

BEFORE THE BOARD OF SUPERVISORS
OF THE
COUNTY OF FRESNO, STATE OF CALIFORNIA

ADOPTION OF A MITIGATED NEGATIVE DECLARATION, AND)
APPROVAL OF UNCLASSIFIED CONDITIONAL USE PERMIT) RESOLUTION
NO. 3680 WITH FINDINGS AND CONDITIONS OF APPROVAL)

WHEREAS, Deepinder S. Grewal (Applicant) made an application to the Fresno County Planning Commission (Planning Commission) for adoption of a Mitigated Negative Declaration based on Initial Study No. 7877, and approval of Unclassified Conditional Use Permit No. 3680 proposing to allow an Interstate Freeway Interchange Commercial Development consisting of the development and operation of a restaurant and convenience store within an existing building and the construction of a new fuel pump island and canopy with underground fuel storage tanks; and

WHEREAS, the site is located in the northwest quadrant of the Interstate 5 and Panoche Road Major Commercial Center, in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District; and

WHEREAS, on August 12, 2021 the Planning Commission adopted the Mitigated Negative Declaration based on Initial Study No. 7877 and approved the Application for Unclassified Conditional Use Permit No. 3680; and

WHEREAS, an Appeal was made of the Planning Commission’s decision to adopt the Mitigated Negative Declaration based on Initial Study No. 7877 and approve CUP No. 3680 on August 27, 2021; and

WHEREAS, County Zoning Ordinance Section 873(G) requires that an appeal of the Planning Commission’s decision be heard by the Board of Supervisors (Board); and

WHEREAS, Pursuant to County Zoning Ordinance Section 873(F), in order for the Board to approve Unclassified CUP No. 3680, the Board must make the following findings:

- 1. That the Site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other

1 features required by this Division to adjust said use with land and uses in the
2 neighborhood.

- 3 2. That the site for the proposed use relates to streets and highways adequate in width and
4 pavement type to carry the quantity and kind of traffic generated by the proposed use.
- 5 3. That the proposed use will have no adverse impact on abutting property and surrounding
6 neighborhood or permitted use thereof.
- 7 4. That the proposed development is consistent with the General Plan.
- 8 5. That the conditions stated in the resolution are deemed necessary to protect the public
9 health, safety, and general welfare; and

10 WHEREAS, after duly giving all required public notices, and an opportunity for the public to speak
11 and present evidence for and against the proposed restaurant, convenience store and gas station, and
12 having complied with all applicable requirements of the law, including the County Zoning Ordinance, the
13 Board hereby resolves and takes the following actions, including making the following findings and with
14 the inclusion of the following two additional conditions:

- 15 1. The Applicant shall enter into an agreement indemnifying the County for all legal costs
16 associated with its approval of IS No. 7877 and CUP No. 3680 and provide security in an
17 amount determined by the County for any such legal costs incurred. The agreement and
18 payment of security shall be due unless the litigation period has expired, in which case
19 the requirements for the indemnification agreement and security shall be considered null
20 and void
- 21 2. Site development shall be based on the Applicant's revised site plan included as
22 Attachment D to the December 14, 2021 Board Agenda Item, which illustrates a total of
23 137 parking spaces.

24 NOW, THEREFORE Section 873(F) of the County Zoning Ordinance requires that the Site for the
25 proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and
26 fences, parking, loading, landscaping and other features required by this Division, to adjust said use with
27 land and uses in the neighborhood (Finding 1), and, in light of such requirement, the Board hereby makes
28 the following findings:

- 1 • The proposed development is compliant with the applicable development standards of
2 Section 860 of the Zoning Ordinance pertaining to Regulations for Interstate Freeway
3 Interchange Commercial Development, and applicable off-street parking requirements.
- 4 • Based on the foregoing facts, which this Board has found, the Application satisfies Finding
5 1.

6 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the Site for
7 the proposed use relates to streets and highways adequate in width and pavement type to carry the
8 quantity and kind of traffic generated by the proposed use (Finding 2), and, in light of such requirement,
9 the Board hereby makes the following findings:

- 10 • With the proposed mitigation measures and conditions of approval for the project, the
11 County-maintained roadways that serve the parcel are adequate to support the proposed
12 use; and
- 13 • Panoche Road (a County maintained road) is adequate in width and pavement condition
14 to serve the proposed use.
- 15 • Based on the foregoing facts, which this Board has found, the Application satisfies Finding
16 2.

