



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

William Nicholson
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

**PLANNING COMMISSION AGENDA
REGULAR MEETING OF APRIL 28, 2004, 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; Steve Sloan, Chairman; Lynn Tanner

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 CHANGE No. 03018 AND MINOR SUBDIVISION APPLICATION No. 04002 - Donald Martin** -To change the existing zoning from R-3 to R-1-5000 and subdivide the property into 5 parcels; Parcels 1 - 5 = 9,494 s.f. each. The project site is located on the east side of Fern Street, and 650 feet north of Ashby Road, which is designated as Franklin-Beachwood SUDP- Medium Density Residential land use in the General Plan and zoned R-3 (Multi-Family Residential) (1 acre). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATIONS. Continued from the April 14, 2004 meeting. Project Planner Dan Skidmore**
- B. MINOR SUBDIVISION APPLICATION No. 03083 - Wright Trust** - To divide one 40-acre parcel into two parcels: Parcels 1 = 20 acres and Parcel 2 = 20 acres. The subject property is located on the northwest corner of Dwight Way and Sunset Drive in the Livingston area. The subject property is designated as Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the April 14, 2004 meeting. Project Planner Mark Hamilton**

STRIVING FOR EXCELLENCE

- C. **ZONE CHANGE No. 03012 AND MAJOR SUBDIVISION APPLICATION No. 03011 – Self Help Enterprises (Joe & Mary Terra-Boa) –** To rezone and subdivide a 3.2 acre parcel from R-1 to R-1-5000 and create 18 lots of approximately 5,000 square feet each. The subject property is located on the east side of Hinton Avenue and approximately 400 feet north of Harmony Ranch Drive in the Delhi area. The property is designated as Delhi SUDP Low Density Residential land use in the General Plan and zoned R-1 (Single-Family Residential) (3.2 acres). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATIONS. Continued from the April 14, 2004 meeting. Project Planner James Holland**
- D. **ZONE VARIANCE APPLICATION No. 04001 - Jerry Rodgers –** To allow a 60 foot high sign of 384 s.f. that exceeds the 20 foot height and 100 s.f. area maximums in the C-2 zone, on property located northwest of the Highway 99 interchange with South Avenue on land designated as Delhi Specific Urban Development Plan General Commercial and zoned C-2 (General Commercial.) 2.3 acres. **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the April 14, 2004 meeting. Project Planner Robert King**
- E. **ADMINISTRATIVE APPLICATION No. 04007 - Graciano Magallan -** To establish a semi-mobile food vendor on a property where there is an existing Mini-Mart. The property is located on the northwest corner of Ashby Road and Trindade Road in the Merced area on land designated as Isolated Urban Area No. 4 – Commercial and zoned C-2 (General Commercial). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Mark Hamilton**
- F. **CONDITIONAL USE PERMIT No. 03013 – Joseph Amarant –** To consider revocation of Conditional Use Permit No. 2794 for propane service and distribution due to failure to comply with previous conditions of approval, located on the north side of Clover Ave. approximately 600 feet east of Buhach Rd. on property designated Atwater SUDP – Agricultural and zoned M-1 (Light Manufacturing). **TO REVOKE, MODIFY OR RETAIN THE EXISTING PERMIT. Project Planner Robert King**
- G. **MINOR SUBDIVISION APPLICATION No. 04012 - Rodney Bianchi -** To divide a 40.6-acre parcel of land into two parcels of 20.3 acres each. The property is located on the north side of Highway 140, approximately 1,230 feet west of Schmidt Road, in the Gustine area. The parcel is designated as Agricultural land use in the General Plan and is zoned A-1 (General Agricultural) (40.6 acres). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Ilona Dahlke**
- H. **ADMINISTRATIVE APPLICATION No. 04012 - Brian Campbell -** To allow a home to be placed within the 1000' buffer of an established dairy. The property is located on the west side of Griffith Avenue, 1,320 feet north of August Road, in the Delhi area on land designated as Agricultural land use in the Merced County General Plan and zoned A-1 (General Agricultural) (9.9 acres). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Renee Foster**
- I. **Extension Application No. 04005 – Fifth Extension of Major Subdivision No. 98003 New Century Park Phase Two - Farnsworth Family -** To approve a one year extension of a subdivision which approved on May 13, 1998, which created 116 residential lots on a 19.9 acre parcel located on the south side of Childs Avenue and west of Plainsburg Road. The property is designated as Planada Specific Urban Development Plan Low Density Residential land use in the General Plan and zoned R-1-5000 (Single Family Residential). **TO APPROVE OR DISAPPROVE THE EXTENSION. Project Planner James Holland**



