



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

William Nicholson
Director

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 22, 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. MAJOR SUBDIVISION APPLICATION NO. 03012 – Wathan/Castanos – To divide 237 acres into 346 residential lots of approximately 6,200 to 7,800 square feet each on 97 acres with a remainder of approximately 140 acres, on land designated as Low Density Residential Land use in the Santa Nella Community Specific Plan and zoned R-1 (Single Family Residential) and R-1-5000 (Single Family Residential 5,000 square foot minimum) on property located east of State Highway 33 north of the Delta Mendota Canal and approximately ½ mile south of Henry Miller Road. **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the September 24, 2003 meeting. Project Planner Robert King**

B. ZONE VARIANCE NO. 03007 AND MINOR SUBDIVISION APPLICATION NO. 03043 – Hansen/Overholtzen – To vary from the minimum parcel size (20 acres) in the A-1 (General Agricultural) zone and divide a 45 acre parcel into two parcels: Parcel 1 = 4.17 acres and Parcel 2 = 40.83 acres on property located west of the intersection of State Highway 33 and South Ave. in the Gustine area which is designated as Agricultural land use in the General Plan. **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the September 24, 2003 meeting. Project Planner Robert King**

STRIVING FOR EXCELLENCE

- C. MINOR SUBDIVISION APPLICATION NO. 03044 – Joseph Souza –** To divide a 65.3 acre parcel of land into 3 parcels: Parcel No. 1 = 25.3 acres; Parcel No. 2 = 20 acres; Parcel No. 3 = 20 acres. The property is located at the northeast corner of Gun Club Road and Whitworth Road in the Gustine area, which is designated as Agricultural land use in the General Plan. The zone is A-1 (General Agricultural). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King**
- D. MINOR SUBDIVISION APPLICATION NO. 03045 - Ray & Glenda Eck -** To divide one 50-acre parcel into 2 parcels: Parcels 1 = 29.13 acres and Parcel 2 = 20.87 acres. The property is located 1001 feet south of Williams Ave and 660 feet west of Griffith Ave in the Hilmar area which is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (50-Acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Referred to the Planning Commission from the Hearing Officer meeting of August 25, 2003. Project Planner Mark Hamilton**
- E. ADMINISTRATIVE PERMIT APPLICATION NO. 03087 - Domingos Freitas –** To approve a waiver from the Animal Confinement regulations that all new residences be built at least 1000 feet from off-site dairy facilities. The property is located on the south side of Pioneer Ave, approximately 5,100 feet east of Ortigalita Road in the Los Banos area. The site is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (1.5 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Mark Hamilton**
- F. CONDITIONAL USE PERMIT APPLICATION NO. 03009 - Sofia Ludwig/Pedro Lopez -** To establish a used car-lot with an existing retail store located on the northwest corner of Winton Way and Park Ave which is designated as Winton Specific Urban Development Plan (SUDP) Commercial land use in the General Plan and zoned C-2 (General Commercial) (.35 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Mark Hamilton**
- G. MAJOR SUBDIVISION APPLICATION NO. 03009 – (Green Acres) – Norman Rolfe -** To re-subdivide two parcels of land equaling 29.1 acres into 25 single-family lots on property located on the northeast corner of Swan and White Crane Roads. The site is designated as Atwater Rural Residential Center #1 Agricultural-Residential land use in the General Plan and zoned A-R (Agricultural-Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert Borchard**
- H. MAJOR SUBDIVISION APPLICATION NO. 01009 (Saddle Brook) – Maxwell Construction -** To subdivide a 7.4-acre parcel into 21 single-family lots on property located on the south side of Olive Avenue, 530 feet east of Jones Road which is designated as Winton Specific Urban Development Plan Agricultural-Residential land use in the General Plan and zoned A-R (Agricultural-Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert Borchard**
- I. MAJOR SUBDIVISION APPLICATION NO. 02018 - Vista Del Lago – Razarri -** To subdivide a 146.73-acre parcel into 58 one-acre single-family parcels, and a 71-acre remainder located southeast of the intersection of Golf Road and Old Lake Road, northeast of the City of Merced and west of the proposed U.C. Campus site. The site is designated as Merced Rural Residential Center #1 Agricultural-Residential land use in the General Plan and the zone is A-R (Agricultural-Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert Borchard**



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- J. MINOR SUBDIVISION APPLICATION NO. 03054 - John Souza** – To re-subdivide two parcels into three parcels: Parcel No. 1 = 34.36 acres, Parcel No. 2 = 31.65 acres and Parcel 3 = 31.65 acres. The property is located at the southeast corner of Reilly Road and Hwy 59 in the Merced area which is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (97.3 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Renee Foster**

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.

