County of Fresno

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Legislation Details (With Text)

File #:	19-0709	**Name:**	Initial Study Application No. 7495, General Plan Amendment Application No. 554, Amendment Application No. 3831, Conditional Use Permit Application No. 3621, Vesting Tentative Tract Map Application No. 6226 and Site Plan Review Application No. 8108. (Appl
		In control:	Public Works & Planning
On agenda:	8/6/2019	**Final action:**	8/6/2019
Enactment date:		**Enactment #:**	Ordinance No. R-486-3831, Resolution No. 19-318

Title: Consider and adopt Mitigated Negative Declaration prepared for Initial Study Application No. 7495 including Mitigation Monitoring and Reporting Program prepared for General Plan Amendment Application No. 554 (GPA No. 554), a Specific Plan Amendment amending Land Use and Transportation Elements of County-adopted Millerton Specific Plan; adopt Resolution approving Specific Plan Amendment amending Land Use and Transportation Elements of Millerton Specific Plan; approve Ordinance pertaining to Amendment Application No. 3831 thereby rezoning a five-acre portion of subject 40-acre parcel from O Zone District to an R-1(c) Zone District; and rezone a 1.5-acre portion of subject 40-acre parcel from the R-1(c) Zone District to O Zone District; designate County Counsel to prepare fair and adequate summary of proposed ordinance and direct Clerk of the Board to post and publish required summary in accordance with California Government Code, Section 25124(b)(1); and approve Vesting Tentative Tract Map No. 6226, Conditional Use Permit No. 3621, and Site Plan Review No. 8108 authorizing Planned Unit Development consisting of 80 single-family residential lots on an approximately 25-acre portion of subject 40-acre parcel in the R-1(c) Zone District, subject 40-acre parcel is located within Millerton Specific Plan approximately 1,163 feet south of Millerton Avenue, 880 feet west Marina Drive, and 2.2 miles east of unincorporated community of Friant

Sponsors:

Indexes:

Code sections:

Attachments: 1. Agenda Item, 2. Attachments A - C, 3. Ordinance No. R-486-3831, 4. Resolution No. 19-318, 5. Ordinance Summary, 6. Additional Information

Date	Ver.	Action By	Action	Result
8/6/2019	1	Board of Supervisors	Conducted Hearings	Pass
8/6/2019	1	Board of Supervisors	approved as amended	Pass

DATE: August 6, 2019

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Initial Study Application No. 7495, General Plan Amendment Application No. 554, Amendment Application No. 3831, Conditional Use Permit Application No. 3621, Vesting Tentative Tract Map Application No. 6226 and Site Plan Review Application No. 8108. (Applicant: Jeffrey T. Roberts/Assemi Group, Inc.)

RECOMMENDED ACTION(S):

1. **Consider and adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 7495 including Mitigation Monitoring and Reporting Program prepared for General Plan Amendment Application No. 554, a Specific Plan Amendment amending the Land Use and Transportation Elements of the County-adopted Millerton Specific Plan; and**

2. **Adopt Resolution approving the Specific Plan Amendment amending the Land Use and Transportation Elements of the Millerton Specific Plan; and**

3. **Approve Ordinance pertaining to Amendment Application No. 3831 thereby rezoning a five-acre portion of the subject 40-acre parcel from O (Open Conservation) Zone District to an R-1(c) (Single-Family Residential, 6,000 square-foot minimum parcel size, Conditional) Zone District; and rezone a 1.5-acre portion of the subject 40-acre parcel from the R-1(c) (Single-Family Residential, 6,000 square-foot minimum parcel size, Conditional) Zone District to O (Open Conservation) Zone District; and**

4. **Designate County Counsel to prepare a fair and adequate summary of the proposed ordinance and direct the Clerk of the Board to post and publish the required summary in accordance with California Government Code, Section 25124(b)(1); and**

5. **Approve Vesting Tentative Tract Map No. 6226, Conditional Use Permit No. 3621, and Site Plan Review No. 8108 authorizing a Planned Unit Development consisting of 80 single-family residential lots on an approximately 25-acre portion of the subject 40-acre parcel in the R-1(c) (Single-Family Residential, 6,000 square-foot minimum parcel size) Zone District.**

The subject 40-acre parcel is located within the Millerton Specific Plan approximately 1,163 feet south of Millerton Avenue, 880 feet west Marina Drive, and 2.2 miles east of the unincorporated community of Friant (APN 300-542-12).

