

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JULY 13, 2016

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of July 13, 2016, are available online at 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 July 13, 2016, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Mark Erreca - Chairman
 Commissioner Jack Mobley – Arrived at 9:10 a.m.
 Commissioner Rich Ford
 Commissioner Robert Acheson

Staff Present: Mark Hendrickson, Director
 Oksana Newmen, Deputy Director Planning
 Ana Muniz-Laguna, Acting Recording Secretary
 Steven Maxey, Planner III
 Brian Guerrero, Planner III
 Pam Navares, Planner I

Legal Staff: Michael Linden, Deputy County Counsel

Commissioners Absent: Commissioner Greg Thompson

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. ADMINISTRATIVE APPLICATION No. AA16-027 – Dorotea Diego Haro - To operate a semi-mobile food vendor on an existing commercial site in the Snelling area. The project site located at the northwest corner of Highway 59 & 4th Street. The property is designated General Commercial land use and zoned C-2 (General Commercial). JB

Recommendations: The actions requested are to:

- 1) Find the project exempt from CEQA review under section 15061(b)(3) – “General Rule” of the CEQA guidelines, and;
- 2) Approve Conditional Use Permit No. AA16-027 based on the project findings and subject to the recommended conditions of approval presented in the staff report.

Planner Steven Maxey presented the Staff Report and recommendations of approval dated July 13, 2016.

The public hearing opened at 9:06 a.m.

Joe Baker, neighbor, asked what Exempt means?

Planner Steven Maxey explained that California Environmental Quality Act is a State Legislation that requires environmental review for any land use project. For this project, staff believes there is no significant impact, therefore this project is exempt from further review under CEQA.

The public hearing closed at 9:08 a.m.

MOTION: M/S FORD - ACHESON, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. AA16-027 FROM CEQA.

MOTION: M/S FORD – ACHESON, AND CARRIED BY A VOTE OF 3 – 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JULY 13, 2016, AND MAKES THE PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES ADMINISTRATIVE APPLICATION No. AA16-027 SUBJECT TO THE CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Administrative Permit No. AA16-027 is granted to Dorotea Diego Haro to establish a semi-mobile food vendor at an existing commercial site, in accordance with the approved Plot Plan and Operational Statement. Minor Modifications may be approved by the Director upon submittal of an acceptable application.
2. For the purpose of conditions monitoring an inspection in the amount of **\$162** shall be required. This fee shall be paid with 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 inspection.
3. There shall be adequate trash receptacle adjacent to the semi-mobile food vendor.
4. 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.
5. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
6. Grease shall be disposed per requirement of the Division of Environmental Health.
7. No additional advertising sign except a sign attached to the semi-mobile food vendor.
8. A copy of administrative permit shall be kept with the operator (Dorotea Diego Haro) at all times and shall not be transferable to another operator.
9. The applicant shall comply with all applicable County, State and Federal regulations. These regulations shall include, but not be limited to standards administered by the County Fire, Health, and Public Works Departments.

County Counsel

10. INDEMNITY AND HOLD HARMLESS AGREEMENT:

DOROTEA DIEGO HARO 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 DOROTEA DIEGO HARO.

DOROTEA DIEGO HARO 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 DOROTEA DIEGO HARO, his 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. DOROTEA DIEGO HARO 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 permit approval, modification, or denial.

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

Department of Public Health/Environmental Health Division

11. Prior to beginning operation, the applicant shall obtain a food facility permit from MCDEH and thereafter operate within the parameters of the permit and the applicable sections of the California Retail Food Code.
12. The semi-mobile food vehicle shall be located within 200 feet travel distance of an MCDEH approved toilet and permanent hand washing station. The food vehicle staff shall have access to this restroom at all times the vehicle parked on-site. If the restrooms are locked, the food vehicle staff must have a key in their possession.
13. The mobile food facility operator shall provide to MCDEH food program staff a current, valid document from the restroom owner indicating the times the restrooms are available and granting permission for the mobile food vendor staff to use the restrooms. a copy of the permission document shall be kept on the

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mobile food facility.

14. The mobile food facility shall not obtain any water from the premises, nor shall any wastewater from the food facility be drained to on-site sewer connection or to the ground surface. No solid waste (trash, etc.) from the mobile food facility shall be disposed on the parcel.
15. The mobile food facility shall immediately cease operating if the water supply to the restroom fails or the Market sewer connection fails.

Department of Public Works/Building and Safety Division

16. Any extension cords used for power to the truck will have to be rated for outdoor use, protected from damage if in a vehicle route of travel, and one continuous run from the power source to the truck.

- B. MINOR SUBDIVISION APPLICATION No. MS16-005 - Jesus Mendoza** - To divide a 4.3 acre Residential parcel into 2 parcels, resulting in parcel sizes of: Parcel 1 = 2.15 acres and Parcel 2 = 2.15 acres. The project site is located on the west side of Feather Way, 500 feet south of South Avenue. The property is designated Delhi Urban Community - Agricultural Residential and zoned A-R (Agricultural-Residential). **JB**

Recommendations: The actions requested are to:

- 1) Find the project exempt from CEQA review under Section 15315 “Minor Land Divisions” of the CEQA Guidelines, and;
- 2) Approve Conditional Use Permit No. MS16-005 based on the project findings and subject to the recommended conditions of approval presented in the staff report.

