



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF JULY 23, 2003, 9:00 A.M.
2222 "M" STREET, BOARD ROOM, THIRD FLOOR,
MERCED, CALIFORNIA**

I. CALL MEETING TO ORDER

II. ROLL CALL OF COMMISSIONERS

Larry Whitney; Kimberly Clauss; Steve Sloan, Chairman; Lynn Tanner; David Wager.

III. APPROVAL OF MINUTES

IV. CITIZEN COMMUNICATIONS

Public opportunity to address the Planning Commission on items of interest over which the Planning Commission has jurisdiction.

SPEAKERS

If you would like to address the Planning Commission on any item on the agenda, please pick up a 3" x 5" card in the foyer, fill it out with your name, address, and item you wish to speak on, and give it to someone at the staff table (to the left of the podium) prior to speaking.

V. PUBLIC HEARING

- A. ZONE VARIANCE APPLICATION NO. 03004 AND MINOR SUBDIVISION APPLICATION NO. 03015 – Mary Flores** - To subdivide a 7.14 acre parcel of land into 3 parcels. Parcel No. 1 = 2.59 acres; Parcel No. 2 = 2.27 acres; Parcel No. 3 = 2.27 acres. The property is located on the east side of Trindade Road 1,400 feet north of Ashby Road in the Merced area on land designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Continued from the June 25, 2003 meeting. Project Planner Dan Skidmore

STRIVING FOR EXCELLENCE

- B. CONDITIONAL USE PERMIT APPLICATION NO. 03005 – Randy Edwards** – To propose an auto parts store with auto bay for installation of parts, a car wash and a coffee shop for property located on the northeast corner of Lander Avenue and Fourth Street in the Hilmar area, designated Hilmar SUDP Commercial land use in the General Plan. The Zone is C-2 (General Commercial) (.69 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Mark Hamilton
- C. GENERAL PLAN AMENDMENT NO 02010, ZONE CHANGE NO. 02010, PROPERTY LINE ADJUSTMENT NO. 02036 and ADMINISTRATIVE APPLICATION NO. 03048 - Maria Rubio** - To revise the General Plan map designation of a 4.69 acre parcel by adjusting the parcel specific boundaries of the present Ballico Specific Urban Development Plan (C) Commercial and (A-R) Agricultural-Residential designations. The applicant is also proposing to change the existing parcel zoning from G2 (General Commercial) and R-2 (Two-Family Residential) to C-2 (General Commercial) and A-R (Agricultural-Residential) and adjust the property lines of the 8 existing parcels to produce four adjusted parcels: Parcel No. 1 = 1.69 acres, Parcel No. 2 = 1.00 acre, Parcel No. 3 = 1.00 acre and Parcel No. 4 = 1.00 acre. The applicant is also requesting approval of an administrative permit application to allow proposed Parcel No. 1 to be developed as a gas station and convenience store. The project is located on the east side of Ballico Avenue and on the south side of Park Avenue in the Ballico area. **TO RECOMMEND TO THE BOARD OF SUPERVISORS MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner James Holland
- D. CONDITIONAL USE PERMIT APPLICATION NO. 01021 – J.S. Hardin & Sons** - Excavation of 600,000 cubic yards of previously dredged aggregate. The material will be processed offsite at an existing rock-crushing plant via private haul road. 74.5 acres of the 89.3-acre site will be leveled of cobble piles to approximately pre-dredge grade, on property located on the west side of N. Snelling Rd. and ½ mile north of E. Robinson Rd. in the Snelling area on land which is designated as Agricultural land use in the General Plan and zoned A-2 (Exclusive-Agricultural) (89 acres). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Dan Skidmore with Planning Consultant Bob Klousner

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

None

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

APPEALS

Any person may appeal any action of the Planning Director or Planning Commission within five (5) calendar days after the day the action is made. [Within ten (10) calendar days of action on subdivisions]. The deadline for appeals of Planning Commission actions, excluding subdivisions, is 5:00 p.m. on the Monday following the Planning Commission meeting. Please note that appeals may not be submitted on days that the County is officially closed.

Appeals of Planning Director's actions may be filed with the Planning Department and appeals of Planning Commission actions may be filed with the Clerk of the Board of Supervisors. Appeals must state appellant's name, action appealed and reasons for appeal. A filing fee set by Resolution of the Board of Supervisors must be submitted with the written appeal.

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MINUTES FOR MEETING OF JULY 23, 2003

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of July 23, 2003, are available in the Merced County Planning and Community Development Department, 2222 "M" Street, Second Floor, Merced, California.

