

City of Visalia

Memo



To: Visalia Planning Commission
From: Andrew Chamberlain, Senior Planner (713-4003)
Date: August 28, 2017
Re: CUP No. 2017-08 – Late Correspondence / Revised Resolution No. 2017-15

Attached are two letters received by the Planning Division on Thursday August 24, 2017, commenting on Conditional Use Permit No. 2017-08, a request to establish a 200 unit apartment complex at the northeast corner of Shirk Street and Doe Avenue. Staff has included Revised Resolution No. 2017-15 (8-24-2017), with a revision for specific language for tenant notification as discussed below.

1. California Department of Fish and Wildlife - The attached letter provides comments and recommendations on the proposed project related to the potential impacts on animal species which may occur in this portion of the San Joaquin Valley. The overall impact of urbanization on the identified species was addressed through the General Plan Land Use Element Update, certified by Resolution No. 2014-37, adopted on October 14, 2014. The General Plan Environmental Impact Report addressed the potential for incidental taking of flora and fauna within the identified urban area. Therefore no additional actions such as a habitat assessment are required for this project.

Conclusion: Staff is not recommending any additional conditions of approval or mitigation measures based upon this correspondence.

2. Viking Ready Mix Company - The attached letter is consistent with the previous correspondence from Viking Ready Mix, identifying their concern for occasional noise episodes from the batch plant to the south of the subject site. They have indicated no opposition to the project if written tenant notification is required as a part of the project approval. The letter includes tenant notification language that could be used.

Conclusion: Staff has revised Resolution No. 2017-15, as attached; to include Condition No. 18, providing specific language for the notification to renters/owners.

That the tenants shall be given constructive written notice in their Tenant Agreement of the adjacent industrial area as provided in the Late Correspondence, page 2 - August 23, 2017, from Viking Ready Mix Company.

Attachments:

California Department of Fish and Wildlife
Viking Ready Mix Company
Revised Resolution No. 2107-15 (8-24-2017)



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

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



August 22, 2017

Andrew Chamberlain, Senior Planner
City of Visalia, Community Development
315 East Acequia Street
Visalia, California 93291

**Subject: Conditional Use Permit No. 2017-08
Notice of Proposed Mitigated Negative Declaration and Notice of Intent
to Adopt a Mitigated Negative Declaration**

Dear Mr. Chamberlain:

The California Department of Fish and Wildlife (CDFW) received both a Notice of Proposed Mitigated Negative Declaration and a notice of Intent to Adopt a Mitigated Negative Declaration regarding Conditional Use Permit No. 2017-08 from the City of Visalia for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. To the extent

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required. 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 a 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 with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections 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 DESCRIPTION SUMMARY

Proponent: Christopher Owhadi, Pacific Rim Properties

Objective: The objective of the Project is obtain a conditional use permit to allow construction of a 200-unit apartment complex, including public street improvements. Improvements will include curb, gutter, sidewalk, and right-of-way paving, as well as landscaping.

Location: The Project site is at the northeast corner of Doe Avenue and Shirk Street, in the City of Visalia, Tulare County; Assessor's Parcel Numbers 077-530-065, 077-530-066, 077-750-001, and 077-740-001; 36.346, -119.366.

Timeframe: Unspecified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Visalia in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. As requested, CDFW is providing recommendations on the scope and content of the conditional use permit application prepared for the Project. Editorial comments or other suggestions may also be included to improve the document.

Based on aerial imagery, the Project site is an undeveloped field containing annual grasses. As a result, the Project site has potential to support nesting, foraging, or colonization opportunities for special-status species and therefore, the Project has the potential to have

a significant impact on biological resources. Specifically, CDFW is concerned that future ground-disturbing and vegetation removal activities associated with development could result in impacts to nesting birds and special-status species known to occur in the Project area including, but not limited to, the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State threatened Swainson's hawk (*Buteo swainsoni*), and the State Species of Special Concern burrowing owl (*Athene cunicularia*). Based on the information provided, CDFW is unable to definitively determine whether the current Mitigated Negative Declaration (MND) is adequate to mitigate impacts to biological resources. CDFW recommends that a habitat assessment be conducted to consider impacts to biological resources.