17 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the proposed
18 use will have no adverse impact on abutting property and surrounding neighborhood or permitted use
19 thereof (Finding 3), and, in light of such requirement, the Board hereby makes the following findings:

- 20 • The proposed project is consistent with uses allowed at such Freeway Interchange
21 Commercial Centers and would therefore have no adverse effect on the adjacent or
22 surrounding property.
- 23 • Based the foregoing fact, which this Board has found, the Application satisfies Finding 3.

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25 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the proposed
26 development is consistent with the General Plan (Finding 4), and, in light of such requirement, the Board
27 hereby makes the following findings:

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- 1 • The section of Panoche Road serving the subject parcel has adequate right-of-way to
- 2 satisfy General Plan requirements and Specific Plan lines.
- 3 • With compliance with the proposed Mitigation Measures, the project will not result in an
- 4 unacceptable level of service on the County roadway.
- 5 • That the proposed use is consistent with the requirements of the General Plan and Zoning
- 6 Ordinance.
- 7 • Based the foregoing fact, which this Board has found, the Application satisfies Finding 4.
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9 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the conditions
10 stated in the resolution are deemed necessary to protect the public health, safety, and general welfare
11 (Finding 5), and, in light of such requirement, the Board hereby finds that the following conditions are
12 deemed necessary to protect the public health, safety, and general welfare:

- 13 • The proposed Mitigation Measures and Conditions of Approval were developed based on
- 14 studies and consultation with specifically qualified staff, consultants, and outside
- 15 agencies, in order to address the specific impacts of the proposed project and were
- 16 designed to address the public health, safety and welfare.

17 NOW, THEREFORE, IT IS ORDERED AND RESOLVED that the Mitigated Negative Declaration
18 Attached as EXHIBIT A, based on Initial Study No. 7877 is hereby adopted and Unclassified Conditional
19 Use Permit No. 3680 to allow for the development and operation of a restaurant, convenience store and
20 gas station, is hereby approved subject to the conditions of approval in the Attached EXHIBIT B.

21 BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption
22 by the Board.

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1 THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors
2 of the County of Fresno this 14th day of December, 2021, to wit:

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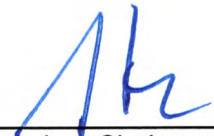
4 AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero

5 NOES: None

6 ABSENT: None

7 ABSTAINED: None

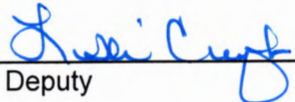
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BY  _____
Steve Brandau, Chairman of the
Board of Supervisors of the County of Fresno

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10 **ATTEST:**
11 Bernice E. Seidel
12 Clerk of the Board of Supervisors
County of Fresno, State of California

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14 BY  _____
15 Deputy

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EXHIBIT A

File original and one copy with: Fresno County Clerk 2221 Kern Street Fresno, California 93721		Space Below For County Clerk Only. <div style="text-align: center; font-size: small;">CLK-2046.00 E04-73 R00-00</div>		
Agency File No: <div style="text-align: center;">IS 7877</div>	LOCAL AGENCY DRAFT MITIGATED NEGATIVE DECLARATION	County Clerk File No: <div style="text-align: center; font-size: x-large;">E-</div>		
Responsible Agency (Name): Fresno County	Address (Street and P.O. Box): 2220 Tulare St. Sixth Floor	City: Fresno	Zip Code: 93721	
Agency Contact Person (Name and Title): Jeremy Shaw, Planner	Area Code: 559	Telephone Number: 600-4207	Extension: N/A	
Applicant (Name): Deepinder Grewal		Project Title: Initial Study No. 7877/Unclassified Conditional Use Permit Application No. 3680		
Project Description: Allow the construction and operation of an interstate freeway commercial development consisting of the interior modification of an existing 9,681 square-foot restaurant; the installation of a new convenience store within the existing building and the installation and operation of a new gas station with six fuel pumps and a 3,280 square-foot by 19-foot tall fuel canopy, on a 2.62-acre parcel in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District. The project site is located in the northwest quadrant of the Panoche Road and Interstate 5 Freeway Commercial Interchange Area, approximately 15 miles southwest of the nearest city limits of the City of Mendota (Sup. Dist. 1) (APN: 027-190-05S) (46272 W. Panoche Road).				
Justification for Negative Declaration: Based upon the Initial Study prepared for Unclassified Conditional Use Permit Application No. 3680, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Agricultural and Forestry Resources, Biological Resources, Energy, Hazards and Hazardous Materials, Land Use and Planning, Mineral Resources, Population and Housing, Public Services and Recreation and Wildfire. Potential impacts related Air Quality, Greenhouse Gas Emissions, Hydrology and Water Quality, Noise, Utilities and Service Systems have been determined to be less than significant. Potential impacts relating to Aesthetics, Cultural Resources, Geology and Soils, Transportation and Tribal Cultural Resources have been determined to be less than significant with compliance with the identified Mitigation Measures.				
FINDING: The proposed project will not have a significant impact on the environment.				
Newspaper and Date of Publication: Fresno Business Journal – October 10, 2021			Review Date Deadline: Board of Supervisors – December 14, 2021	
Date:	Type or Print Signature: David Randall Senior Planner	Submitted by (Signature): Jeremy Shaw Planner		