The project consists of an amendment to the Millerton Specific Plan and rezoning of certain areas within that plan to allow the development of a Planned Unit Development consisting of 80 single-family residential lots. The project also includes of the renaming of Saubrice Avenue to Morningside Way and eliminating Captains Hill Road as a Collector and removing it from the Millerton Specific Plan. Changes to areas designated for improved parks within the Specific Plan are also proposed.

Approval of the project involves a number of individual applications and actions that must be approved in sequence to approve the entire project. Individual project components include adoption of the project's Mitigated Negative Declaration prepared for Initial Study (IS) No. 7495, adoption of a resolution amending the Millerton Specific Plan, approving an ordinance rezoning specific areas within the project site, and approving Vesting Tentative Tract Map (TTM) No. 6226 and its associated Conditional Use Permit (CUP) and Site Plan Review. All of the recommended actions must be adopted and/or approved to approve the project, and sequencing of these approvals should follow the order of the Recommended Actions.

This item comes before your Board with a unanimous recommendation for approval from the Planning Commission (7 to 0, two commissioners absent) and requires final action from your Board per the Fresno County Zoning Ordinance and State planning law. A summary of the Planning Commission's action is included in Attachment A. A more detailed summary of the individual components of the project can also be found on Pages 1 and 2 of Attachment B (May 16, 2019 Planning Commission Staff Report and Subdivision Review Committee Report).

Staff notes that General Plan Amendment (GPA) Application No. 554 represents an amendment to the Millerton Specific Plan. As a Specific Plan Amendment, per Government Code Section 65453(a) a specific plan shall be prepared, adopted, and amended in the same manner as a general plan, except that a specific plan may be adopted by resolution or by ordinance and may be amended as often as deemed necessary by

the legislative body. Thus, Specific Plan Amendments are not restricted by the same Cycles of Adoption as a General Plan Amendment.

Project notification occurred ten days in advance of the hearing in compliance with Government Code Sections 65355, 65856, 65090. A notice was published in a newspaper of general circulation on July 24, 2019 and notices were mailed to surrounding property owners on July 17, 2019.

This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

If your Board determines the proposed Specific Plan Amendment and rezone are inconsistent with the Land Use Element of the County-adopted Millerton Specific Plan, a motion to deny the proposed amendment to the Specific Plan and concurrent Amendment Application (AA) No. 3831 would be appropriate. Denial of the Specific Plan Amendment and the rezone would eliminate the need for your Board to evaluate the Vesting TTM or CUP. Alternatively, your Board could approve the Specific Plan Amendment and rezone but deny the Vesting TTM and CUP.

Staff should note that any substantial modification to the Specific Plan Amendment as recommended by the Planning Commission must be referred back to the Planning Commission prior to the adoption, per Government Code Section 65356 which stipulates that Specific Plan Amendments follow the same procedures as General Plan Amendments. Likewise, any modification to the rezone as recommended by the Planning Commission must be referred back to the Commission prior to adoption per Government Code Section 65857.

FISCAL IMPACT:

Pursuant to the County's Master Schedule of Fees, the Applicant has paid $53,405 in land use processing fees to the County for the processing of IS Application No. 7495, GPA Application No. 554, and AA No. 3831, CUP Application No. 3621, vesting TTM Application No. 6226 and Site Plan Review (SPR) Application No. 8108.

DISCUSSION:

Background:

A Specific Plan Amendment and rezoning (AA) are legislative actions requiring final approval by your Board. Final action by your Board is also required for the adoption of the Mitigated Negative Declaration prepared for the IS filed concurrently with the Specific Plan Amendment and rezoning and for approval of the 80-unit Planned Unit Development. If approved, the Specific Plan Amendment and rezoning would become effective 30 days after adoption.