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF OCTOBER 22, 2003

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of October 22, 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 9:17 a.m., on October 22, 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 Lynn Tanner

Staff Present: William R. Nicholson, Planning and Community Development
 Director
 Desmond Johnston, Deputy Director
 Kim Lewallen, Recording Secretary
 Robert Borchard, Planning Consultant
 Robert King, Planner III
 Mark Hamilton, Planner I

Legal Staff: James Tarhalla, Deputy County Counsel

Commissioners Absent: Commissioner Wager, absent

III. APPROVAL OF MINUTES

M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF SEPTEMBER 24, 2003.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. MAJOR SUBDIVISION APPLICATION NO. 03012 – Wathan/Castanos – To divide 237 acres into 346 residential lots of approximately 6,200 to 7,800 square feet each on 97 acres with a remainder of approximately 140 acres, on land designated as Low Density Residential Land use in the Santa Nella Community Specific Plan and zoned R-1 (Single Family Residential) and R-1-5000 (Single Family Residential 5,000 square foot minimum) on property located east of State Highway 33 north of the Delta Mendota Canal and approximately ½ mile south of Henry Miller Road. TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the September 24, 2003 meeting. Project Planner Robert King

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Planner Robert King indicated that the applicant requested that this application be continued to the November 19, 2003 meeting due to issues with the Road Department and Engineering issues. The Commission agreed.

- B. ZONE VARIANCE NO. 03007 AND MINOR SUBDIVISION APPLICATION NO. 03043 – Hansen\Overholtzen** – To vary from the minimum parcel size (20 acres) in the A-1 (General Agricultural) zone and divide a 45 acre parcel into two parcels: Parcel 1 = 4.17 acres and Parcel 2 = 40.83 acres on property located west of the intersection of State Highway 33 and South Ave. in the Gustine area which is designated as Agricultural land use in the General Plan. **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the September 24, 2003 meeting. Project Planner Robert King**

Planner Robert King presented the Staff Report and Recommendation dated October 22, 2003 and recommended denial of this application.

The public hearing opened at 9:30 a.m.

Mike Smith, CCPS, indicated to the Commission that the property owner is aware of the original application in 1999 was approved for two parcels of 22.5 acre each and her intent at that time was to divide that land between herself and her sister as part of an estate from her family. One sister decided that she wanted the money instead of the land. There was a problem with that and the courts got involved. The division had already been approved. The only thing that could be stopped at that point was the recording of the map, so the map never got recorded. The current property owner Mrs. Hansen was under the impression that the County was notified of the court action and knew that the map was not recorded. After that, Mrs. Hansen decided to sell the property to divide the money between the two sisters. She sold the entire piece of land with the understanding that the 4.2 acres existing homesite that was already on the site was to be retained by her and she was going to come back to the county and apply for a variance to legalize that piece of land. The County Assessor's Office saw this so they contacted Mrs. Hansen and suggested a separate assessment number on the property.

Pete Weideman, County Assessor Office, stated that they operate under the Revenue and Taxation code which is to ensure that there is equitable taxation and recognizes that Planning operates under the Subdivision Map act which ensures equitable land use. He stated that every Assessors map has a disclaimer on it doesn't deal with bad acreage, it deals with assumption about land use. Specifically, this map is for Assessment purposes only. The Assessors only reappraises when there is a change in ownership. The revenue and taxation code provides that under certain circumstances the land being sold will be subdivided that they can enter into an agreement with the buyer that they receive only paper title to the homesite that after they create the subdivision they will deed back that homesite and they are allowed to keep a low base value. This parcel was deeded and totaled. He passed out a copy of the Assessors screen with information on the property. The assessment for Parcel 28 is based on the sales price, so the total sales price is used as best indicator of value applies to the 41 acres, not to the 45 acres. If the Hansen's relinquish their right by conveying, that parcel would be reappraised and taxes would go up.