Planner Steve Maxey presented the Staff Report and recommendations of approval dated July 13, 2016.

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

Duane Andrews, Golden Valley Engineering, said he is available if there are any questions.

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

MOTION: M/S FORD - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION No. MS16-005, FROM CEQA.

MOTION: M/S FORD – ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JULY 13, 2016 AND MAKES THE PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MS16-005 SUBJECT TO THE CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

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. Prior to parcel map recording, the applicant is to provide a recorded well access ("Shared Well") agreement between the owner of the two properties. If the parcels will be owned by the same party at the time of map recording, a note shall be placed on the parcel map indicating that a Shared Well agreement will be required at the time of sale of either parcel. An easement for well access shall be indicated on the map.
3. The applicant shall comply with all applicable County, State and Federal regulations.
4. A note shall be placed on the face of the parcel map stating that any new residences will be subject to review and approval of a conditional use permit from the County, as per General Plan Policy AG-3.12, or as otherwise permitted by the County subject to the current policies in place at the time of the request.
5. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 97-1.
6. Prior to the recordation of the parcel map, the property owner shall satisfy local recreational park land space/or fee obligation (Chapter 17.44)

Department of Public Health

7. Prior to recoding the parcel map, the owner shall record a permanent water easement approved by Merced County Division of Building & Safety which guarantees Parcel 1 full access to the domestic well on parcel 2, or install a new domestic well on proposed Parcel 1.

Public Works Road Division

8. The project site is subject to Level 2 Improvements that require items such as dedicating required right-of-way easements, and other improvements (County Code Ch. 16-08-040). Applicant shall enter into a Deferment of Construction Agreement to install the improvements at a later date.
 - a. Right-of-Way dedication is required to fulfill the property owner's half of a 60' ultimate right-of-way on Feather Way. As a result, the owners shall dedicate 10' right-of-way along the property frontage plus an additional 10' public utility easement (PUE).

County Counsel

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

LEOPOLDO MENDOZA 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 LEOPOLDO MENDOZA.

LEOPOLDO MENDOZA 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 LEOPOLDO MENDOZA, 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. LEOPOLDO MENDOZA 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 project approval, modification, or denial.

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

- C. MINOR SUBDIVISION APPLICATION No. MS16-003 - Laxman Iyer -** To divide a 200 acre parcel into 3 parcels for financing reasons, resulting in parcel sizes of: Parcel 1 = 60 acres, Parcel 2 = 60 acres and Parcel 3 = 80 acres. No new homes are proposed. The project site is located on the east side of N. Whitworth Road, 4,050 feet north of W. Fentem Road in the Gustine area. The property is designated Agricultural land use, with the southern portion in the City of Gustine Planning Area, and zoned A-1 (General Agricultural). **PN**

Recommendations: The actions requested are to:

- 1) Find the project exempt from CEQA review under Section 15183, "Projects Consistent with a Community Plan or Zoning" of the CEQA Guideline and;
- 2) Approve Minor Subdivision Application No. MS16-003 based on the project findings and subject to the conditions of approval presented in the Staff Report.

Planner Pam Navares presented the Staff Report and recommendations of approval dated July 13, 2016.

The public hearing opened at 9:25 a.m.

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Bob Braden with Robert Braden Consulting and representing the applicant, said he is available for any questions. He said the property is all for ag and is already planted with 60 acres of cherries and will be almonds as well.

The public hearing closed at 9:26 a.m.

MOTION: M/S MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 3 - 0, WITH COMMISSIONER FORD ABSTAINING FROM THE VOTE, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION No. MS16-003 FROM CEQA.

MOTION: M/S MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 3 – 0, WITH COMMISSIONER FORD ABSTAINING FROM THE VOTE, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JULY 13, 2016, AND MAKES THE PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MS16-003 SUBJECT TO THE CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

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. A notice shall be placed on the face of the parcel map stating that there is no right to construct new (or additional) residences on any of the parcels created through Minor Subdivision No. MS16-003.
3. A notice shall be placed on the face of the parcel map stating that in order to provide for the continued possible delivery of irrigation water to each parcel, easements shall be provided that will provide future owners of each parcel direct access to Central California Irrigation District (CCID) irrigation facilities.
4. Prior to parcel map recording, the applicant is to provide a recorded well access ("Shared Well") agreement between the owners of the two properties. If the parcels will be owned by the same party at the time of map recording, a note shall be placed on the parcel map indicating that a Shared Well agreement will be required at the time of sale of either parcel. An easement for well access shall be indicated on the map.
5. The applicant shall comply with all applicable County, State and Federal regulations.

County Counsel

6. INDEMNITY AND HOLD HARMLESS AGREEMENT:

Laxman Iyer 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

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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 Laxman Iyer.

