



**PLANNING AND COMMUNITY  
DEVELOPMENT DEPARTMENT**

**William Nicholson**  
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**PLANNING COMMISSION AGENDA  
SPECIAL MEETING OF OCTOBER 29, 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. UPDATED PLANADA COMMUNITY PLAN AND NEGATIVE DECLARATION - An updated Planada Community Plan and Negative Declaration for the unincorporated community of Planada, located approximately 4 miles east of the City of Merced along State Highway 140, is proposed for adoption by the County of Merced. The project includes an updated Community Plan with chapters on land use, community design, circulation, open space and conservation, and public services and safety. **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner James Holland**

**B. CONDITIONAL USE PERMIT 03001 - Michael & Veronica Brasil - To establish a New Dairy facility for 600 Milk Cows for a property located on the northwest corner of First Avenue and Griffith Avenue in the Stevinson area, designated Agricultural land use in the General Plan. The Zone is A-1 (General Agriculture)(130 acres). **TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT, AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Mark Hamilton**

**STRIVING FOR EXCELLENCE**

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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Consulting Planner Butch Cope and Consultant Gary Conte from RRM presented the Staff Report and Recommendation dated October 29, 2003. William Nicholson, Planning Director, summarized the recent correspondence received and the recommendation to the Commission.

Commissioner Wager asked if the map shown was the existing boundary of Planada or the new proposed one? Planner Butch Cope replied that it's basically the same boundaries, and they're not adding anything except the two farm labor camps to the Community of Planada.

### **BREAK from 10:20 to 10:30 am**

The public hearing opened at 10:30 a.m.

David Corser, with the Planada Community Development Corporation, stated he represents residents in opposition to the project, wanted to bring up the fact that there are 179 letters of opposition in regards to the relocation of two farm labor camps (Felix Torres Migrant Housing-seasonal unit and Planada Village – a year round facility). He stated that the Housing Authority is doing this relocation and also said that although the Plan on paper is to embrace the migrant field camp and bring them into the Planada Community, it's having the opposite effect. He stated that the Housing Authority proposes to move the people out of the camp, which is currently near the soccer field and the middle school and relocate them down Gerard Avenue along Miles Creek where the discharge pipe from the sewer treatment plant is located. He received a note from Kathy Lopez of the Planada MAC and Planada Community Development Corporation, and she says the input from the people living in the camp is very clear. They don't want to be moved. Mr. Corser suggests that this part of the plan be adjusted before proceeding.

Bryant Owens, in opposition to the project, stated that doubling the population of Planada in this timeframe would destroy this community and has agricultural impacts. He said that there is a racially offensive tone to the whole Spanish revival architectural theme. He stated that the needs of the people are not being met and said that Planada doesn't have a commercial base to provide commerce. People weren't contacted well about the Plan and he recommends that the Plan be postponed until the County decides how and if they're going to grow.

John Sessions of H/S Development Co., passed out his written comments to all the Commissioners. They build low and moderate income housing in Merced and Planada. With sewer plant expansion, community could grow beyond it's boundaries soon so he doesn't agree with the 100 acre limit on additions to the plan area before the Plan is updated. He suggests that 200' agricultural setbacks be determined on a case by case basis and not be incorporated into the Plan. He also states that the character of the architecture style through attractive is unaffordable and would drive up the cost of the houses too high. The commitment of no more than 25% of the same house styles on one block is too difficult to adhere to. He commented that he agrees that when the garage is not so prominent it does look better but then it makes the backyard smaller. He would like that most of these suggestions be available as options but should not be mandates because he wants to keep the prices of these houses affordable so the people that live in the area can afford to buy them. He argued against a noise wall and berm design requirement which takes to much land, wanted parks next to schools and not surrounded by streets on four

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sides. He's worried that the Plan ideas were too expensive to build affordable housing.

John Colbert, says he is a partner in the ownership of 59 acres at the north west corner of Plainsburg and Childs Avenue, and stated that he is pleased with the quality of housing that H/S has been developing and wants to go with them. Affordability is his main concern. He says that there is a sizable cost in the mitigation component. He urges the Planning Commissioners to be careful about too many architectural regulations, rules, setbacks etc. He doesn't want the cost of houses to be too high for residents to purchase. David Wager asked if he was joint venturing with H/S Development. Mr. Colbert replied no. The price he sells at depends on the development. He reiterated that he is concerned with the cost of mitigation.

Nick Benjamin, Executive Director of Housing Authority, went over their housing programs in the County. He stated that he didn't want to own or operate substandard housing. The State is forcing them to close the Felix Torres camp and the Housing Authority opposed it. He said they purchased a 24 acre site near the Felix Torres center for both season and year-round housing, but there was some opposition to this (neighbors and the Farm Bureau) so he may want to purchase another site. Chairman Sloan asked what was the reason for his opposition. Mr. Benjamin replied that there were different reasons, but the locals didn't like the location because of its proximity to the water and sewer treatment plant. Commissioner Wager asked if the Felix Torres camp was year round. Mr. Benjamin replied no, the Planada Village is year round and it needs to be replaced. Felix Torres will close this year and no new housing is available until they build.