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

William Nicholson
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

Appointment of Commissioner to the General Plan Review Steering Committee

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 – April 28, 2004

Page 2

Planner Dan Skidmore presented the Staff Report and Recommendation dated April 28, 2004.

The public hearing opened at 9:10 a.m.

Larry Bowers, of B.C.A, and representing the applicant, asked the Planning Commissioners if they have any questions for them. The Commissioners did not.

The public hearing closed at 9:11 a.m.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION EXEMPTS ZONE CHANGE No. 03018 AND MINOR SUBDIVISION APPLICATION No. 04002, FROM CEQA.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION RECOMMENDS TO THE BOARD OF SUPERVISORS TO APPROVE ZONE CHANGE No. 03018 AND MINOR SUBDIVISION APPLICATION No. 04002.

- B. MINOR SUBDIVISION APPLICATION No. 03083 - Wright Trust - To divide one 40-acre parcel into two parcels: Parcels 1 = 20 acres and Parcel 2 = 20 acres. The subject property is located on the northwest corner of Dwight Way and Sunset Drive in the Livingston area. The subject property is designated as Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the April 14, 2004 meeting.****
Project Planner Mark Hamilton

Planner Mark Hamilton presented the Staff Report and Recommendation dated April 28, 2004 and recommended that this application be continued to an unknown Planning Commission meeting.

The public hearing was already opened at the meeting of April 14, 2004.

Mike Smith, CCPS, indicated that he submitted this application as a 40 acre parcel to be split into two twenty acre parcels. They decided to pull the application and add a zone variance so they don't lose any money during the process. He recommended approval of this application.

William Nicholson, Planning Director, explained that this project needs a zone variance.

Joe Enos, owner of property on Arena Way and Bell Drive, stated that he hired an engineer to measure the property. He states that if this application is not approved, some people are going to come in and take out the grapes and almonds and turn it into a horse ranch. Surrounding neighbors will not be happy with this.

This item has been continued to an unknown Planning Commission date, so Planning Department can process and advertise the added Zone Variance to his Minor Subdivision.

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 3

- C. ZONE CHANGE No. 03012 AND MAJOR SUBDIVISION APPLICATION No. 03011 – Self Help Enterprises (Joe & Mary Terra-Boa) – To rezone and subdivide a 3.2 acre parcel from R-1 to R-1-5000 and create 18 lots of approximately 5,000 square feet each. The subject property is located on the east side of Hinton Avenue and approximately 400 feet north of Harmony Ranch Drive in the Delhi area. The property is designated as Delhi SUDP Low Density Residential land use in the General Plan and zoned R-1 (Single-Family Residential) (3.2 acres). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATIONS. Continued from the April 14, 2004 meeting. Project Planner James Holland****

Planner James Holland presented the Staff Report and Recommendation dated April 28, 2004.

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

Dan Holmes, representing Self Help Enterprises, asked for approval of this project. He asked that Condition #4 be modified to add the word “vehicular” before the word access. He also asked that Condition #17 be taken off the listed conditions.

Steve Hamilton, Public Works/Road Division, concurs with Dan Holmes regarding the condition changes.

