

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF JANUARY 23, 2013**

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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 January 23, 2013, 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 9:01 a.m., on January 23, 2013, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

**II. ROLL CALL OF COMMISSIONERS**

Commissioners Present:      Commissioner Lynn Tanner - Chairman  
   Commissioner Rich Ford  
   Commissioner Jack Mobley  
   Commissioner Greg Thompson  
   Commissioner Mark Erreca

Staff Present:                      William Nicholson, Assistant Development Services Director  
   Malinda Farias, Recording Secretary  
   James Holland, Planner III

Legal Staff:                        Marianne Greene, Deputy County Counsel

Commissioners Absent:      None

**III. CITIZEN COMMUNICATIONS**

None

**IV. APPROVAL OF MINUTES**

**MOTION: MOBLEY – THOMPSON AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION APPROVED THE MINUTES FROM JANUARY 9, 2013.**

**V. PUBLIC HEARINGS**

**A. ADMINISTRATIVE PERMIT APPLICATION NO. AA12-030 - Naseem Khan (Applicant) - To allow the operation of a Semi-Mobile Food Vendor Truck on a gas station and convenience store property. The project site is located at the northwest corner of Highway 140 and Kibby Road, designated Celeste SUDP – General Commercial land use and zoned C-2 (General Commercial). (0.5 acre) JH**

**Recommendation:** The actions requested are to:

- 1) Determine that the project is categorically exempt from CEQA under Section 15303 of the CEQA Guidelines, and;
- 2) Approve Administrative Permit Application No. AA12-030 based on the project findings and subject to the conditions of approval presented in the staff report.

Planner James Holland presented the Staff Report and recommendations of approval dated January 23, 2013.

The public hearing opened at 9:16 a.m.

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Naseem Khan, owner, stated he was present to answer any questions or concerns that the public may have.

Greg Thompson questioned why Naseem Khan, owner has the extra gas pumps stored on his property behind the gas station?

Naseem Khan, owner, stated the gas pumps have value and he has other gas stations and re-uses them for replacement of other broken gas pumps.

Greg Thompson stated he was only questioning the stored gas pumps and the connectivity of them with the gas station on the project site.

The public hearing closed at 9:18 a.m.

**MOTION: M/S MOBLEY – ERRECA AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE PERMIT APPLICATION NO. AA12-030 FROM CEQA.**

**MOTION: M/S MOBLEY – ERRECA AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 23, 2013, MAKES THE 11 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ADMINISTRATIVE PERMIT APPLICATION NO. AA12-030 SUBJECT TO THE 8 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

Planning & Community Development Department

1. Administrative Permit No. AA12-030 is granted to establish a semi-mobile food vendor (without customer seating) in the western area of a 34,000 square foot parcel that also contains an existing convenience store and gas station, and private residence.
2. The project shall be operated in a manner that is consistent with the approved Plot Plan and applicant's Operational Statement. Minor Modifications may be approved by the Planning Director upon submittal of an acceptable application.
3. If the Administrative Permit is not implemented within one year, it shall expire and become null and void. The Planning Commission may extend the Permit if a request is filed by the applicant prior to its expiration.
4. The applicant shall comply with the Merced County Zoning Code Development Standards required for semi-mobile food vendors (Section 18.47.79.D) including, but not limited to the following:
  - a. The operating hours shall be from 9:00AM to 9:00PM, seven days a week.
  - b. Adequate trash receptacles shall be provided in the immediate vicinity of the semi-mobile food vendor.
  - c. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day.

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- d. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
  - e. Grease shall be disposed per requirement of the Division of Environmental Health.
  - f. No additional advertising signs, except a sign attached to the semi-mobile food vendor truck, are permitted as part of this approval.
  - g. A copy of the administrative permit shall be kept with the operator at all times and shall not be transferable to another operator.
5. For the purpose of conditions monitoring, an inspection fee in the amount of **\$243.00** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of the inspection.

County Counsel

6. INDEMNITY AND HOLD HARMLESS AGREEMENT:

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

NASSEEM KHAN'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 NASEEM KHAN, 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. NASEEM KHAN 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 ADMINISTRATIVE PERMIT NO. AA12-030 approval, modification, or denial.

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

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Department of Public Health/ Environmental Health Division

7. The facility must operate in compliance with the requirements contained in the Department of Public Health Environmental Health Division's memorandum dated August 16, 2012.

Commerce, Aviation and Economic Development Department

8. If the applicant/owner does not currently have a Business License Permit, they shall obtain one from the Commerce Aviation and Economic Development Department. The property owner/applicant shall pay all required fees for the Business license. The property owner/applicant shall annually renew the Business License and pay all required fees.

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

None

**VII. DIRECTOR'S REPORT**

William Nicholson, Assistant Development Services Director, stated he would like to remind the public of the General Plan Update Draft Environmental Impact Report that is out for public review and comments can be made by January 29, 2013. He has not received many comments but will be expecting more as the deadline gets closer within a week.

**VIII. COMMISSIONERS COMMENTS**

None

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 9:19 a.m.