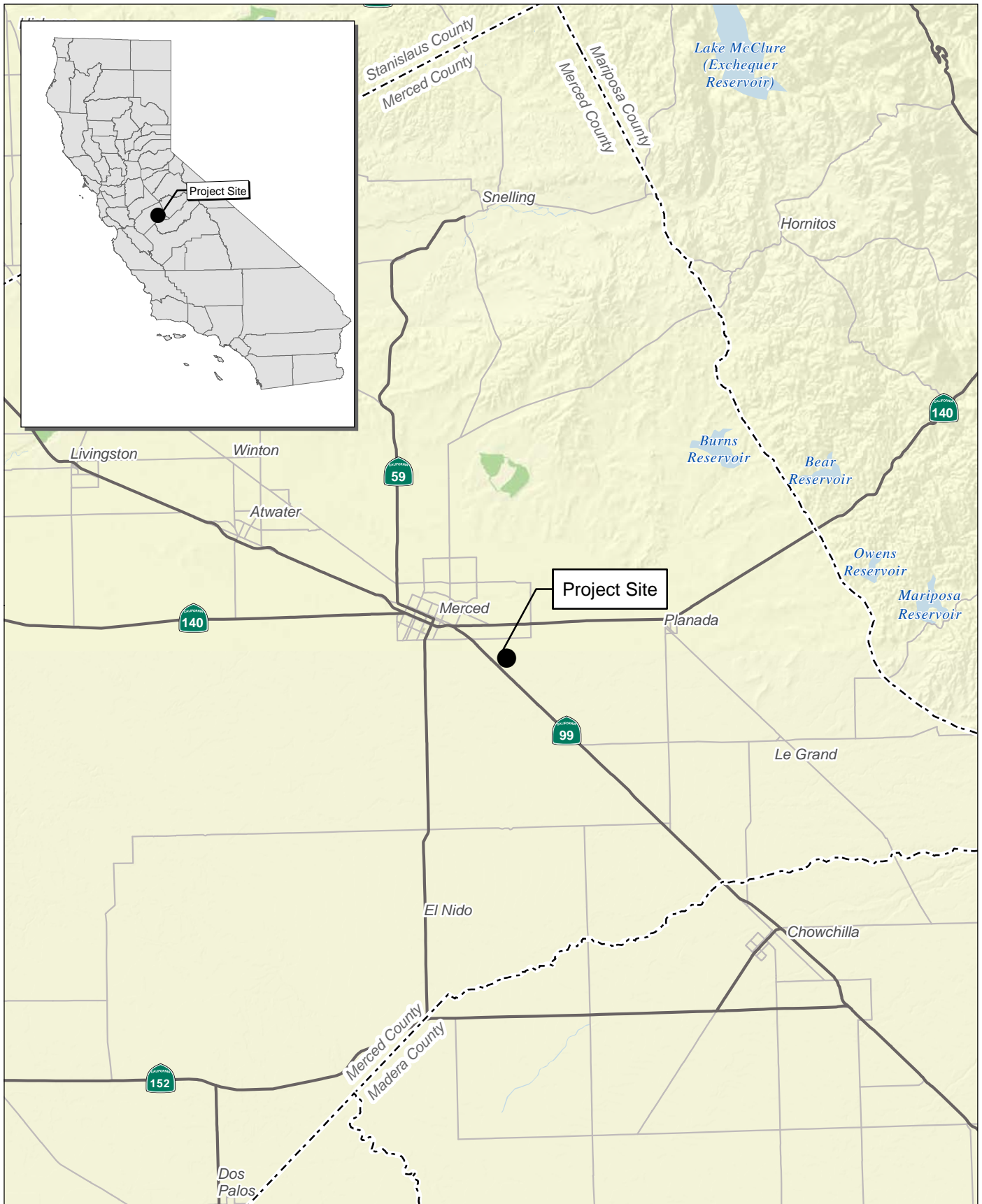
The proposed project does not propose any physical changes to existing recreational facilities and does not propose the construction of new or expanded recreational facilities. These conditions preclude the possibility of physical impacts to the environment from such activities. No impacts would occur.