I. CALL MEETING TO ORDER

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:05 a.m., on July 23, 2003, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Larry Whitney
 Commissioner Kimberly Clauss
 Commissioner Steve Sloan-Chairman
 Commissioner David Wager

Staff Present: Butch Cope, Planning and Community Development Assistant
 Director
 Desmond Johnston, Deputy Director
 Kim Lewallen, Recording Secretary
 James Holland, Planner III
 Dan Skidmore, Planner I
 Mark Hamilton, Planner I
 Bob Klousner, Planning Consultant

Legal Staff: James Tarhalla, Deputy County Counsel

Commissioners Absent: Commissioner Tanner, absent, excused

III. APPROVAL OF MINUTES

M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF JUNE 25, 2003.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. ZONE VARIANCE APPLICATION NO. 03004 AND MINOR SUBDIVISION APPLICATION NO. 03015 – Mary Flores - To subdivide a 7.14 acre parcel of land into 3 parcels. Parcel No. 1 = 2.59 acres; Parcel No. 2 = 2.27 acres; Parcel No. 3 = 2.27 acres. The property is located on the east side of Trindade Road 1,400 feet north of Ashby Road in the Merced area on land designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the June 25, 2003 meeting. Project Planner Dan Skidmore**

Planner Dan Skidmore presented the Staff Report and Recommendation dated July 23, 2003.

The public hearing opened at 9:14 a.m.

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Larry Bowers, B.C.A, representing the applicant, indicated that the brother of the applicant lives in the mobile home on the property. They will not be selling the property if the project is approved. He stated that the property is in a bad spot for any agricultural uses. He stated there are 8 homesites between their property and the nearest dairy. Immediately to the east is the R-1 subdivision. The dairy is directly to the west of the property. Regarding the special privileges, as a result of the proposed division there can be only one additional homesite potentially under the County Code. They could through an Administrative Permit to get additional homes on the site if this permit is approved. There are two existing homes under the ag zoning and there is a potential that they could have additional homes on the site without the division. The property has not been used for agricultural uses for at least ten years. He stated that the City of Atwater has no issues with the application. He indicated that the road does not have to be paved as stated by the County Fire Department. He asked the Commission if they could consider dividing the property into two parcels if the application is not approved. Mr. Bowers handed out a petition of surrounding neighbors in support of this application.

Commissioner Wager asked what road currently services the home and mobile home? Mr. Bowers responded that the road is not a County owned roadway.

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

Commissioner Clauss indicated that she still has trouble with the findings, because she feels it will open up more projects next to dairies throughout the County.

MOTION: M/S WAGER - WHITNEY, AND CARRIED BY A VOTE OF 3 - 1, NAY BY COMMISSIONER CLAUSS, THE PLANNING COMMISSION EXEMPTS ZONE VARIANCE APPLICATION NO. 03004 AND MINOR SUBDIVISION APPLICATION NO. 03015, FROM CEQA.

MOTION: M/S WAGER - WHITNEY, AND CARRIED BY A VOTE OF 3 - 1, NAY BY COMMISSIONER CLAUSS, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JULY 23, 2003, AND MAKES THE 8 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 8 FINDINGS, APPROVES ZONE VARIANCE APPLICATION NO. 03004 AND MINOR SUBDIVISION APPLICATION NO. 03015 SUBJECT TO THE 5___ CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. The Zone Variance No. 03004 shall be valid as long as Minor Subdivision Application No. 03015 is valid.
2. A Parcel Map shall be recorded within two years of the Planning Commission approval date.
3. The applicant shall conform to Planning Commission Resolution No. 97-1.
4. The owner shall obtain from the Department of Public Works, an Encroachment Permit and construct a paved driveway approach at the driveway access onto Trindade Road.
5. The Merced County Fire Department is requiring that access shall comply with "Fire Department Access For Improved Lots Without Street Frontage" for 3 or more dwelling units.

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- B. CONDITIONAL USE PERMIT APPLICATION NO. 03005 – Randy Edwards** – To propose an auto parts store with auto bay for installation of parts, a car wash and a coffee shop for property located on the northeast corner of Lander Avenue and Fourth Street in the Hilmar area, designated Hilmar SUDP Commercial land use in the General Plan. The Zone is C-2 (General Commercial) (.69 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Mark Hamilton**

Planner Mark Hamilton presented the Staff Report and Recommendation dated July 23, 2003.

The public hearing opened at 9:36 a.m.

Dennis Wilson, Horizon consultant, representing Mr. Edwards, indicated that the applicant wishes to expand his business in Hilmar and feels this application will be an asset to the Hilmar Community. He stated that the Hilmar MAC is in support of this application. He also asked for approval of this project.

The public hearing closed at 9:37 a.m.