State 15083, 15085

County Clerk File No.: _____

**LOCAL AGENCY DRAFT
 MITIGATED NEGATIVE DECLARATION**

Mitigation Monitoring and Reporting Program
Initial Study No. 7877/Unclassified Conditional Use Permit (CUP) Application No. 3680
(Including Conditions of Approval and Project Notes)

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*1.	Aesthetics	Prior to operation, all outdoor lighting shall be hooded and directed downward and maintained for the life of the project so as not to shine toward adjacent properties and public roadways.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	Ongoing; duration of operation
*2.	Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	During ground disturbance
*3.	Geology and Soils	If a paleontological resource is found, regardless of depth or setting, the Project contractor shall cease ground-disturbing activities within 50 feet of the find and contact a qualified paleontologist. The qualified paleontologist shall evaluate the significance of the resources and recommend appropriate treatment measures.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	During ground disturbance
*4.	Transportation/Traffic	Prior to the issuance of any development permits related to this project, the applicant/project proponent shall pay the sum of \$ 175,910.00 to the Fresno County Department of Public Works and Planning, which is a proportionate fair share of the cost of future signalization of the intersection of Panoche Road and Road 'A'.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	Prior to issuance of development permits

Mitigation Measures

*5.	Transportation/Traffic	The project applicant shall enter into a traffic mitigation agreement with the California Department of Transportation (Caltrans), and pay the sum of \$8,655.00, the proportionate fair share of cost for future installation of all way stop control at the intersection of Panoche Road and the northbound Interstate 5 ramps. Evidence that the fees have been paid to Caltrans or a copy of the executed mitigation agreement with Caltrans shall be provided to the County demonstrating that payment of the equitable share of cost has been resolved with Caltrans, prior to issuance of any development permits.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	Prior to issuance of development permits
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Conditions of Approval

1.	Development and operation shall be in substantial conformance with the approved Site Plan, Floor Plan, Elevation Drawings and Operational Statement.				
2.	Before any building or structure related to this project is erected, a complete site plan shall be submitted to and approved by the Director of the Department of Public Works and Planning pursuant to the provisions of Section 874 of the Fresno County Zoning Ordinance. Such site plan shall encompass all that area shown on the approved master plan. Conditions of the Site Plan Review may include, but are not limited to, design of parking and circulation, grading and drainage, fire protection, and control of lighting.				
3.	This project will be subject to San Joaquin Valley Air Pollution Control District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Sources Review) and will require District Permits. Prior to the issuance of development permits, the project owner shall apply for an Authority to Construct (ATC) to the San Joaquin Valley Air Pollution Control District.				
4.	As called for by the General Plan Policy LU-D.6 the applicant shall design, develop, and maintain aesthetically excellent landscaping for the site. All plants and related materials shall be arranged in a manner which is consistent with and complimentary to the building design and materials. Landscaping shall be thematically consistent with the surrounding Master Plan Development.				

*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference required Conditions for the project.

Notes

The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.