1.6 - Scoping Meeting

A public scoping meeting will be held on **Tuesday, October 27, 2015**, starting at **7:00 p.m.**, at the following location:

Merced Civic Center
Sam Pipes Room
678 W. 18th Street
Merced, CA 95340

At this meeting, agencies, organizations, and members of the public will be able to review the proposed project and provide comments on the scope of the environmental review process.



Source: Census 2000 Data, The CaSIL, FCS GIS 2013.

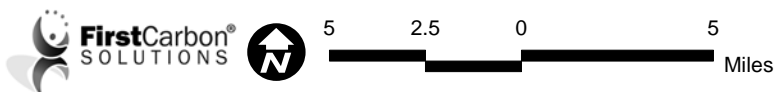
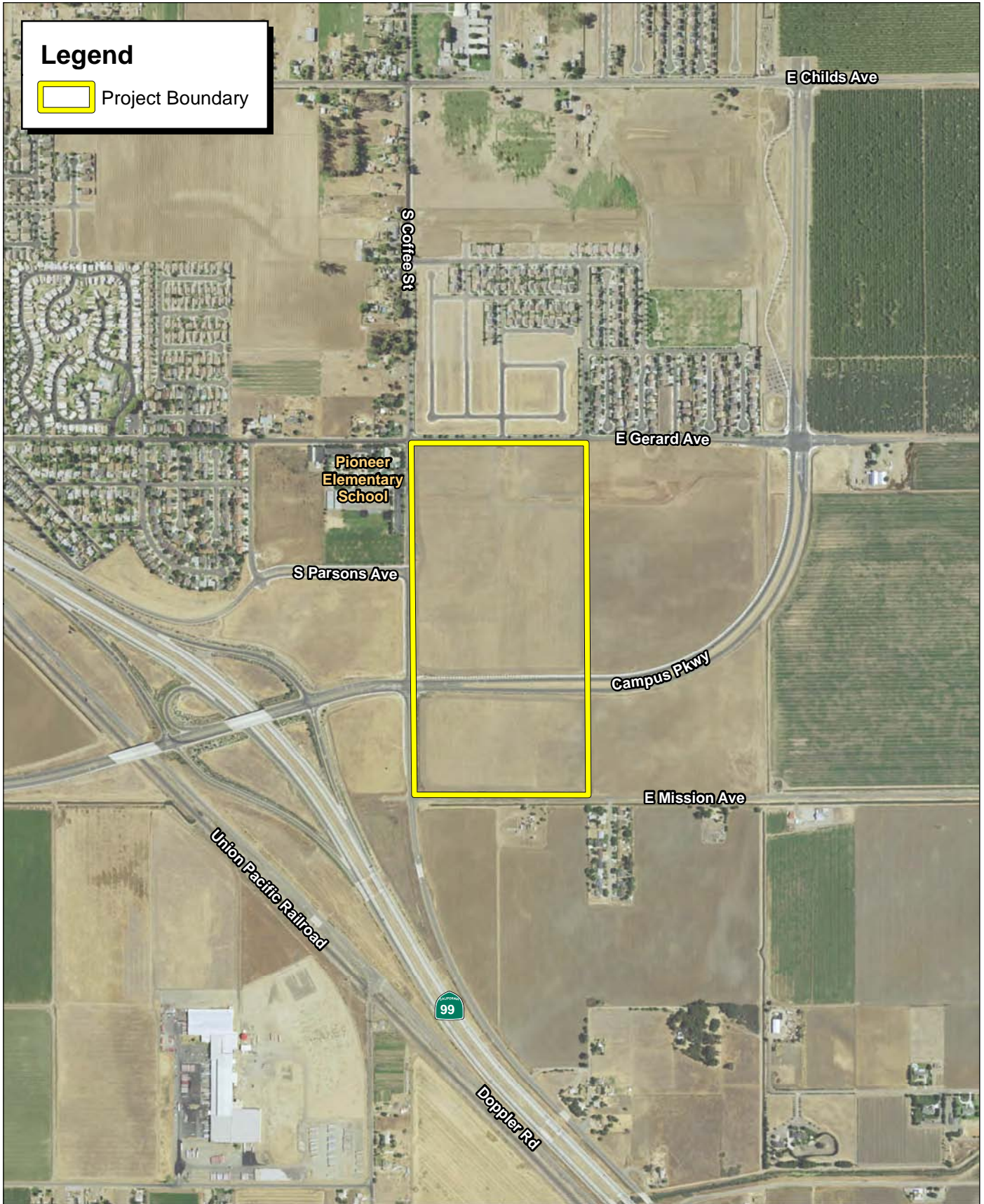