Specific Plan Amendment:

The subject property is located within the Millerton Specific Plan approximately 2.2 miles east of the unincorporated community of Friant. The Plan allows for Medium Low to Medium High Density Residential development through the use of the planned unit development concept.

As described under purposes of the Fresno County General Plan (Page 2 of the Fresno County General Plan Policy Document), the General Plan establishes a basis for subsequent planning efforts, such as preparation and updating of community plans, specific plans, redevelopment plans, and special studies to deal with unique problems or areas in the community.

The Millerton Specific Plan implements Fresno County General Plan policy and is a refinement of the Sierra-North Regional Plan. It constitutes a statement of the location and extent of residential, commercial, recreation, open space, and public facilities, and describes the standards and implementation methods which will be used to develop the site.

The proposal would amend the Land Use and Transportation Elements of the Millerton Specific Plan to:

- Changing the land use designation of a five-acre area of a 40-acre parcel known as Assessor's Parcel Number 300-542-12 from "Park" to "Medium-Density Residential" and simultaneously changing the land use designation of a 1.5-acre area within the same parcel, but at a different on-site location, from "Medium-Density Residential" to "Park" to provide for the park;

- Amending provisions of the Millerton Specific Plan to address an improved park area by reallocating 3.5 acres of community park space to Residential Allocation Areas A and D to modernize the plan for safety and neighborhood accessibility to park features;

- Amending the Transportation Element of the Millerton Specific Plan by changing the name of the northerly most approximately half-mile section of "Saubrice Avenue" to "Morningside Way; and

- Amending Section C.1 (2) of the Transportation Element of the Millerton Specific Plan by eliminating previously-designated Captains Hill Road (presently known Sunset Drive) as a Minor Collector and removing it from Figure SP1-9 (Circulation Element and Bikeway Plan) of the Millerton Specific Plan.

Additional discussion and analysis or the proposed amendments and the determination that those amendments were consistent with the Millerton Specific Plan can be found on Pages 4 through 12 of Attachment B. The table included on Pages 5 through 10 also provides discussion of the project's consistency with key General Plan policies.

Rezoning Action:

Currently, the 40-acre project site is designated Medium-Density Residential, Open Space and Park in the Millerton Specific Plan and is zoned R-1(c) (Single-Family Residential, 6,000 square-foot minimum parcel size, Conditional) Zone District and O (Open Conservation) Zone District. To accommodate the development footprint as proposed by the Applicant while still allowing the project to develop with areas of active and passive open space, the project includes a rezoning of a 1.5-acre portion of the 40-acre parcel to the O (Open Conservation) Zone District to allow development of an active park area. The proposal also includes modification to the existing boundaries of areas zoned R-1(c) while adjusting the existing boundaries of areas zoned Open Conservation to match the proposed areas of passive open space along White Fox Creek.

The need to protect tribal cultural resources and sensitive habitat required expansion of the open space along White Fox Creek and reduced the usable acreage. Approximately one-third of the 11.44 acre open space along White Fox Creek is illustrated in the Millerton Specific Plan as an area subject to inundation. The movement of the Open Conservation District boundary provides surplus open space of 7.66 acres, which was included in the subdivision design to preserve tribal cultural resources and sensitive habitat.

Vesting Tentative Tract Map, Conditional Use Permit and Site Plan Review:

There are five Findings that must be made to approve a tentative tract map. These findings are:

- Finding 1: The proposed map and the design improvement of the proposed subdivision are consistent with the General Plan and any applicable Specific Plans.

- Finding 2: The project site is physically suitable for the type and density of development proposed.

- Finding 3: The design of the proposed subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

- Finding 4: The design of the subdivision or types of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision.

- Finding 5: The design of the subdivision or types of improvements are not likely to cause serious public health problems.

Pages 20 through 28 of Attachment B (Planning Commission Staff Report) describe staff's ability to make all five required Findings for the Vesting TTM. The Planning Commission's May 15, 2019 recommended approval action concurred with these Findings.

A CUP is used to implement a Planned Unit Development. In the case of the subject project, CUP No. 3621 evaluated the project from the perspective of the Planned Unit Development. The four Findings necessary for a CUP per Section 873-F of the Fresno County Zoning Ordinance are:

- Finding 1: That the site of 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 features required by this Division, to adjust said use with land and uses in the neighborhood.