To determine if sensitive biological resources are present and if they could be impacted by the proposed Project, CDFW recommends that the habitat assessment include, if appropriate, focused biological surveys conducted by qualified biologists, during appropriate survey period(s), well in advance of any ground disturbance and prior to Project implementation. Results of the habitat assessment can be used to identify appropriate CEQA documents and any potential permitting needs for the Project. If the results of the habitat assessment indicate that significant environmental impacts will occur as an outcome of Project implementation and cannot be mitigated to less than significant levels, an MND would not be appropriate. Further, when an MND is prepared, mitigation measures must be specific and clearly defined and cannot be deferred to a future time. The specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation, when an Environmental Impact Report (EIR) is prepared. Regardless of whether an MND or EIR is prepared, the CEQA document must provide quantifiable and enforceable mitigation measures as needed, that will reduce impacts to less than significant levels.

CDFW recommends that a habitat assessment be conducted to assess potential impacts of the proposed Project to nesting birds, San Joaquin kit fox, Swainson's hawk, and burrowing owl. More specific comments for these resources follow.

Nesting Birds: The grassland land cover within the Project area likely provides nesting habitat for birds. CDFW encourages Project implementation occur during the bird non-nesting season. However, if the Project must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above. Prior to commencing work, CDFW recommends that a qualified wildlife biologist conduct surveys for active nests no more than 10 days prior to the start of the Project. Surveys should cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts, such as nest destruction, noise, vibration, odors, and movement of workers or equipment could affect nests. Prior to initiation of construction activities, a qualified biologist should conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, a qualified biologist is advised to continuously monitor nests to detect behavioral changes resulting from the

Project. If behavioral changes occur, the work causing that change should cease and CDFW consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

San Joaquin Kit Fox: San Joaquin kit fox (SJKF) have the potential to occur on the Project site. SJKF den in right-of-ways, vacant lots, etc., and populations can fluctuate over time. Presence/absence in any one year is not necessarily a reliable indicator of SJKF potential to occur on a site. SJKF may be attracted to project areas due to the type and level of ground-disturbing activities (i.e. trenching, horizontal directional drilling, etc.) and the loose, friable soils resulting from intensive ground disturbance. CDFW advises that the USFWS "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (2011) be followed prior to any ground-disturbing activities occurring within the Project site. If SJKF or their sign is detected on the Project site, consultation with CDFW is warranted to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to any ground-disturbing activities to comply with CESA. CDFW recommends fully addressing avoidance, minimization, and mitigation measures for SJKF and that these measures be included as enforceable mitigation in the finalized CEQA document prepared for this Project.

Swainson's Hawk: Swainson's hawk (SWHA) are known to nest less than 1 mile from the Project location and the large trees adjacent to the Project site have the potential to support nesting SWHA. To evaluate potential Project-related impacts, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting raptors following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC, 2000) prior to any Project implementation. If ground-disturbing Project activities take place during the normal bird breeding season (February 1 through September 15), CDFW 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 SWHA nest is found, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. If the ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted and acquisition of an ITP for SWHA may be necessary prior to Project implementation.

The grassland habitat within the Project site has the potential to support foraging SWHA. SWHA generally forage within 10 miles of their nest tree. CDFW's Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (CDFG, 1994) recommends the following:

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

Funding of a sufficient long-term endowment for the management of the protected properties should be paid by the Project sponsors. In addition to fee title acquisition of grassland habitat, mitigation could occur by the purchase of conservation or suitable agricultural easements. Suitable agricultural easements would include areas limited to production of crops such as alfalfa, dry land and irrigated pasture, and cereal grain crops. Vineyards, orchards, cotton fields, and other dense vegetation do not provide adequate foraging habitat. Additionally, nest trees are an extremely limited resource in the southern San Joaquin Valley; CDFW recommends that lands protected as foraging habitat for SWHA be no more than 10 miles from a SWHA nest in order to be beneficial to the species. CDFW recommends fully addressing avoidance, minimization, and mitigation measures for SWHA and that these measures be included as enforceable mitigation in the finalized CEQA document prepared for this Project.