The public hearing closed at 9:33 a.m.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE THE MITIGATED NEGATIVE DECLARATION PREPARED FOR ZONE CHANGE No. 03012 AND MAJOR SUBDIVISION APPLICATION No. 03011.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION RECOMMENDS TO THE BOARD OF SUPERVISORS APPROVAL OF ZONE CHANGE No. 03012 AND MAJOR SUBDIVISION APPLICATION No. 03011 SUBJECT TO THE 19 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS WITH A MODIFICATION TO CONDITION #4 TO ADD THE WORD “VEHICULAR” BEFORE THE WORD ACCESS AND TO OMIT CONDITION #17.

Conditions:

1. The Final Map shall be recorded within two years of the Planning Commission approval date.
2. Water and sewer improvements shall be constructed and applicable user fees paid as per the specifications and requirements of the Delhi Community Water District.

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 4

3. The project proponents shall 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. The Developer shall be responsible for all costs associated with relocating utilities outside of the west 10 feet of the existing 20-foot wide utility easement along the Hinton Avenue frontage or within Tierra de Oro Court.
4. The developer shall release and relinquish all abutters' rights of access to and from the entire Hinton Avenue frontage of lots 1 and 18.
5. The developer shall widen Hinton Avenue to a distance of 24 foot from centerline to face of curb.
6. The developer shall construct a storm drainage facility within the boundary of the Tierra de Oro subdivision as shown on the tentative map.
7. The developer shall pay the Merced County Department of Public Works Road Division \$500.00 to process a summary vacation of the west 10 feet of the 20-foot wide public utility easement (P.U.E.) including all portions of the easement located within the Hinton Avenue and Tierra de Oro Court road right-of-way dedication. The developer's land surveyor or engineer shall provide a legal description and exhibit map of the portion of the P.U.E. to be vacated. The \$500.00 processing fee, legal description, and exhibit map shall be submitted to and accepted by the Road Division prior to final map recordation.
8. All lot grading shall be completed, all underground improvements shall be installed and aggregate base material on all new streets shall have been rough graded and compacted, 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.
9. The developer shall provide centerline striping for the intersection of Tierra de Oro Court and Hinton Avenue.
10. The developer shall plant a minimum of one street tree per residential lot. The tree species must be accepted by the Department of Public Works, Division of Parks and Recreation and the Planning Department as part of the improvement plan approval, and trees shall be located outside of any public utility easement areas.
11. Any private irrigation facilities currently existing on the Tierra de Oro property shall be removed and plugged at the property line.
12. Any residential lots created that will no longer irrigate, or have direct access to irrigation water, must request abandonment from the Turlock Irrigation District (TID).

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 5

13. The Developer shall apply to the TID for a facility change for any required pole or electrical facility relocation. Facility changes will be performed at the developer's expense.
14. Construction equipment used at the site shall be equipped with catalysts/particulate traps to reduce particulate and NOx emissions unless demonstrated to be infeasible by project contractors.
15. This project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1.
16. Construction activities disturbing one or more acres are required by the State Water Resources Control Board (SWRCB) to obtain a General Construction Activity Stormwater Permit and a National Discharge Elimination System (NPDES) permit. Prior to the initiation of grading, the project sponsor shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to water quality during construction of the project. As required by regulations implementing the Construction Stormwater Permit, the SWPPP shall include:
 - a. Specific and detailed Best Management Practices (BMPs) to mitigate construction related pollutants, including sediments. These controls would include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricant, paints, solvents, and adhesives) with stormwater. The SWPPP would specify properly designed centralized storage areas that keep these materials out of the rain and/or protected from the wind.
 - b. Dust control BMPs for the stabilization of exposed surfaces and to minimize activities that suspend or track dust particles. For heavily traveled and disturbed areas, wet suppression (watering), chemical dust suppression, gravel or asphalt surfacing, temporary gravel construction entrances, equipment wash-out areas, and haul truck covers can be employed as dust control applications. Permanent or temporary vegetation and mulching, and sand fences can be employed to prevent sediment-laden stormwater from reaching receiving waters, or to force stormwater to drop their sediment load onsite.
 - c. The SWPPP is required to specify a monitoring program to be implemented by the construction site supervisor. SWRCB personnel, who may make unannounced site inspections, are empowered to levy appropriate fines if it is determined that the SWPPP has not been properly prepared and implemented.
17. In order to determine impacts to irrigation facilities, TID requires that the project sponsor submit plans detailing existing irrigation facilities relative to the proposed project improvements.