- Finding 2: That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

- Finding 3: That the proposed use will not be detrimental to the character of the development in the immediate neighborhood or the public health, safety, and general welfare.

- Finding 4: That the proposed development be consistent with the General Plan.

The Applicant's Operational Statement for the development is included as Exhibit 11 of Attachment B. Staff's analysis of these four Findings is detailed on Pages 28 through 32 of Attachment B. In its approval recommendation to your Board, the Planning Commission concurred with staff's recommended Findings.

Site Plan Review No. 8108 is the mechanism used to implement the proposed map as a Vesting TTM. For Vesting TTMs, the site plan is the map, which is attached to Exhibit 10 to Attachment B.

Planning Commission Action:

On May 16, 2019, the Planning Commission considered the subject applications. After receiving Department of Public Works and Planning staff's presentation and considering public testimony from the property owner and the Applicant, the Commission voted 7 to 0 (two commissioners absent) in favor of forwarding to your Board a recommendation. The recommendation is to approve the proposal subject to the Mitigation Measures, Conditions of Approval, and mandatory Project Notes listed in Attachment A. The recommendation includes an additional Condition of Approval recommended by staff requiring that if the developer proposes sidewalks abutting internal residential streets, the developer shall record a covenant notifying future property owners that long-term maintenance and repair of sidewalks at their property frontage is the responsibility of the property owner. Staff noted there was no testimony in opposition to the proposal from the public, and no written correspondence in opposition to the project was received by the Commission.

Recommended Board Actions:

If your Board determines that proposed Specific Plan Amendment and AA (rezoning) are consistent with the Millerton Specific Plan, including the associated Planned Unit Development, a motion to approve would be appropriate stating in the motion that your Board is:

- Adopting the Mitigated Negative Declaration prepared for IS No. 7495;

- Adopting a resolution approving the proposed Specific Plan Amendment amending the Land Use and Transportation Elements of the County-adopted Millerton Specific Plan by changing the land use designation of a five-acre area of a 40-acre parcel known as APN 300-542-12 from "Park" to "Medium-Density Residential" and to simultaneously change the land use designation of a 1.5-acre area within the same parcel, but at a different on-site location, from "Medium-Density Residential" to "Park" to provide for the park, amending existing provisions of the Millerton Specific Plan to address improved park area; amending the Transportation Element of the Millerton Specific Plan by changing the name of the northerly most approximately half-mile section of "Saubrice Avenue" to "Morningside Way; and amending Section C.1 (2) of the Transportation Element of the Millerton Specific Plan by eliminating previously-designated Captains Hill Road (presently known Sunset Drive) as a Minor Collector and removing it from Figure SP1-9 (Circulation Element and Bikeway Plan) of the Millerton Specific Plan;

- Adopting Ordinance approving AA No. 3831 to rezone a five-acre portion of a 40-acre parcel from the O (Open Conservation) Zone District to an R-1(c) (Single-Family Residential) Zone District and a 1.5-acre portion of the said parcel from the R-1(c) Zone District to an O Zone District; and

- Approving TTM No. 6226, CUP No. 3621, and SPR No. 8108 to authorize the development of an 80-lot single-family residential Planned Unit Development on approximately 25 acres of the subject 40-acre parcel.

The proposed Mitigated Negative Declaration prepared for IS No. 7495 is included as Attachment C.

In addition, Department staff recommends inclusion of an additional Condition of Approval requiring the following:

- The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of IS No. 7543 and AA No. 3835 and provide a bond in the amount of $150,000 as security for any such legal costs incurred by the County.

If your Board determines that amending the Millerton Specific Plan and rezoning the subject property concurrently with the development of the site as an 80-lot Planned Unit Development as recommended by the Planning Commission is not consistent with the Millerton Specific Plan, denial of the applications would then be appropriate. Your Board would then cite the reasons for denial and the proposal’s inconsistency with the Millerton Specific Plan.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - C
On file with Clerk - Resolution
Ordinance
On file with Clerk - Ordinance Summary

CAO ANALYST:

Sonia M. De La Rosa