Burrowing Owl: The Project site is within the range of burrowing owl (BUOW) and has the potential to provide suitable habitat for the species. CDFW recommends that the "*Staff Report on Burrowing Owl Mitigation*" (CDFG, 2012) be followed prior to and during any ground-disturbing activities associated with Project implementation. Before any ground-disturbing activities begin, surveys following the "*California Burrowing Owl Consortium*" (CBOC, 1993) are recommended. In the event that BUOW are found, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW 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.

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)

Failure to implement these buffers could result in nest abandonment, direct impacts to eggs or young, and/or reproductive failure, in violation of Fish and Game Code and the Migratory Bird Treaty Act.

CDFW recommends that the CEQA document describe all avoidance measures that would be employed in the event that BUOW are found on the Project site, as well as methods that would be used to evict owls from burrows (including passive relocation during the non-breeding season). CDFW also recommends that the document specify, if applicable, how the impact of evicting owls would be mitigated to a less than significant level. CDFW's Staff Report recommends that foraging habitat be acquired and permanently protected to offset the loss of foraging and burrow habitat. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. CDFW recommends fully addressing avoidance, minimization, and mitigation measures for BUOW and that these measures be included as enforceable mitigation in the finalized CEQA document prepared for this Project.

Editorial Comments and/or Suggestions

Federally Listed Species: CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) on potential impacts to federally listed species including, but not limited to, San Joaquin kit fox. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB

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field survey form can be found at the following link:

http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

If it is determined the Project would have an impact on fish and/or wildlife, an assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City of Visalia in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Renée Robison, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014 ext. 274, or by electronic mail at Renee.Robison@wildlife.ca.gov.

Sincerely,



Julie A. Vance
Regional Manager

cc: Timothy Ludwick
United States Fish and Wildlife Service
2800 Cottage Way, Suite W-2605
Sacramento, California 95825

References

CBOC, 1993. Burrowing Owl Survey Protocol and Mitigation Guidelines. California Burrowing Owl Consortium, April 1993.

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, November 1994.

CDFG, 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game. March 7, 2012.

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



Viking Ready-Mix Co., Inc.

August 23, 2017

Visalia City Planning Commission
707 W Acequia
Visalia, CA 93291

VIA E-Mail: Andrew.Chamberlain@visalia.city

RE: CUP Application 2017-08: Christopher Owhadi

Dear Commissioners:

Viking Ready-Mix Co. Inc. (Viking) appreciates the opportunity to submit the following comments on proposed Conditional Use Permit application No. 2017-08 for Christopher Owhadi to allow a 200-unit apartment complex located on the northeast corner Shirk Road and Doe Avenue.

Viking operates a ready-mix concrete batch plant at 1800 Shirk Road (APN 077-100-035) just south of the above-referenced project across Doe Avenue. Viking's property is zoned I –Industrial and the General Plan land use designation is Industrial. Viking purchased this facility in 1990 from Kaweah Ready-Mix which had operated in this location since at least 1972. Viking purchased the facility because it was located in a heavy-industrial zoned area and with the intent of maintaining a long-term presence in Visalia to provide essential construction materials for development and infrastructure.

As a major supplier of ready-mix concrete for development projects throughout Visalia, Viking is supportive of orderly, planned development. However, Viking's overall concern regarding the proposed project are the project's potential impacts on Viking's ability to continue all existing operations unimpeded for the long term after the proposed project is developed.

Viking supported the single-family subdivision currently being developed to immediately to east of their facility, including the original subdivision proposal in 2005. That support was based on conditions that were applied to the approval of that project. Those conditions included sound attenuation walls, as determined necessary by an acoustical study completed prior to project approval, and written disclosure to insure future residents were made aware of the presence of the nearby industrial use before they buy or lease and the requirements for the construction of sound walls.

Noise

Viking has reviewed the proposed Mitigated negative Declaration together with the Initial Study and July 14, 2017 Noise Study. The Noise Study found that noise levels measured on June 30, 2017 at our concrete plant indicate the proposed apartment project will not be exposed to noise levels in excess of the noise ordinance from our plant operations and truck traffic.