MOTION: M/S WAGER - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT APPLICATION NO. 03005, FROM CEQA.

MOTION: M/S WAGER - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JULY 23, 2003, AND MAKES THE 11____FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11____ FINDINGS, APPROVES CONDITIONAL USE PERMIT APPLICATION NO. 03005 SUBJECT TO THE 13 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Conditional Use Permit Application No. 03005 is approved to construct an auto parts store with two service bays, a car wash, a coffee shop, and a water sales area on the project site.
2. The applicant shall comply with all of the standard conditions of approval listed in the Planning Commission Resolution No 97-1.
3. For the purpose of condition monitoring, an initial inspection fee in the amount of **\$75.00** shall be paid prior to issuance of a building permit.
4. Plans and specifications for all proposed retail food facilities must be submitted for review and approval by the Division of Environmental Health prior to the issuance of a building permit. Contact the Food Program Specialist, Mary Coakley at (209) 826-0166.
5. A Hazardous Materials Business Plan must be submitted to the Division of Environmental Health. Contact the Hazardous Materials Program Specialist, Steven Lowe, at (209) 381-1090.
6. All storm water runoff generated from the project site shall be directed away from the County right of way and adjacent property; Applicant shall provide County with a set of engineered plans and calculations indicating how this condition will be accomplished.
7. Applicant shall dedicate an additional 6 feet of right of way, and a 10-foot

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public utility easement, along the Lander Avenue frontage of the property to achieve a total half width of 46 feet, which is deemed necessary to allow for its future widening. Also a 10-foot public utility easement must be dedicated along the Fourth Street frontage.

8. The applicant shall obtain an Encroachment Permit from the County and the State to construct the proposed driveway approaches as indicated on the Plot Plan, which will access onto Fourth Street and Lander Avenue (SR165). Applicant shall provide a letter from the adjacent property owner to the north, agreeing to the proposed driveway along the north property line.
9. The applicant shall construct sidewalks and street lighting and reconstruct along the abutting Fourth Street and Lander Avenue frontages of the property. However, the applicant may sign a Deferment of Construction Agreement with the Department of Public Works for the future construction of said improvements.
10. Owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at the developer's expense.
11. The applicant must provide the Fire Department with a Statement of Operation identifying the inventory of the auto retail store and any significant quantity of flammable/combustible liquids.
12. The applicant shall also mark or reference the location of the nearest fire hydrant on the same side of Lander Ave as the proposed use. A fire hydrant must be available within 250 feet of the property, measured along the right-of-way.
13. Additional landscaping is needed along the southerly property line to buffer this commercial business from the residences to the south.

- C. GENERAL PLAN AMENDMENT NO 02010, ZONE CHANGE NO. 02010, PROPERTY LINE ADJUSTMENT NO. 02036 and ADMINISTRATIVE APPLICATION NO. 03048 - Maria Rubio**
- To revise the General Plan map designation of a 4.69 acre parcel by adjusting the parcel specific boundaries of the present Ballico Specific Urban Development Plan (C) Commercial and (A-R) Agricultural-Residential designations. The applicant is also proposing to change the existing parcel zoning from C-2 (General Commercial) and R-2 (Two-Family Residential) to C-2 (General Commercial) and A-R (Agricultural-Residential) and adjust the property lines of the 8 existing parcels to produce four adjusted parcels: Parcel No. 1 = 1.69 acres, Parcel No. 2 = 1.00 acre, Parcel No. 3 = 1.00 acre and Parcel No. 4 = 1.00 acre. The applicant is also requesting approval of an administrative permit application to allow proposed Parcel No. 1 to be developed as a gas station and convenience store. The project is located on the east side of Ballico Avenue and on the south side of Park Avenue in the Ballico area. **TO RECOMMEND TO THE BOARD OF SUPERVISORS MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**

Planner James Holland presented the Staff Report and Recommendation dated July 23, 2003.

The public hearing opened at 9:50 a.m.

Duane Andrews, Golden Valley Engineering, indicated he only has one issue with the project regarding Condition #6. He stated there are no curbs and gutters in Ballico. He asked that the Commissioners recommend to the Board of Supervisors that this entire

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section be recommended for deferment. The project should all be done at one time. He also asked for approval.

Chairman Sloan asked Steve Hamilton at the County Road Division what he thinks about the deferment of Condition #6.

Steve Hamilton, County Public Works/Road Division, stated that the parcel is to be completely built out. The application requires curb and gutter. If the application is going to be deferred, they need someone to defer it to for future development. The deferment could be approved if there was a bond that was guaranteed. They are trying to come up with a solution to allow the sale of the lot. Chairman Sloan asked what the applicants response was to the suggestion of providing a bond. Mr. Andrews indicated that it is not easy for some people to get bonds or security of some kind. He indicated that Ballico has gone without curbs and gutters for a long time and doesn't see why they are required now. He would still like to see it all deferred.