Exhibit 1 Regional Location Map

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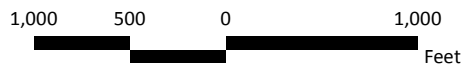


Source: ESRI Imagery, 2014

Exhibit 2

Local Vicinity Map

Aerial Base



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Source: rrm design group, 2015



Exhibit 3 Conceptual Site Plan

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A.2 - Responses

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November 19, 2015

Bill King
City of Merced
Planning Department
678 W. 18th Street
Merced, CA 95340

Project: Notice of Preparation of an Environmental Impact Report for Merced Gateway Master Plan Project

District CEQA Reference No: 20150909

Dear Mr. King:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Notice of Preparation for the Merced Gateway Master Plan Project. The project includes General Plan Amendment #15-03, which would reconfigure the boundary between Regional Community Commercial and High to Medium Density Residential designations and amend the Official Circulation Plan; Planned Development Establishment #74, which includes a Site Utilization Plan for retail uses, restaurants, a hotel, gas station, multi-family residential uses, and a fire station; and Zone Change #422. Future buildout potential includes over 600,000 square-feet of commercial use, a 1.53 acre fire station, and 178 multi-family dwelling units. The District offers the following comments and recommendations:

Land Use Planning

1. Nearly all development projects within the San Joaquin Valley Air Basin, from general plans to individual development projects have the potential to generate air pollutants, making it more difficult to attain state and federal ambient air quality standards. Land use decisions are critical to improving air quality within the San Joaquin Valley Air Basin because land use patterns greatly influence transportation needs and motor vehicle emissions are the largest source of air pollution. Land use decisions and project design elements such as preventing urban sprawl, encouraging mix-use development, and project designs that reduce vehicle miles traveled (VMT) have proven benefit for air quality. The District recommends that the

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: 661-392-5500 FAX: 661-392-5585

Master Plan include or incorporate by reference, policies that will reduce or mitigate VMT impacts to the extent feasible. VMT can be reduced through encouragement of mixed-use development, walkable communities, etc. Recommended design elements can be found on the District's website at:

<http://www.valleyair.org/ISR/ISROnSiteMeasures.htm>.

To aid agencies in addressing VMT impacts the District has prepared the following guidance documents: *Air Quality Guidelines for General Plans*, and *AB 170 Requirements for General Plans*. These documents provide general information and recommendations for policies that are effective in reducing impacts from growth and development projects. These documents are available on the District's web site at:

http://www.valleyair.org/transportation/Guidelines_for_General_Plans.htm.

Emissions Analysis

- 1) The District is currently designated as extreme nonattainment for the 8-hour ozone standard, attainment for PM10 and CO, and nonattainment for PM2.5 for the federal air quality standards. At the state level, the District is designated as nonattainment for the 8-hour ozone, PM10, and PM2.5 air quality standards. The District recommends that the Air Quality section of the Environmental Impact Report (EIR) include a discussion of the following impacts:
 - a) **Criteria Pollutants:** Project related criteria pollutant emissions should be identified and quantified. The discussion should include existing and post-project emissions.
 - i) **Construction Emissions:** Construction emissions are short-term emissions and should be evaluated separate from operational emissions. The District recommends preparation of an Environmental Impact Report (EIR) if annual construction emissions cannot be reduced or mitigated to below the following levels of significance: 10 tons per year of oxides of nitrogen (NOx), 10 tons per year of reactive organic gases (ROG), or 15 tons per year particulate matter of 10 microns or less in size (PM10).
 - *Recommended Mitigation:* To reduce impacts from construction related exhaust emissions, the District recommends feasible mitigation for the project to utilize off-road construction fleets that can achieve fleet average emissions equal to or cleaner than the Tier II emission standards, as set forth in §2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 Code of Federal Regulations. This can be achieved through any combination of uncontrolled engines and engines complying with Tier II and above engine standards.
 - ii) **Operational Emissions:** Operational Emissions: Permitted (stationary sources) and non-permitted (mobile sources) sources should be analyzed separately. The District recommends preparation of an Environmental Impact Report