Land Use

Development of residential uses nearby existing heavy industrial facilities can create an incompatibility of land uses. Planning history in cities all over the country show that encroaching residents will pressure existing industries to severely reduce operating hours, modify industrial practices and truck traffic, make expensive modifications to the present facilities or force the industries to close down completely. The encroachment of sensitive receivers, such as residences, may make it difficult, if not impossible to obtain permits to improve or replace equipment.

As noted above, Viking supported the original subdivision and adjacent office development to the east in 2005 and the current subdivision approved in 2016. That support was based on conditions that were applied to the approval of those projects. Those conditions included written disclosure to insure future residents were made aware of the presence of the nearby industrial use before they buy or lease.

Resolution No. 2006-64 approving DiMello Tuscana Tentative Subdivision Map No. 5516 included the following condition 10 which are still in effect:

All future sellers and developers shall provide a written disclosure document to future buyers or lessees of the project property advising that nearby industrial uses may generate nuisance effects (including but not limited to noise, vibration, dust, hours of operation, and lighting) that are neither individually or cumulatively significant, yet may be individually unacceptable to the individual resident or lessee, even though such industrial uses operate within the provisions of their respective use permits. A copy of the disclosure document in a form acceptable to the City Attorney is to be provided to the City before issuance of construction permits, and, 2) to be provided to buyers and lessees by the seller or developer before occupancy.

For the proposed project, the following condition should be added as one of the Tenant Agreement conditions;

The developer and/or management of the proposed apartments shall provide each tenant/resident of this development the following disclosure:

Tenant/resident hereunder acknowledges and agrees that the subject property is located in the vicinity of active industrial uses and operations, including the production of concrete. Tenant/resident also acknowledges that such operations are associated with elements which some persons may find objectionable, including dust, noise, vibration, bright lights, visual appearance, hours of operation, and heavy truck traffic on Doe Avenue and Shirk Road and other roads in the area.

Viking is supportive of orderly, planned development. With the above condition placed on the project Viking would not object to approval of this project.

Viking appreciates the opportunity to submit these comments and reserves the right to submit any additional comments during the review of this project by the City including the right to appeal approval of this project to the City Council.

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If you have questions, please contact me or our project representative John Buada by phone at 559-269-1376 or by email at jcbuada@buada.com or contact me by phone at 559-225-3667 or by email at mmitzel@natcem.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Mitzel', with a long horizontal flourish extending to the right.

Mark Mitzel
President
Viking Ready-Mix Co., Inc.

Cc: John Buada
Don Percival

RESOLUTION NO. 2017-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA APPROVING CONDITIONAL USE PERMIT NO. 2017-08, A REQUEST BY CHRISTOPHER OWHADI TO CONSTRUCT A 200 UNIT APARTMENT COMPLEX WITH A COMMUNITY BUILDING IN THE R-M-2 (MEDIUM DENSITY RESIDENTIAL) ZONE. THE PROJECT SITE IS LOCATED ON THE NORTHEAST CORNER OF SHIRK STREET AND DOE AVENUE (APN: 077-530-065, 077-530-066, 077-750-001, AND 077-740-001).

WHEREAS, Conditional Use Permit No. 2017-08, is a request by Christopher Owhadi to construct a 200 Unit apartment complex with a Community Building in the R-M-2 (Medium Density Residential) zone. The project site is located on the northeast corner of Shirk Street and Doe Avenue (APN: 077-530-065, 077-530-066, 077-750-001, and 077-740-001).