Laxman Iyer'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 Laxman Iyer, 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. Laxman Iyer 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 project approval, modification, or denial.

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

Fire Department

7. The applicant shall install Reflective Building Identification that meets Fire Department Design Specifications. Contact the Prevention Bureau for additional information.

Department of Public Works Building and Safety Division

8. The owner must complete the agreement provided by the Planning Department to share the domestic well water across the property line and the agreement must be recorded with the map.
9. Transfer/sale of Parcel 1 or 3 will require that an easement be recorded for the water service to cross the property line or parcel 1 will be required to have its own well.
10. The current house on Parcel 3 will need a permit to convert it to storage or a demolition permit to remove it.

Department of Public Health

11. The septic serving the house on Parcel 3 must be demolished under a permit from Merced Division of Environmental Health.

Central California Irrigation District

12. Due to the configuration of the Parcel Split, CCID is requiring an Irrigation Easement along the north side of Parcel 3 for the benefit of Parcel 2. After a phone call to CCID, they agreed that a 20 foot irrigation easement on the south side of Parcel 1 to benefit Parcel 2 would be sufficient.

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- D. ADMINISTRATIVE APPLICATION No. AA16-028 – Ernesto Acosta** - To operate a semi-mobile food vendor on property located at the southwest corner of North Highway 59 & West Pettinotti Road in the Merced area. The property is designated Commercial land use in the General Plan and zoned A-1 (General Agricultural) and C-1 (Neighborhood Commercial). **BG**

Recommendations: The actions requested are to:

- 1) Find the project exempt from CEQA review under Section 15061(b)(3), “Common Sense” of the CEQA Guidelines, and;
- 2) Approve Administrative Application No. AA16-028 based on the findings and subject to the conditions of approval listed in the Staff Report.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated July 13, 2016.

The public hearing opened at 9:27 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:28 a.m.

MOTION: M/S FORD - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. AA16-028, FROM CEQA.

MOTION: M/S FORD - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JULY 13, 2016, AND MAKES THE PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ADMINISTRATIVE APPLICATION No. AA16-028 SUBJECT TO THE CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Administrative Permit No. AA16-028 is granted to establish a semi-mobile food vendor with seating on an existing commercial site, in accordance with the approved Plot Plan and Operational Statement. Minor Modifications may be approved by the Director upon submittal of an acceptable application.
2. For the purpose of conditions monitoring an inspection in the amount of **\$162** shall be required. This fee shall be paid with 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 inspection.
3. There shall be adequate trash receptacle adjacent to the semi-mobile food vendor.
4. The site shall be kept clean and free of litter at all times and is subject to Ordinance 97-01. Trash and garbage shall be removed from the site at the end of each day.
5. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
6. Grease shall be disposed per requirement of the Division of Environmental Health.

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7. No additional advertising sign except a sign attached to the semi-mobile food vendor.
8. A copy of administrative permit shall be kept with the operator (Ernesto Acosta) at all times and shall not be transferable to another operator.
9. The applicant shall comply with all applicable County, State and Federal regulations. These regulations shall include, but not be limited to standards administered by the County Fire, Health, and Public Works Departments.

County Counsel

10. INDEMNITY AND HOLD HARMLESS AGREEMENT:

ERNESTO ACOSTA 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 ERNESTO ACOSTA.

ERNESTO ACOSTA 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 ERNESTO ACOSTA, his 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. ERNESTO ACOSTA 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 permit approval, modification, or denial.

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

Department of Public Health/Environmental Health Division

11. Prior to beginning operation, the applicant shall obtain a food facility permit from MCDEH and thereafter operate within the parameters of the permit and the applicable sections of the California Retail Food Code.
12. The semi-mobile food vehicle shall be located within 200 feet travel distance of an MCDEH approved toilet and permanent hand washing station. The food vehicle staff shall have access to this restroom at all times the vehicle parked on-site. If the restrooms are locked, the food vehicle staff must have a key in their possession.

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13. The mobile food facility operator shall provide to MCDEH food program staff a current, valid document from the restroom owner indicating the times the restrooms are available and granting permission for the mobile food vendor staff to use the restrooms. A copy of the permission document shall be kept on the mobile food facility.
14. The mobile food facility shall not obtain any water from the premises, nor shall any wastewater from the food facility be drained to on-site sewer connection or to the ground surface. No solid waste (trash, etc.) from the mobile food facility shall be disposed on the parcel.
15. The mobile food facility shall immediately cease operating if the water supply to the restroom fails or the mini mart sewer connection fails.

Department of Public Works/Building and Safety Division

16. Any extension cords used for power to the truck will have to be rated for outdoor use, protected from damage if in a vehicle route of travel, and one continuous run from the power source to the truck.

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

Mark Hendrickson, Director, advised the Planning Commission that the Board of Supervisors did approve the Housing Element Update and the next step is to submit to the State the Certification. He thanked each Commissioner for their hard work on the Housing Element.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:31 a.m.