- (EIR) if the sum of annual permitted and the sum of the annual non-permitted emissions each cannot be reduced or mitigated to below the following levels of significance: 10 tons per year of oxides of nitrogen (NO_x), 10 tons per year of reactive organic gases (ROG), or 15 tons per year particulate matter of 10 microns or less in size (PM₁₀).
- iii) **Recommended Model:** Project related criteria pollutant emissions should be identified and quantified. Emissions analysis should be performed using CalEEMod (**California Emission Estimator Model**), which uses the most recent approved version of relevant Air Resources Board (ARB) emissions models and emission factors. CalEEMod is available to the public and can be downloaded from the CalEEMod website at: www.caleemod.com .
 - b) **Nuisance Odors:** The project should be evaluated to determine the likelihood that the project would result in nuisance odors. Nuisance odors are subjective, thus the District has not established thresholds of significance for nuisance odors. Nuisance odors may be assessed qualitatively taking into consideration of project design elements and proximity to off-site receptors that potentially would be exposed objectionable odors.
 - c) **Health Impacts:** Toxic air contaminants (TACs) are defined as air pollutants that which may cause or contribute to an increase in mortality or serious illness, or which may pose a hazard to human health. The most common source of TACs can be attributed to diesel exhaust fumes that are emitted from both stationary and mobile sources. Health impacts may require a detailed health risk assessment (HRA).
 - i) The location of development projects is a major factor in determining whether they will result in localized air quality impacts. The potential for adverse air quality impacts increase as the distance between the source of emissions and receptors decrease. From a health risk perspective there are two types of land use projects that have the potential to cause long-term public health risk impacts: those that locate new toxic sources in the vicinity of existing receptors and those that locate new receptors in the vicinity of existing toxics sources.

Accurate quantification of health risks and operational emissions requires detailed site specific information, e.g. type of emission source, proximity of the source to sensitive receptors, and trip generation information. The required level of detail is typically not available until project specific approvals are being granted. Therefore, the District recommends that potential health risks be further reviewed when approving future projects. This recommendation includes projects that would otherwise appear to be exempt from CEQA requirements, such as projects that could be categorically exempt or allowed land uses under current zoning.

- ii) Various tools exist to perform a screening level analysis for emissions from new stationary sources, such as prioritization charts, SCREEN3, and various spreadsheets available from the District's website. For projects being impacted by existing emission sources, one screening tool is contained in the ARB Handbook: *Air Quality and Land Use Handbook: A Community Health Perspective*. The document includes a table with recommended buffer distances associated with various types of common sources. The ARB handbook can found on the ARB's website at:

<http://www.arb.ca.gov/ch/landuse.htm>.

If the screening level analysis indicates that TACs are a concern, the District recommends that a more detailed HRA be performed. If an HRA is to be performed, it is recommended that the project proponent contact the District to review the proposed modeling approach. The project would be considered to have a significant health risk if the HRA demonstrates that project related health impacts would exceed the District's significance threshold of 10 in a million.

More information on TACs, prioritizations and HRAs can be obtained by:

- E-mailing inquiries to: hramodeler@valleyair.org; or
- Visiting the District's website at:

http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm.