Les McCabe, Merced County Farm Bureau, stated that he opposes this proposal to move the labor camps to where there is no sewer and water. The "Central Valley Coalition" of the Housing Authority spent too much on the 24 acres. He wants to see an EIR prepared for this project.

Diane Westmoreland-Pedrozo, Executive Director of Merced County Farm Bureau, wanted to add to Mr. McCabe's comments that she likes the buffer zone between agriculture and development and she is asking for mitigation and an EIR for this project.

Dennis Myers, lawyer from Allen, Polgar, Proietti and Fagalde and representing Mr. Farnsworth, a developer in the area, supports the plan with minor changes. He said there is no capacity for sewer and water right now. His area is already zoned for development but he doesn't have a can and will serve letter, but Mr. Session does. He encourages the Planada Community Service District to promote infill prior to land that is still zoned agricultural and has mitigation to go through. He also commended Supervisor Gloria Keene on her hard work and the Planning Department Consultants for doing a good job. Chairman Sloan questioned Mr. Myers on the fact that he had an approved map but no can and will serve letter. He asked when Mr. Sessions got his letter. He replied in January of 2003. His company had offered to prepay their connection fees. Mr. Myers doesn't oppose this plan but he also has a plea for fairness. Chairman Sloan questioned him on the timeframe of his development. Mr. Myers said it could start immediately, they are only waiting on the letter, but the district does not have any more hookups.

Gloria Cortez-Keene, in favor of this Plan, stated that growth and development has been happening and will continue to happen but hopefully this plan will help control and direct it. The Planada Community Services District and Housing Authority are

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not under the County's control, but we got the district a \$35,000 grant to do a study, which is a foundation of this Plan. She also stated that there is a lack of infrastructure and feels the water is ok, but sewer is bad. They need a 5 million dollar new plant. Boyle Engineering will do an expansion plan for 600 new hook-ups. Ms. Cortez-Keene indicated that she has 3 letters from developers that are committed and are willing to pay the hook-up fees up front and has a \$1 million dollar grant. She wants us all to work together and feels that mitigation is going to become a countywide issue.

Bryant Owens stated that Ms. Cortez-Keene has identified only 3 of the 5 million dollars needed for the plant, but what about the rest? If the houses are priced too high, the community will have to pay.

Commissioner Clauss asked how were the Community meetings attended? Planner Butch Cope responded that the three community meetings were well attended and was very well advertised. Commissioner Clauss asked if the Planada MAC is in favor. Mr. Cope replied yes. Commissioner Wager asked what the consensus was at the workshop. Mr. Cope responded this is a consensus plan of their opinions. He also stated that they decided to go with a negative declaration because it's more appropriate. Chairman Sloan asked Gary Conte, regarding duration of the plan, why 100 acres? Mr. Conte replied that it gave opportunity to focus on densities and traffic and demand of utilities. 100 acres seemed like a good number that could be served. Chairman Sloan asked why a 200 foot setback? Mr. Conte replied that it is utilized in other agricultural communities in California. It's a reasonable setback to avoid dust, noise and odors. Chairman Sloan thinks this should be on a case by case basis. The other Commissioners agreed. Chairman Sloan asked that the record show that the Commission would like that the 200 foot setback stipulation be on a case by case basis. Chairman Sloan sees a problem with mandating specific architecture of an entire community and thinks this should be in the hands of a developer. Planner Cope stated these are just guidelines for keeping historic character and it can be emphasized that these are guidelines and are not rigid and should be encouraged but these are not rigid rules. Chairman Sloan indicated that direction should not be provided by County government on architectural style. Commissioner Tanner agrees that the buyer should dictate housing style. Commissioner Wager agrees that the 25% rule should not be implemented. Commissioner Whitney and Commissioner Clauss both agree. Planning Director William Nicholson stated that the intent was to provide guidelines. The Board of Supervisors authorized Planning Commission to put design guidelines into the Community Plan. These should contain the words "should" and not "shall"; any "shalls" can be changed to "should" unless mandated by the Zoning Code. Chairman Sloan stated that he prefers smaller parks and feels it's easier for Sheriffs to patrol. Planner Cope indicated that the larger parks are managed by the school. Mr. Nicholson stated that on the Housing Authority issue, they have authority over the labor camps, not the County, so we can't tell them what they can and can't do. Commissioner Tanner asked if we are setting a standard of a one to one agricultural mitigation? Planner Cope identified undeveloped areas where agricultural mitigation would be considered. Mr. Nicholson responded that this applies to Planada only, not other communities. They will be dealt with separately as their community plans come up. Commissioner Tanner asked if agricultural land were already zoned residential, would we not require a 1 to 1 mitigation? Mr. Nicholson responded it is a case by case, project basis. Chairman Sloan commended the Planning Staff.

The public hearing closed at 12:30 p.m.