Chairman Sloan asked if Mrs. Hansen owns both properties. Mr. Smith replied no that Overholtzers owns the entire 45 acres with the smaller parcel being deeded

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back to Mrs. Hansen. He also indicated that legally Mr. Overholtzer owns the property, but on paper Mrs. Hansen does.

James Tarhalla, County Counsel, asked who the property owner is of the entire large parcel. Mr. Smith replied Mr. Overholtzer is. Mr. Tarhalla asked if they ever issued a deed to anyone for the 4.2 acres? Mr. Smith replied that he is not aware. Mr. Tarhalla asked Mr. Smith, in the agreement that was just provided by the Assessor's Office there was an agreement made on October 6, 2000 by Kimberly Cuppins, KD land and development Company and Celia Hansen indicating that sellers agree to convey to buyers the 4.2 acres simultaneously with the recording of the parcel map, but the parcel map was never recorded.

Commissioner Clauss asked if Hansen lives on the property. Mr. Smith replied no, someone lives there, but not sure who.

Commissioner Tanner asked why this application has taken so long to get done. Mr. Smith replied that he is not sure. Chairman Sloan asked Mr. Smith if he has a copy of the agreement between Hansen and Overholtzer. Mr. Smith responded no, he hasn't seen it.

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

MOTION: M/S TANNER - WHITNEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS ZONE VARIANCE NO. 03007 AND MINOR SUBDIVISION APPLICATION NO. 03043, FROM CEQA.

MOTION: M/S TANNER - WHITNEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DENIES ZONE VARIANCE NO. 03007 AND MINOR SUBDIVISION APPLICATION NO. 03043 DUE TO THE INABILITY TO MAKE THE FINDINGS AND CONDITIONS AS LISTED IN THE STAFF REPORT.

- C. MINOR SUBDIVISION APPLICATION NO. 03044 – Joseph Souza – To divide a 65.3 acre parcel of land into 3 parcels: Parcel No. 1 = 25.3 acres; Parcel No. 2 = 20 acres; Parcel No. 3 = 20 acres. The property is located at the northeast corner of Gun Club Road and Whitworth Road in the Gustine area, which is designated as Agricultural land use in the General Plan. The zone is A-1 (General Agricultural). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King****

Planner Robert King presented the Staff Report and Recommendation dated October 22, 2003 and passed out a letter from a neighbor in opposition to the application.

The public hearing opened at 9:56 a.m.

Mike Smith, CCPS, asked for approval of this project.

Chairman Sloan asked if this property is irrigated as one unit. Mr. Smith replied yes the pipeline is the existing pipeline. Commissioner Tanner asked if the water is irrigated both ways. Mr. Smith replied yes.

The public hearing closed at 9:59 a.m.

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MOTION: M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION NO. 03044 FROM CEQA.

MOTION: M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED OCTOBER 22, 2003, AND MAKES THE 7 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 7 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION NO. 03044 SUBJECT TO THE 5 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the Hearing Officer approval date as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant shall comply with all County, State, and Federal regulations.
3. The project shall comply with the standard conditions of approval as adopted in Planning Commission Resolution No. 97-1.
4. A Right-to-Farm Certificate shall be placed on the parcel map notifying the potential buyers of the resulting parcels that the property is in the vicinity of active farming operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of agricultural operation.
5. Dedicate an additional 5 feet of right of way, along the entire frontage of Gun Club Road with a radius at the northeast intersection of Gun Club Road and Whitworth Road and annotated on the parcel map.

- D. MINOR SUBDIVISION APPLICATION NO. 03045 - Ray & Glenda Eck - To divide one 50-acre parcel into 2 parcels: Parcels 1 = 29.13 acres and Parcel 2 = 20.87 acres. The property is located 1001 feet south of Williams Ave and 660 feet west of Griffith Ave in the Hilmar area which is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (50-Acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Referred to the Planning Commission from the Hearing Officer meeting of August 25, 2003. Project Planner Mark Hamilton****

Planner Mark Hamilton presented the Staff Report and Recommendation dated October 22, 2003.

Commissioner Clauss asked Planner Hamilton if he received any comments from the surrounding dairy owners. He replied no. Commissioner Tanner asked if there are any homesites on the property. Planner Hamilton responded yes on Youngstown Road.