- 2) In addition to the discussions on potential impacts identified above, the District recommends the EIR also include the following discussions:
 - a) A discussion of the methodology, model assumptions, inputs and results used in characterizing the project's impact on air quality. To comply with CEQA requirements for full disclosure, the District recommends that the modeling outputs be provided as appendices to the EIR. The District further recommends that the District be provided with an electronic copy of all input and output files for any modeling referenced in the EIR.
 - b) A discussion of the components and phases of the project and the associated emission projections, including ongoing emissions from each previous phase.
 - c) A discussion of project design elements and mitigation measures, including characterization of the effectiveness of each mitigation measure incorporated into the project.
 - i) The following policies/mitigation measures are recommended to reduce or mitigate impacts from criteria pollutant emissions:
 - (1) Use of off-road construction fleets that can achieve fleet average emissions equal to or less than the Tier II emission standards, as set forth in §2423 of Title 13 of the California Code of Regulations, and Part

89 of Title 40 Code of Federal Regulations. The District recommends incorporating, as a condition of project approval, a requirement that off-road construction equipment used on site achieve fleet average emissions equal to or less than the Tier II emissions standard of 4.8 NOx g/hp-hr. This can be achieved through any combination of uncontrolled engines and engines complying with Tier II and above engine standards.

- (2) For projects exceeding the applicability thresholds identified in Section 2.0 of District Rule 9510, a condition of project approval requiring demonstration of compliance with Rule 9510, prior to the issuance of grading and/or building permits.
 - (3) Air quality impacts from projects exceeding the District's thresholds of significance for criteria pollutants after the implementation of mitigation measures can be mitigated to less than significant through payment of funds into an emissions reduction program. The District recommends incorporating, as a condition of project approval, demonstration of participation in a Voluntary Emission Reduction Agreement (VERA) with the District prior to the issuance of grading and/or building permits. A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate project specific emissions by providing funds to the District. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project specific impacts on air quality can be fully mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors. More information regarding participation in a VERA can be obtained by calling (559) 230-6000 and asking to speak to a District CEQA staff member.
 - (4) For projects subject to District permitting requirements, demonstration of compliance with District Rule 2201, such as a copy of the Authority to Construct (ATC), before issuance of the first building permit, be made a condition of project approval.
- ii) The following policies/mitigation measures are recommended to mitigate potential health impacts of individual projects:

- (1) Development projects resulting in toxic air contaminant emissions will be located an adequate distance from residential areas and other sensitive receptors in accordance to ARB's *Air Quality and Land Use Handbook: A Community Health Perspective*.
 - (2) A health risk screening and/or assessment will be performed to assess potential risks to sensitive receptors for the following projects:
 - (3) Projects whose proposed locations are within the established buffer distances identified in ARB's handbook;
 - (4) Projects whose land uses are not specifically identified in ARB's handbook (such as shopping centers), but there is sufficient information to reasonably conclude that sensitive receptors would be exposed to significant sources of toxic air contaminants; and
 - (5) Projects that would otherwise appear to be exempt from CEQA requirements, but there is sufficient information to reasonably conclude that sensitive receptors would be exposed to significant sources of toxic air contaminants, such as industrial use projects allowed by right.
- d) A discussion of whether the project would result in a cumulatively considerable net increase of any criteria pollutant or precursor for which the San Joaquin Valley Air Basin is in non-attainment. More information on the District's attainment status can be found online by visiting the District's website at:
- <http://valleyair.org/aqinfo/attainment.htm>.

District Rules and Regulations

- 3) Based on information provided to the District, at full build-out the proposed project would be equal to or greater than 50 residential dwelling units. Therefore, the District concludes that the proposed project would be subject to District Rule 9510 (Indirect Source Review).
 - District Rule 9510 is intended to mitigate a project's impact on air quality through project design elements or by payments of applicable off-site mitigation fees.
 - Any applicant subject to District Rule 9510 is required to submit an Air Impact Assessment (AIA) application to the District no later than applying for final discretionary approval.
 - The District recommends that a mitigation measure be included that requires, for any project within the scope of this EIR subject to Rule 9510, demonstration of compliance with District Rule 9510 be made a condition of project approval.

District ISR staff is available to meet with the Lead Agency or project proponent to further discuss the requirements of Rule 9510 for individual development projects. More information on District Rule 9510 can be obtained by:

- Calling the District's ISR staff at (559) 230-6000;
- E-mailing inquiries to: ISR@valleyair.org; or
- Visiting the District's website at: <http://www.valleyair.org/ISR/ISRHome.htm>.

- 3) Particulate Matter 2.5 microns or less in size (PM_{2.5}) from under-fired charbroilers (UFCs) pose immediate health risk. Since the cooking of meat can release carcinogenic PM_{2.5} species like polycyclic aromatic hydrocarbons (PAH), controlling emissions from under-fired charbroilers will have a substantial positive impact on public health.