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 6

- a. If it is determined that irrigation facilities will be impacted, the project sponsor shall provide irrigation improvement plans to TID and enter into an Irrigation Improvements Agreement. The project sponsor shall pay the necessary Improvement Plan review fee for the required irrigation facility modifications.
 - b. Developed property adjoining irrigated ground shall be graded so that finished grading elevations are at least 6 inches higher than irrigated ground. A protective berm shall be installed to prevent irrigation water from reaching non-irrigated properties.
18. For the purpose of mitigation and/or condition monitoring, a fee in the amount of **\$276.00** shall be required. The fee shall be paid prior to recordation of the Final Map.

D. ZONE VARIANCE APPLICATION No. 04001 - Jerry Rodgers – To allow a 60 foot high sign of 384 s.f. that exceeds the 20 foot height and 100 s.f. area maximums in the C-2 zone, on property located northwest of the Highway 99 interchange with South Avenue on land designated as Delhi Specific Urban Development Plan General Commercial and zoned C-2 (General Commercial.) 2.3 acres. **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the April 14, 2004 meeting. Project Planner Robert King**

Planner Robert King presented the Staff Report and Recommendation dated April 28, 2004.

Chairman Sloan asked why staff is recommending increasing the square footage from the maximum 100 sq. ft. to 240 sq. ft.?

Planner Robert King responded that it would be very difficult to see the sign. Chairman Sloan stated that because of the terrain, there needs to be a sign at least 31 feet high to be visible from the bottom. Planner King agreed. Chairman Sloan indicated that if the sign is elevated to increase visibility, he doesn't see the need to increase the square footage of the sign. He asked why deviate from the 100 square foot maximum? And why should the rules be changed on this particular application?

Bill Nicholson, Planning Director, explained that the height could be more justified being unique physical constraint on this property with the noise wall and with the over crossing that at 20 feet you can't see the sign. The area is a bigger stretch however.

Chairman Sloan indicated that he has a problem with the square footage on the sign. He feels that we need another look at the County's signage ordinance.

The public hearing opened at 9:52 a.m.

Jerry Rodgers, applicant, handed out pictures of other signs and billboards in the area for the Commissioners to look at. He stated that the proposed sign is better than others in the area. He stated that Delhi needs this sign. They need people to notice this sign coming from the freeway to bring business into the town of Delhi.

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 7

Chairman Sloan asked what is the square footage of the signs in the area. Planner King indicated that the signs are actually billboards.

The public hearing closed at 10:00 a.m.

Commissioner Tanner indicated that he has no problem with the sign.

Commissioner Whitney agrees with the 40 ft. sign and agrees with the 240 square feet because of the significance of scale as you get higher, 100 sq. ft. signs is getting small.

MOTION: M/S TANNER – WHITNEY AND CARRIED BY A VOTED OF 2 – 1, NAY BY CHAIRMAN SLOAN, THE MOTION DIED FOR LACK OF THREE VOTES AS NEEDED.

MOTION: M/S WHITNEY – TANNER AND CARRIED BY A VOTE OF 3 – 0, THE PLANNING COMMISSION EXEMPTS ZONE VARIANCE APPLICATION No. 04001 FROM CEQA.