The public hearing opened at 10:09 a.m.

Mike Smith, CCPS, stated that there is a discrepancy in the acreage; it should be 25.07 acres instead of 20.87 acres.

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Ray Eck, applicant, stated that the entire parcel is irrigated with solid set sprinklers, the water accesses from the canal along Williams avenue and a pipe that runs to Parcel 1 and then pressured and pumped from there. Commissioner Clauss asked Mr. Eck if his reason for the split is for his partners. Mr. Eck replied yes, he is retiring soon and he will lease the property for almond growers. Commissioner Clauss asked Mr. Eck if his partners understand the 1,000 ft. dairy buffer. Mr. Eck stated that he is not sure.

The public hearing closed at 10:13 a.m.

MOTION: M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION NO. 03045, FROM CEQA.

MOTION: M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED OCTOBER 22, 2003, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION NO. 03045 SUBJECT TO THE 4 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the Hearing Officer approval date as required by the Subdivision Map Act and Merced County Subdivision Code.
2. A Right-to-Farm Certificate shall be placed on the parcel map notifying the potential buyers of the resulting parcels that the property is in the vicinity of active farming operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of agricultural operation.
3. The owner shall dedicate to the County of Merced, annotated on the parcel map, an additional 20-foot width of right-of-way for road purpose, along the entire frontage of Williams Avenue.
4. The applicant shall provide for the delivery of irrigation water to each proposed parcel by providing easements that allow for the effective service of each parcel from the existing irrigation delivery gate that serves the whole property.

- E. ADMINISTRATIVE PERMIT APPLICATION NO. 03087 - Domingos Freitas – To approve a waiver from the Animal Confinement regulations that all new residences be built at least 1000 feet from off-site dairy facilities. The property is located on the south side of Pioneer Ave, approximately 5,100 feet east of Ortigalita Road in the Los Banos area. The site is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (1.5 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 October 22, 2003.

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William Nicholson, Planning Director, indicated that there is a home immediately to the south of the parcel, and stated that they are proposing that the mobile home there already to be put as close as possible to the house on the property.

The public hearing opened at 10:40 a.m.

Mike Smith, CCPS, wondered why they were asked to put the house so far to the back of the property. He had it designed that the house would go 100 ft. from the south line. James Tarhalla, County Counsel, responded the reason for that is the second criteria under the animal confinement ordinance on Page 2 of the staff report says the proposed dwelling is to be located as far away as possible from the existing animal confinement ordinance. Mr. Smith also indicated that the home is for her daughter, not a caretaker.

Commissioner Clauss would like to visit the site, due to the 1,000 ft. dairy setback and asked that this item be continued to the November 19th meeting. Chairman Sloan and the fellow Commissioners all agreed.

This item has been continued to the November 19, 2003 meeting, due to the request by the Commissioners to visit the site to make a better decision for this project.

- F. CONDITIONAL USE PERMIT APPLICATION NO. 03009 - Sofia Ludwig/Pedro Lopez** -To establish a used car-lot with an existing retail store located on the northwest corner of Winton Way and Park Ave which is designated as Winton Specific Urban Development Plan (SUDP) Commercial land use in the General Plan and zoned C-2 (General Commercial) (.35 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 October 22, 2003 and asked that this application be continued to the November 19th meeting due to the current state of the site.

The public hearing opened at 10:55 a.m.

Mike Smith, CCPS, stated that he opposes a continuance of the application. He stated that this is an enforcement issue and they haven't gotten an approval yet. Bill Nicholson, Planning Director indicated that one of the issues is that the operation is for a used car lot and when the process was started the site was clear and now they are implementing their project before approval. Mr. Smith indicated that there is not enough room to put a building on that property. There is a mobile home existing there already. He feels that this is only an enforcement issue and they will try and clear that enforcement issue up.

Karrie Solis, County Code Enforcement Officer, indicated that there were two complaints regarding this application, one was regarding the after hour gatherings and the other was auto repair on the site. When she did a site inspection earlier that day there were 5 cars in the front area and that is not enough space for five parking spaces. She stated that the plot plan should have the display area designated.