Charbroiling emissions occur in populated areas, near schools and residential neighborhoods, resulting in high exposure levels for sensitive Valley residents. The air quality impacts on neighborhoods near restaurants with UFCs can be significant on days when meteorological conditions are stable, when dispersion is limited and emissions are trapped near the surface within the surrounding neighborhoods. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises environmental concerns.

In addition, the cooking emissions source category is one of the largest single contributors of directly emitted PM_{2.5} in the Valley. Photochemical modeling conducted for the 2012 PM_{2.5} Plan showed that reducing commercial charbroiling emissions is critical to achieving PM_{2.5} attainment in the Valley.

The District will amend Rule 4692 (Commercial Charbroiling) in 2016, with a 2017 compliance date, to add emission control requirements for UFCs, as committed to in the District's 2012 PM_{2.5} Plan. Installing charbroiler emissions control systems during construction of new facilities is likely to result in substantial economic benefit compared to costly retrofitting.

Therefore, the District strongly recommends that your agency require new restaurants that will operate UFCs to install emission control systems during the construction phase. To ease the financial burden for Valley businesses that wish to install control equipment before it is required, the District will offer incentive funding during the time leading up to the 2016 amendment. Restaurants with UFCs may be eligible to apply for funding to add emission control systems. Please contact the District at (559) 230-5858 for more information.

- 4) Individual development projects may also be subject to District regulations including, but limited to: Regulation VIII (Fugitive PM₁₀ Prohibitions), District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 4002 (National Emission Standards for Hazardous Air Pollutants), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure,

and Emulsified Asphalt, Paving and Maintenance Operations). To avoid potential delays in project development, the District strongly encourages project proponents contact the District's Small Business Assistance (SBA) Office early in the planning phase to discuss whether an Authority to Construct (ATC) and Permit to Operate (PTO) are required, and to identify other District rules or regulations that apply to their project.

The District recommends that a mitigation measure be included that requires, for any project within the scope of this EIR that is subject to District permits, demonstration of compliance with District permitting requirements, such as a copy of the ATC, before issuance of the first building permit, be made a condition of project approval.

- 5) The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446. Current District rules can be found online at the District's website at:

www.valleyair.org/rules/1ruleslist.htm.

The District recommends that a copy of the District's comments be provided to the project proponent. If you have any questions or require further information, please call Cherie Clark at (559) 230- 5940.

Sincerely,

Arnaud Marjollet
Director of Permit Services



For:
Brian Clements
Program Manager

AM: cc



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



November 16, 2015

Bill King, Principle Planner
City of Merced
Planning Department
678 W. 18th Street
Merced, California 95340

**Subject: Notice of Preparation
Merced Gateway Master Plan Project
GPA 15-03 PD 74 ZC 422**

Dear Mr. King:

The California Department of Fish and Wildlife (CDFW) has reviewed the Merced Gateway Master Plan Project (Project). The proposed Project includes General Plan Amendment #15-03, Planned Development Establishment (P-D) #74, and Zone Change #422. General Plan Amendment #15-03 would: 1) reconfigure the boundary between the Regional Community Commercial and High to Medium Density Residential designations; and 2) amend the Official Circulation Plan by: a) connecting Coffee Street segments between Campus Parkway and Gerard Avenue; b) upgrading the road classification of Coffee Street adjacent to Pioneer Elementary School from “local” to “collector”; c) removing the planned extension of Pluim Drive between Gerard Avenue and Mission Avenue; d) removing the planned extension of Parsons Avenue between Coffee Street and Pluim Drive (extended); and e) adding several driveways along the Campus Parkway Expressway. Planned Development Establishment #74 would establish Planned Development (P-D) #74, including a Site Utilization Plan for retail uses, restaurants, a hotel, a gas station, multi-family residential uses and a fire station; along with development site design standards and building elevation designs. Zone Change #422 would relocate and reduce the size of an R-3-2 zoned site for a proposed 178-unit multi-family housing development, and change the designation of the C-C zoned area to Planned Development #74. The Project site is bound by Gerard Avenue, Coffee Street, Mission Avenue and Pluim Drive (extended), on property currently designated Regional Community Commercial and Medium-to-High Density Residential within the City of Merced.