1.	Unclassified Conditional Use Permit No. 3680 shall become void unless there has been substantial development within two years of the effective date of approval of said Conditional Use Permit; or, there is a cessation of occupancy or use of land or structures authorized by said Conditional Use Permit for a period in excess of two-years; except where the structure or land is limited to a single purpose use.
2.	Plans, permits and inspections shall be required for all on-site improvements. Buildings and or facilities providing a Public Use must comply with the accessibility requirements of Chapter 11B of the California Building Code.
3.	The project shall connect to the I-5 Property Services off site wastewater treatment facility for sewage disposal & treatment.
4.	Prior to alcohol sales, the applicant shall first obtain a license to sell alcoholic beverages from the California Department of Alcoholic Beverage Control.
5.	Prior to the issuance of development permits, the applicant shall submit three (3) sets of complete plans and specifications regarding the installation of any underground storage tanks to the Fresno County Department of Public Health, Environmental Health Division.
6.	If any underground storage tank(s) are found during construction, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division.
7.	Prior to operations, the fuel facility applicant shall apply for and secure a Permit to Operate an Underground Storage Tank System from the Fresno County Department of Public Health, Environmental Health Division.
8.	Facilities proposing to use and/or store hazardous materials and/or hazardous wastes shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Any business that handles a hazardous material or hazardous waste may be required to submit a Hazardous Materials Business Plan electronically pursuant to the HSC, Division 20, Chapter 6.95 (http://ceers.calepa.ca.gov/).
9.	<p>The following comments pertain to the remodel of existing structure:</p> <p>Should the structure have an active rodent or insect infestation, the infestation should be abated prior to remodel of the structure in order to prevent the spread of vectors to adjacent properties.</p> <p>In the process of remodeling the existing structure, the contractor may encounter asbestos containing construction materials and materials coated with lead-based paints.</p> <p>If asbestos containing materials are encountered, contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000 for more information.</p> <p>If the structure was constructed prior to 1979 or if lead-based paint is suspected to have been used in these structures, then prior to demolition work the contractor should contact the following agencies for current regulations and requirements:</p>

Notes

	<ul style="list-style-type: none"> • California Department of Public Health, Childhood Lead Poisoning Prevention Branch. • United States Environmental Protection Agency, Region 9. • State of California, Industrial Relations Department, Division of Occupational Safety and Health, Consultation Service (CAL-OSHA).
10.	<p>Any work done within the County road right-of-way shall require an encroachment permit from the Road Maintenance and Operations Division.</p>
11.	<ul style="list-style-type: none"> ○ An Engineered Grading and Drainage Plan shall be provided to show how additional storm water runoff generated by the project will be handled without adversely impacting adjacent properties. ○ A grading permit or voucher shall be obtained for any grading proposed with this application. ○ The property shall be developed in accordance with State Responsibility Area (SRA) Fire Safe Regulations as they apply to driveway construction and access. ○ Any proposed parking areas shall comply with the Fresno County Off-Street Parking Design Standards. ○ Any additional runoff generated by the proposed development of this site must be retained on site per County Standards.
12.	<p>This project/development shall annex to Community Facilities District No. 2010-01 of the Fresno County Fire Protection District. The project/development also shall be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.</p>
13.	<p>Prior to issuance of development permits, the applicant will be required to submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval.</p>
14.	<p>Prior to issuance of development permits, the Applicant shall submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Prior to operation, the Applicant shall apply for and obtain a permit to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable.</p>
15.	<p>The proposal shall comply with California Code of Regulations Title 24 – Fire Code after County approval of the project and prior to issuance of any Building Permits. The Applicant shall submit three Site Plans stamped “reviewed” or “approved” from the Fresno County Department of Public Works and Planning to the Fresno County Fire Protection District for review and approval. The Applicant shall submit evidence that their Plans were approved by the Fresno County Fire Protection District, and all fire protection improvements shall be installed prior to occupancy being granted for the use.</p>
16.	<p>Noise sources associated with construction are exempt from the Fresno County Noise Ordinance between the hours of 6:00 a.m. and 9:00 p.m., Monday through Friday, and between 7:00 a.m. and 5:00 p.m. on Saturday and Sunday. The proposed project shall comply with the Fresno County Noise Ordinance. Construction specifications for the project should require that all construction equipment be maintained according to the manufacturer’s specifications, and that noise generating construction equipment be equipped with mufflers.</p>