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**MOTION: M/S WAGER - TANNER, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE THE NEGATIVE DECLARATION PREPARED FOR UPDATED PLANADA COMMUNITY PLAN.**

**MOTION: M/S WAGER - TANNER, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS TO THE BOARD OF SUPERVISORS TO APPROVE THE UPDATED PLANADA COMMUNITY PLAN WITH THE “SHALLS” TO BE CHANGED TO “SHOULD” IN THE DESIGN GUIDELINES AND THE 200 FOOT SETBACK WILL BE ON A CASE BY CASE BASIS AND ARCHITECTURE LANGUAGE CHANGED TO REFLECT OPPOTIONAL CONCEPTS.**

**A LUNCH BREAK WAS HELD AT 12:30 THE COMMISSION ADJOURNED TO THE BRANDING IRON RESTAURANT.**

**MEETING CALLED BACK TO ORDER AT 1:40 PM IN ROOM 310.**

- B. CONDITIONAL USE PERMIT 03001 - Michael & Veronica Brasil - To establish a New Dairy facility for 600 Milk Cows on property located on the northwest corner of First Avenue and Griffith Avenue in the Stevinson area, designated Agricultural land use in the General Plan and is zoned A-1 (General Agriculture) (130 acres). **TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT, AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.****

Deputy Director Desmond Johnston and Gene Smith (EIR consultant from Quad Knopf) presented the staff report and recommendations dated October 29, 2003.

The public hearing opened at 2:00 p.m.

Mike Smith, CCPS and representing the applicant, reviewed all the data and asked for approval of this project.

William Smith, a neighbor landowner on Griffith Avenue, opposed the application because of air quality and other issues.

John Seacholtz, a neighbor in Longview, had questions regarding the 300 ft. notice. He stated that it shows that part of his property is shaded. He was confused by that and wanted to make sure that none of his property was part of this project. It was explained to him that it was shaded because he was within 300 feet. He was also concerned that the introduction of this dairy might discourage other attractive, higher uses. He is concerned that flies and odors might negatively impact the area.

Michael Brasil, applicant, introduced himself and indicated that he is moving the dairy from Stanislaus County to be on a larger parcel and he is available for any questions.

Joe Mitchell, submitted a letter on behalf of Marsha Burch attorney for the Mitchell Family Trust, a neighbor. He questioned how the landowners were noticed. He stated that his parents had called the Planning Department about the project in January and in July the Planning Department phoned back. His mother asked about any documents regarding the project. She received nothing until she received the 300 ft. notice. She wanted an EIR, but she did not want to pay for it. She was told about getting in on the internet. Mr. Mitchell said he was not able to download the

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whole document, only the Final EIR. He's concerned because he is not able to review the project sufficiently because of time constraints and difficulty obtaining the document. He said he's not necessarily against the project but he wants more time to review it.

William Nicholson, Planning Director, stated that the Planning Department follows CEQA procedures and publishes the Notice of Availability in the newspaper, posts them on the website and with the County Clerks office and there are also subscriptions to receive notice of the CEQA documents available.

Commissioner Clauss asked Jeff Palsgaard from Environmental Health to address some issues in the letter like Merced Irrigation District surface water and groundwater.

Jeff Palsgaard, Environmental Health, stated that salts and other constituents are monitored, but antibiotics and growth hormones are not monitored at this time.

Jim Burns, a neighbor on Griffith Avenue owns 300 acres, knows that the dairy will have an impact on the water and stated that it has to be treated even now to be able to drink it. One shouldn't add to the deterioration of groundwater.

The public hearing closed at 2:20 p.m.

Commissioner Wager asked Mr. Mitchell if his mother got the EIR, etc? Mr. Mitchell responded that he was able to print some of the project off the County Planning website but not all of it. Commissioner Wager would like Mr. Mitchell's mother to be able to review the EIR and staff report before any action is taken. Bill Nicholson responded that the notification process was followed.

Commissioner Clauss feels that Mr. Mitchell's mother should receive the documents to review. Commissioner Tanner concurs. Chairman Sloan indicated that the Commission is in agreement that this item be continued until the Mitchell's are able to review the EIR. Chairman Sloan directed Planning Staff to provide Joe Mitchell with the documents pertaining to this project. This item will be continued to the November 19, 2003 Planning Commission meeting.

The record will reflect that Commissioner Wager handed Joe Mitchell the EIR on CD and the staff report (free of charge).

### VI. CORRESPONDENCE

None

### VII. GENERAL BUSINESS

Commissioner Tanner felt that he was backed into a corner on the negative declaration issue. He felt he either had to approve the Planada Plan the way it was or there would be significant time delays. Mr. Nicholson explained that when you identify a significant impact in an initial study, you have to mitigate it. We did require 1:1 mitigation with the Santa Nella Community Plan.

### VIII. DIRECTOR'S REPORT

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Mr. Nicholson asked that a special meeting be scheduled on December 3, 2003 for the Bettencourt Ranch EIR. The Commissioners were in agreement with that.

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 2:51 p.m.