Commissioner Tanner asked how many cars can they have in there for sale? Ms. Solis responded how many parking stalls there are should indicated how many cars they can have for sale. Chairman Sloan asked if the parking that has cars for sale;

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won't that take up existing parking spaces for retail? Ms. Solis responded yes, that has always been an issue on Winton Way. Bill Nicholson, Planning Director, stated there are spots used for retail. There is employee parking in the back. Commissioner Tanner asked if the Thrift Store is only on street parking? Ms. Solis responded yes. Planner Hamilton indicated that there is a parking space for the mobile home that is on the property as well.

The Commission agreed to continue this application to the November 19th Planning Commission meeting to allow for a site check of the property.

- G. MAJOR SUBDIVISION APPLICATION NO. 03009 – (Green Acres) – Norman Rolfe - To re-subdivide two parcels of land equaling 29.1 acres into 25 single-family lots on property located on the northeast corner of Swan and White Crane Roads. The site is designated as Atwater Rural Residential Center #1 Agricultural-Residential land use in the General Plan and zoned A-R (Agricultural-Residential). TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert Borchard**

Planning Consultant Robert Borchard presented the Staff Report and Recommendation dated October 22, 2003.

The public hearing opened at 11:06 a.m.

Garth Pecchenino, applicants representative, stated that he has a comment on Condition #12 regarding Merced Irrigation District. He would like to add to Condition #12 for the Stickney Lateral that the fence not be required.

Samantha Teabow, neighbor, passed out a letter from a neighbor regarding concerns. They implemented some landscaping along Frontage Road, so they didn't have the visual impediments.

William Nicholson, Planning Director, stated that a condition needs to be added that the landscaping along the Quinley frontage should match up with Willow Crest Estates. Mr. Pecchenino feels that there doesn't necessarily need to be an additional condition. Chairman Sloan disagreed. Mr. Pecchenino indicated that Merced Irrigation District has a right-of-way there.

Steve Hamilton, County Public Works/Road Division, stated that there is 40 ft. of MID lateral and 5 feet of landscaping easement on the back fence on the property. The idea is to beautify the fence in the back and keep the graffiti off.

Samantha Teabow stated that she understood that there were going to be trees and not just a groundcover of 5 feet.

The public hearing closed at 11:17 a.m.

MOTION: M/S CLAUSS - WHITNEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION APPLICATION NO. 03009.

MOTION: M/S CLAUSS - WHITNEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED OCTOBER 22, 2003, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9

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FINDINGS, APPROVES MAJOR SUBDIVISION APPLICATION NO. 03009 SUBJECT TO THE 19 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. A final map shall be recorded within two (2) years of the Planning Commission approval date as required by the County Subdivision Code and the State Subdivision Map Act.
2. Satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code, which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street-lighting, storm drainage system and underground or relocate utilities and irrigation facilities. This will include the complete reconstruction of the east half of Swan Road, and the addition of 4-feet of pavement along the west side of Quinley Avenue. Developer shall also be required to overlay the existing intersection of Swan Road with a minimum of 0.20' of asphalt.
3. Release and relinquish all abutters' rights of access to and from the entire Swan Road frontage of Lots 1 & 25.
4. All underground improvements shall be installed, all lots graded, and aggregate base material shall have been placed, compacted, and rough graded prior to the issuance of any building permits. The developer shall enter into an agreement with Public Works that no occupancy shall take place until such time as all improvements are completed, and he shall be responsible to inform all perspective purchasers of such.
5. Provide 200' of centerline striping for Forest Hill Road from its intersection with Swan Road.
6. Developer/Applicant is advised that he/she may be obligated to comply with Federal Regulations for storm water runoff issued by the U.S. EPA on November 16, 1990 (40 Code of Federal Regulations Parts 122, 123, 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916) 657-1146.
7. An MID signature block is to be placed on the improvement plans.
8. The project's storm drainage will go north to the detention basin located at the northwest corner of the "Willow Crest Estates" subdivision and then be accepted by the Merced Irrigation District Drainage Improvement District No. 1 (MIDDID No. 1) into the Atwater Drain. The property owner must enter into a "subdivision Drainage Agreement" with the MIDDID No. 1, paying only an annual maintenance fee of \$12.30 per residential lot. The connection fees are being waived because the entire project is within MIDDID No. 2. The annual maintenance fee will be assessed and collected on the Merced County tax rolls.
9. The property owner must underground the Bloss Lateral in a pipeline assembly, meeting MID standards