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before said Commission on April 24, 2017, the Planning Commission did continue the item for the preparation of a noise analysis to a date not specified; and

WHEREAS, the continued public hearing was re-noticed, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before said Commission on August 28, 2017; and

WHEREAS, the Planning Commission of the City of Visalia finds that Conditional Use Permit No. 2017-08, as conditioned, to be in accordance with Chapter 17.38.110 of the Zoning Ordinance of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, an Initial Study was prepared, and adopted which disclosed that no significant environmental impacts would result from this project, and mitigation measures would be required based upon a noise analysis, and that the Environmental Impact Report prepared for the City of Visalia General Plan, certified by Resolution No. 2014-37, adopted on October 14, 2014, was used for the adoption of the General Plan Land Use designation of the subject site. Furthermore, the design of the project and the proposed improvements is not likely to neither cause substantial environmental damage nor substantially and/or avoidably injure fish or wildlife or their habitat consistent with the California Environmental Quality Act (CEQA) and City of Visalia Environmental Guidelines.

NOW, THEREFORE, BE IT RESOLVED, that Mitigated Negative Declaration No. 2017-13 was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia makes the following specific findings based on the evidence presented:

1. That the proposed project, as conditioned, will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That the proposed CUP is consistent with the policies and intent of the General Plan and Zoning Ordinance. Specifically, the project is consistent with the required findings of Zoning Ordinance Section 17.38.110:
 - The proposed location of the conditional use is in accordance with the objectives of the Zoning Ordinance and the purposes of the zone in which the site is located.
 - The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the vicinity.
3. That Mitigated Negative Declaration No. 2017-13 has been prepared for this project, to specifically address the reduction of potential noise impacts to less than significant. Other potential impacts are determined to be not significant and were covered by the Environmental Impact Report prepared for the City of Visalia General Plan, which was certified by Resolution No. 2014-37, on October 14, 2015, will be used for this project. Furthermore, the design of the project and the proposed improvements is not likely to neither cause substantial environmental damage nor substantially and/or avoidably injure fish or wildlife or their habitat.

BE IT FURTHER RESOLVED that the Planning Commission hereby approves the Conditional Use Permit on the real property here described in accordance with the terms of this resolution under the provisions of Section 17.38.110 of the Ordinance Code of the City of Visalia, subject to the following conditions:

1. That the project be developed consistent with the comments and conditions of the Site Plan Review No. 2016-020.
2. That the mitigation measures identified in Mitigated Negative Declaration No. 2017-13 shall be incorporated into the project and monitored through the building permit process to be in compliance.
3. That the planned residential development be prepared in substantial compliance with the site plan shown in Exhibit "A", elevations shown in Exhibits "B", "C" and "D" and corresponding floor plans shown in Exhibit "E". In addition, the garages and Community Building shall match Exhibits "F" and "G".
4. That a seven-foot high block wall shall be installed along the north and east portions of the site adjacent to the R-1 single family residential area. The block wall height shall be a minimum of seven feet on both sides of the wall, which may result in one side of the wall being up to eight feet tall.
5. That a wrought iron fence with stucco platters matching the buildings be provided along the Shirk Street and Doe Avenue frontages. The wrought iron sections along

Shirk Street may be replaced with matching six-foot high stucco walls as an option. In addition, the wrought iron fence sections next to the swimming pool shall be replaced with matching six-foot high stucco walls to meet the required noise mitigation measure.

6. That the setbacks illustrated in Exhibit "A" between the apartment buildings and adjacent single family residential areas, which meet or exceed the minimum requirements in the R-M-2 zone, be maintained, as shown in the exhibits and described below:

	<u>Required:</u>	<u>Proposed:</u>
Front (Doe)	15 feet	15 – 20 feet
Street Side (Shirk & Roeben)	10 feet	10 – 15 feet
Rear (north & south sides of project) feet	25 feet	35 to 120
Side (Fire Station)	5 feet per story	15 feet

7. That the multi-family development shall maintain a density of 10 to 15 dwelling units per acre in accordance with the Medium Density Residential land use designation, and shall not develop more than 200 units on the subject site.
8. That the community building and garages be developed as shown in Exhibits "F" and "G".
9. That the development shall maintain the landscaping and fences/block walls along the street frontages, and within the site.
10. That the Roeben Street access point shall only be used for solid waste, emergency services and related vehicles and purposes. The residents and guests shall not use the access point for ingress/egress to the site.
11. That the community building, pool with spa, park area, and open space shall be installed as a part of the development and maintained in good working/accessible order.
12. That landscape and irrigation plans, prepared in accordance with the City of Visalia Model Water Efficient Landscape Ordinance (MWELo), shall be included in the construction document plans submitted for either grading or building construction permits. Prior to the project receiving final approved permits, a signed Certificate of Compliance stating that the project meets MWELo standards shall be submitted to the City.
13. That a valid will-serve letter for the providing of domestic water service be obtained for the development prior to development.
14. That the owner/operator(s) of all multiple family residential units shall be subject to the following conditions:

A. Maintenance and Operations

- a. All development standards, City codes, and ordinances shall be continuously met for this apartment/residential complex. Buildings and premises, including paint/siding, roofs, windows, fences, parking

lots, and landscaping shall be kept in good repair. Premises shall be kept free of junk, debris.

- b. Provide a regular program for the control of infestation by insects, rodents, and other pests at the initiation of the tenancy and control infestation during the tenancy.
- c. Where the condition is attributable to normal wear and tear, make repairs and arrangements necessary to put and keep the premise in as good condition as it by law or rental agreement should have been at the commencement of tenant occupation.
- d. Maintain all electrical, plumbing, heating, and other facilities in good working order.
- e. Maintain all dwelling units in reasonably weather tight condition and good exterior appearance.
- f. Remove graffiti within 24 hours of it having been observed.
- g. Recreation facilities shall be for tenant use only.
- h. Provide 24 hour access for Visalia Police Department to Maintenance and/or Management Staff. Maintenance and/or Management Staff shall be available by telephone or pager at all times, with phone numbers to be provided to the Police Department dispatch center and kept current at all times.
- i. Establish and conduct a regular program of routine maintenance for the apartment/residential complex. Such a program shall include, but not necessarily be limited to: regular inspections of common areas and scheduled re-paintings, re-plantings, and other similar activities that typically require attention at periodic intervals but not necessarily continuously.
- j. The name and phone number of the management company shall be posted in a prominent location at the front of the property.

B. Landscape Care and Maintenance

- a. Automatic irrigation systems shall be maintained.
- b. All plant materials (trees, shrubs, and groundcover) shall be maintained so that harm from physical damage or injury arising from vehicle damage, lack of water, chemical damage, insects, and other pests is minimized.
- c. It is the responsibility of the property owners to seek professional advice and spray and treat trees, shrubs, and groundcover for diseases which can be successfully controlled if such untreated diseases are capable of destroying an infected tree or other trees within a project.
- d. Maintain decorative planting so as not to obstruct or diminish lighting level throughout the apartment/residential complex. Landscaping shall not obscure common areas.

- C. Parking** - The parking of inoperative vehicles on-site, and boats, trucks (one-ton capacity and over), trailers, and/or recreational vehicles in the apartment/residential complex is not allowed.
- D. Tenant Agreement** - The tenant agreement for the complex must contain the following:
- a. Standards of aesthetics for renters in regard to the use and conditions of the areas of the units visible from the outside (patios, entryways).
 - b. Hours when noise is not acceptable, based upon Community Noise Standards, additional standards may be applied within the apartment/residential complex.
 - c. Rules for use of open areas/recreational areas of the site in regard to drinking, congregating, or public nuisance activities.
 - d. Prohibition on inoperable vehicles on-site, and boats, trucks (one-ton capacity and over), trailers and/or recreational vehicles.
 - e. Standards of behavior for tenants that could lead to eviction.
 - f. All tenants shall read and receive a copy of the Tenant Agreement.

15. Provide street trees per the City's Street Tree Ordinance.

16. That evergreen trees (2 - 3 per access point) be placed in the landscape areas adjacent to the walls, in line with the access drives from Shirk Street and Doe Avenue to reduce potential headlight glare into the single family areas.

17. That the project is subject to the San Joaquin Valley Air Pollution Control District rules and regulations as detailed in Correspondence C-4.

18. That the tenants shall be given constructive written notice in their Tenant Agreement of the adjacent industrial area as provided in the Late Correspondence August 23, 2017, from Viking Ready Mix Company.

19. That all applicable federal, state, regional, and city policies and ordinances be met.