The Department has the following comments.

Department Jurisdiction

Trustee Agency Authority: CDFW is a Trustee Agency with the responsibility under CEQA for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, CDFW is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA.

Responsible Agency Authority: The Department has regulatory authority over projects that could result in the "take" of any species listed by the State as threatened or endangered, pursuant to Fish and Game Code Section 2081. If the Project could result in the take of any species listed as threatened or endangered under the California Endangered Species Act (CESA), the Department may need to issue an Incidental Take Permit (ITP) for the Project. CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (sections 21001{c}, 21083, Guidelines sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports Statement of Overriding Consideration (SOC). The CEQA Lead Agency's SOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code Section 2080.

Bird Protection: CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Sections of the Fish and Game Code that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Project Recommendations

Swainson's Hawk (SWHA): The State threatened Swainson's hawk (*Buteo swainsoni*) is known to occur near the Project site. To evaluate potential Project-related impacts, the Department recommends that a qualified wildlife biologist conduct surveys for nesting raptors following the survey methodology developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC, 2000) prior to any ground disturbance.

If ground-disturbing Project activities are to take place during the normal bird breeding season (February 1 through September 15), the Department recommends that additional pre-construction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction. If an active Swainson's hawk nest is detected within 0.5 miles of the Project site and work will occur during the avian nesting season, consultation with the Department is advised to occur well in advance of

ground-disturbing activities to determine if take of SWHA can be avoided. If take cannot be avoided then acquisition of an ITP pursuant to Fish and Game Code Section 2081(b) is warranted to comply with CESA. The Department advises that these recommendations be included as required mitigation measures in the environmental document prepared for this Project.

If Swainson's hawk nests occur in the Project vicinity, the Department recommends compensation for the loss of Swainson's hawk foraging habitat as described in the Department's Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (DFG, 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. The Department has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of one acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of 0.75 acres of HM land for each acre of urban development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of 0.5 acres of HM land for each acre of urban development is advised.

Burrowing Owl: Burrowing owl (*Athene cunicularia*) has the potential to occur within the Project area. To avoid impacts to the species, the Department recommends pre-construction surveys for burrowing owl regardless of when construction will occur to identify any burrowing owl that may occur on the Project site. In the event that burrowing owls are found, we recommend that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by the Department verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival. The below table can be found from the Burrowing Owl Staff Report (CDFG 2012).

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

The Staff Report recommends that foraging habitat be acquired and permanently protected to offset the loss of foraging and burrow habitat. The Department also recommends replacement of occupied burrows with artificial burrows at a ratio of 1

Bill King
November 16, 2015
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burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting a burrowing owl if a biologist knowledgeable with the biology and natural history of the species determines that suitable burrows are a potential limiting factor for burrowing owl.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (www.dfg.ca.gov/wildlife/nongame/survey_monitor.html). If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014, extension 254, or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie A. Vance". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Julie A. Vance
Regional Manager

Literature Cited

CDFG, 1994. Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo Swainsoni*) in the Central Valley of California. California Department of Fish and Game.

CDFG, 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game.

SWHA TAC, 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee, May 31, 2000.

DEPARTMENT OF TRANSPORTATION

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October 28, 2015

**10-MER-99-PM R011.712
SCH#: 2015101048
Merced Gateway Master Plan
Merced County**

Mr. Bill King
Principle Planner
City of Merced
678 West 18th Street
Merced, CA 95340

Dear Mr. King:

Thank you for the opportunity to review the above-referenced document, the Merced Gateway Master Plan Project located in the City of Merced.

The Department has determined a traffic impact study (TIS) is necessary, on the two off-ramps and three on-ramps, to determine this proposed project's near-term and long-term impacts to SR99 at E. Mission Avenue – both existing and proposed – and to propose appropriate mitigation measures. The Department recommends that the study be prepared in accordance with the Caltrans Guide for the Preparation of Traffic Impact Studies (Guide). The Guide is available online at the following web address: http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf.