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10. MID will quitclaim all right, title and interest to the existing Bloss Lateral 40-foot wide easement in exchange for a new 20-foot wide easement for said lateral.
11. Enter into a "Construction Agreement" for the work associated with MID facilities.
12. .A minimum chain link fence or a block wall to be constructed along the Stickney Lateral outside of the MID fee strip for the entire length where the project and the lateral interface, for public health and safety reasons. There shall be no openings or gates for access to the canal placed in the fence.
13. The property owner must obtain a "Non-exclusive License Agreement" for all crossings over or under any MID facilities, including bridges, utilities and pipelines.
14. The residential fences of lots 12 and 13 must be placed outside of the new 20-foot wide Bloss Lateral easement to allow access for maintenance and repair.
15. The subdivider shall pay a recreational parkland space and improvement fee as required by Merced County Ordinance No. 1090. Said fee is payable prior to or concurrent with the recording of the Final Map.
16. Any relocation, removal or under grounding of PG&E facilities shall be done at developer's expense.
17. Right to Farm Certificate shall be placed on the Final Map in compliance with Ordinance No.1213.
18. The developer shall comply with all the standard condition of approval listed in the Planning Commission Resolution No. 97-1 (a copy was mailed to the developer with the staff report).
19. The developer may be required to enter into an Improvement Agreement with Merced County (in conformance with Article 2.5 of Chapter 4 of Division 1 of the Government Code) prior to recording a Final Map to provide necessary infrastructure to the satisfaction of the Merced County Department of Public Works.

- H. MAJOR SUBDIVISION APPLICATION NO. 01009 (Saddle Brook) – Maxwell Construction** - To subdivide a 7.4-acre parcel into 21 single-family lots on property located on the south side of Olive Avenue, 530 feet east of Jones Road which is designated as Winton Specific Urban Development Plan Agricultural-Residential land use in the General Plan and zoned A-R (Agricultural-Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert Borchard**

This item has been continued to the December 17, 2003 Planning Commission meeting.

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- I. MAJOR SUBDIVISION APPLICATION NO. 02018 - Vista Del Lago – Razarri - To subdivide a 146.73-acre parcel into 58 one-acre single-family parcels, and a 71-acre remainder located southeast of the intersection of Golf Road and Old Lake Road, northeast of the City of Merced and west of the proposed U.C. Campus site. The site is designated as Merced Rural Residential Center #1 Agricultural-Residential land use in the General Plan and the zone is A-R (Agricultural-Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert Borchard****

This item has been continued back to staff to determine a further Planning Commission date for continuance of this project.

- J. MINOR SUBDIVISION APPLICATION NO. 03054 - John Souza – To re-subdivide two parcels into three parcels: Parcel No. 1 = 34.36 acres, Parcel No. 2 = 31.65 acres and Parcel 3 = 31.65 acres. The property is located at the southeast corner of Reilly Road and Hwy 59 in the Merced area which is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (97.3 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Desmond Johnston****

Desmond Johnston presented the Staff Report and Recommendation dated October 22, 2003.

The public hearing opened at 11:26 a.m.

Commissioner Clauss questioned condition #4. Deputy Director Desmond Johnston explained that the corner is covered by an Airport Compatibility Zone and the purpose of the deed notice is to apprise future owners of Aircraft over flights.

The public hearing closed at 11:27 a.m.

MOTION: M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR MINOR SUBDIVISION APPLICATION NO. 03054, FROM CEQA.

MOTION: M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED OCTOBER 22, 2003, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION NO. 03054 SUBJECT TO THE 4 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the Planning Commission approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant shall comply with all applicable County, State and Federal regulations.
3. Irrigation water delivery shall be ensured to all new parcels and private

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irrigation easements shall be provided from the existing irrigation delivery gates currently serving the whole property to the parcels not contiguous with the existing delivery gates.

4. A "Right to Aviate Notice" must be recorded on the final parcel map.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

None

VIII. DIRECTOR'S REPORT

There will be a special meeting on October 29th regarding the Planada Community Plan Update and Brasil Dairy. The packets for this meeting will be sent out today.

There will be a Special meeting on December 3, 2003 regarding the Bettencourt Ranch.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 11:30 a.m.