Mr. Hamilton stated that if a building permit is held up against a new owner, he has no way to mitigate the obligation.

James Tarhalla, County Counsel, asked if conditions are commonly attached to the land prior to issuance of a building permit? Mr. Hamilton responded yes, but in this case, the person that the burden is being put on no longer owns the property. Mr. Tarhalla indicated that the person that is the owner of the property has the burden of putting in the improvements. Mr. Andrews stated that we could have a development agreement with the current owner that makes them responsible for these improvements.

Chairman Sloan understood that selling one parcel would generate enough revenue to do the entire gutter and curbs for the entire parcel? Mr. Andrews responded yes. Chairman Sloan indicated that a development agreement could come between the applicant and the County that defers the construction of curbs and gutters till the sale of the first parcel. Mr. Tarhalla asked which piece would be developed first? Mr. Andrews indicated that the first thing that is going to happen is on Parcel #4, where there going to be built a spec house. When that is sold, all the improvements can be put in. Chairman Sloan asked if an agreement would be a problem. Mr. Hamilton responded no, but the applicant will have to put a drainage pond in Parcel #1, and a line to run down Parcel #4 to access the Parcel to take care of the drainage water. And an agreement will have to be put in that no building permits will be issued on Parcels 1, 2 & 3, so there is security if there is no money. Chairman Sloan asked if that is acceptable to the applicant. Mr. Andrews responded yes.

The public hearing closed at 10:04 a.m.

Commissioner Wager still isn't sure about the verbiage of Condition #6. Chairman Sloan indicated that the wording would be worked out by County Counsel and the County Road Department. Mr. Tarhalla stated that it would be appropriate to indicate on Condition #6 that the applicant will enter into an agreement with the County that will be in a recordable form to ensure the deferment goes away and improvements come in. Mr. Hamilton indicated that the person that owns the property, the person selling the property, is required to do the improvements. Mr. Tarhalla has no problem with that.

MOTION: M/S WAGER - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS EXEMPT GENERAL PLAN AMENDMENT NO 02010, ZONE CHANGE NO. 02010, PROPERTY LINE ADJUSTMENT NO. 02036 AND ADMINISTRATIVE APPLICATION NO. 03048 FROM CEQA.

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MOTION: M/S WAGER - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE GENERAL PLAN AMENDMENT NO. 02010, ZONE CHANGE NO. 02010, PROPERTY LINE ADJUSTMENT NO. 02036 AND ADMINISTRATIVE APPLICATION NO. 03048 SUBJECT TO THE LISTED 12 CONDITIONS WITH CONDITION #6 TO READ “THE APPLICANT WILL ENTER INTO AN AGREEMENT WITH THE COUNTY AS TO THE LENGTH OF DEFERMENT BEFORE ALL REQUIRED IMPROVEMENTS BE MADE”.

BREAK

- D. CONDITIONAL USE PERMIT APPLICATION NO. 01021 – J.S. Hardin & Sons -** Excavation of 600,000 cubic yards of previously dredged aggregate. The material will be processed offsite at an existing rock-crushing plant via private haul road. 74.5 acres of the 89.3-acre site will be leveled of cobble piles to approximately pre-dredge grade, on property located on the west side of N. Snelling Rd. and ½ mile north of E. Robinson Rd. in the Snelling area on land which is designated as Agricultural land use in the General Plan and zoned A-2 (Exclusive-Agricultural) (89 acres). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dan Skidmore with Planning Consultant Bob Klousner**

Planner Dan Skidmore and Planning Consultant Bob Klousner presented the Staff Report and Recommendation dated July 23, 2003.

The public hearing opened at 10:35 a.m.

Bryant Owens, 2683 Plainsburg Road, stated that he hasn't been able to look at the Mercury testing results in the Staff Report. Bob Klousner, Planning Consultant indicated to Mr. Owens that the results of the testing are in the Staff Report.

Lydia Miller, San Joaquin Raptor Rescue Center, stated that she has not gotten a chance to look thoroughly through the staff report. She would like time to review the staff report and see if she may have any further comments. Chairman Sloan asked Ms. Miller how much time she needs to review. Ms. Miller stated as soon as he wants to reschedule the application is fine.

Chairman Sloan stated that this application will be continued to the August 13, 2003 Planning Commission meeting for further review by the public.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

None

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

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There being no further business, the meeting adjourned at 10:45 a.m.