The Department recommends that the Lead Agency encourage the developer to submit a scope of work for conducting the TIS prior to circulating the local development application for comment in order to expedite the Department's review.

The Department would also like to review future site plans when they become available. If you have any questions, please contact Steven Martinez at (209) 948-7936 (email: steven.r.martinez@dot.ca.gov) or me at (209) 941-1921. We look forward to continuing to work with you in a cooperative manner.

Sincerely,

A handwritten signature in blue ink that reads "Tom R. Dumas". Below the signature, the word "For" is written in blue ink.

TOM DUMAS, Chief
Office of Metropolitan Planning

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November 20, 2015

VIA EMAIL: kingb@cityofmerced.org & U.S. MAIL

Bill King, Principal Planner
City of Merced Planning & Permitting
678 West 18th Street
Merced, CA 95340

**Re: Merced Gateway LLC's Comments on the October 13, 2015,
Notice of Preparation for the Merced Gateway Project**

Dear Mr. King:

On behalf of Merced Gateway LLC, I am writing to submit comments on the October 13, 2015, Notice of Preparation for the Merced Gateway Project, located between Mission Avenue, Gerard Avenue, Coffee Street, and the Pluim Drive alignment in the City of Merced, Merced County Assessor's Parcel Number 061-250-092 (the "Project"). Merced Gateway LLC is the owner of the real property located immediately east of the Project, and currently plans to build a commercial development on that property. The following comments supplement my oral comments presented on October 27, 2015.

While Merced Gateway LLC supports the Project generally, it has concerns regarding the Project's impact on both Merced Gateway LLC's property, and the surrounding environment. The City of Merced can easily avoid such impacts by extending Pluim Drive across Gerard Avenue and southward along the eastern boundary of the Project. Because the City to date has not committed to avoiding these impacts by extending Pluim Drive, Merced Gateway LLC is in the process of retaining expert consultants to submit formal comments on any Environmental Impact Report prepared for the Project by the City of Merced.

Merced Gateway LLC is still quantifying the impacts of the Project on both its property and the surrounding environment. A preliminary review of the Project description, however, reveals the City cannot legally approve the Project as planned. First, the extension of Pluim Drive is specifically contemplated in the City's General Plan. Figure 4.1 of the City of

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November 20, 2015

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Merced Circulation Plan, for example, shows the extension of Plum Drive to the south as a collector street. (See City of Merced Circulation Plan, Page 4-5, Fig. 4.1.) The City's plan-level documents recognize the strategic placement of collector streets is important, as collectors are "designed to efficiently fulfill its function of carrying traffic through and out of the area," and the lack of collectors can result in the impacts to surrounding neighborhoods. (See *id.* at 4-35.)

Because the extension of Plum Drive is required under the General Plan, the approval of the Project as planned would violate California's Planning and Zoning Law ("PZL"), (Govt. Code, § 65300, *et seq.*), which requires all planning actions within a city to be consistent with the City's General Plan. In addition to creating vertical inconsistencies prohibited under the PZL, the Project as contemplated would create significant negative environmental effects from a land use and planning perspective due to the Project's inconsistency with the City's existing plan-level documents.

The Project will also have significant impacts to traffic and circulation, as it will force drivers to the north of the Project to use alternative collectors to exit their residential development, which can negatively impact adjacent areas by shifting the burden of traffic to another area. This impact is expressly recognized in the City of Merced Circulation Plan, which explains that the failure to construct a collector in one neighborhood "may simply force some traffic to find another route, which merely moves undesirable impacts to another neighborhood." (See City of Merced Circulation Plan, Page 4-5.)

The City can avoid each of the above impacts easily by extending Plum Drive to the south. Absent such action, however, Merced Gateway LLC will be required to submit comments on the EIR, and take action consistent with those comments, if necessary. While Merced Gateway LLC would prefer not to take such action, the City's failure to extend Plum Drive to the south may force Merced Gateway LLC into such a position to protect both its property and the surrounding environment.

If you have any questions concerning the aforementioned comments, please do not hesitate to contact me.

Very truly yours,



Cameron M. Peyton

TJ/cmp