MOTION: M/S WHITNEY - TANNER, CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 28, 2004, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND BASED ON THOSE 11 FINDINGS, APPROVES ZONE VARIANCE APPLICATION No. 04001 SUBJECT TO THE 3 CONDITIONS WITH THE MODIFICATION TO BE A 40 FT SIGN WITH A 240 SQUARE FEET OF AREA AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. The variance allows installation of a 40 foot high and 240 square foot sign as indicated on the approved plot plans and elevation plans.
2. Additional signs, including directional and identification within the property, shall be consistent with Chapter 18.42 "Sign Regulations" of the Merced County Zoning Code.
3. The applicant shall conform to the standard requirements of Planning Commission Resolution 97-1.

BREAK

- E. ADMINISTRATIVE APPLICATION No. 04007 - Graciano Magallan -** To establish a semi-mobile food vendor on a property where there is an existing Mini-Mart. The property is located on the northwest corner of Ashby Road and Trindade Road in the Merced area on land designated as Isolated Urban Area No. 4 – Commercial and zoned C-2 (General Commercial). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Mark Hamilton**

Planner Mark Hamilton presented the Staff Report and Recommendation dated April 28, 2004.

Commissioner Tanner asked what the hours of the mini-mart next door from where the proposed taco truck are? Planner Mark Hamilton was not sure. Planning Director

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 8

William Nicholson indicated that if the mini-market is closed, Environmental Health requires the taco truck owner to have a key for restroom use.

The public hearing opened at 10:34 a.m.

Mike Smith, CCPS, indicated to the Commission that this truck was approved to be located at another location. The restroom at the mini-mart is designed to go in the restroom from the outside of the mini-mart. He also indicated that the mini-mart has now been opened for about four months.

The public hearing closed at 10: 36 a.m.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR ADMINISTRATIVE APPLICATION No. 04007.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED APRIL 28, 2004, AND MAKES THE 8 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 8 FINDINGS, APPROVES ADMINISTRATIVE APPLICATION No. 04007 SUBJECT TO THE 16 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Administrative Permit No. 04-007 is granted to establish a semi-mobile food vendor truck on the subject property as shown on the approved plot plan.
2. The vendor truck shall be maintained and operated in accordance with the conditions of the permit and the approved plot plan. The Planning and Community Development Director may approve minor modifications to the application.
3. The application shall comply with all applicable regulations administered by the County. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning and Public Works Departments.
4. The applicant shall comply with the Merced County Zoning Code Development Standards required for Semi-Mobile Food Vendors (§18.47.79.D) including, but not limited to the following:
 - a. The operating hours shall be limited to be between 800 a.m. to 10:00 p.m. daily, including Saturday and Sundays
 - b. There shall be adequate trash receptacles adjacent to the vehicle.
 - c. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day (§18.47.79.D.9.).
 - d. Wastewater generated by this use shall not be released on-site or into any storm drainage or irrigation system (§18.47.79.D8.).
 - e. Grease shall be disposed per requirements of the Division of Environmental Health.

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 9

5. No additional advertising sign except a sign attached to the vehicle and approved by the Planning and Community Development Director is allowed.
6. This Administrative Permit No. 04-007 is not transferable to another operator.
7. The applicant will need to make his outdoor food vendor business self-contained for potable water, wastewater, and power within the vehicle. Electrical connections to adjacent businesses may be permitted if approved by the County Building Division as meeting County Codes.
8. Two parking spaces shall be provided as per the requirements of the Merced County Zone Code.
9. The Division of Environmental Health requires that the Mobile Food Preparation Unit obtain the necessary (Health) permit to operate a vehicle in accordance with the California Retail Uniform Food Facilities Law.
10. The vehicle must be brought to an approved commissary or other approved food facility for servicing each day of operation.
11. During all hours of operation, the staff must have access to a restroom, which has been approved by Environmental Health Division. The restroom must be within 200 feet walking distance of the vehicle. The vehicle operator must have written authorization for use of the restroom.
12. For the purpose of mitigation and/or condition monitoring, an inspection fee in the amount of **\$92.00** shall be required. This fee shall be paid prior to initiation of the business.
13. The property owner(s) shall dedicate to the County of Merced an additional 20-foot width of right-of-way along the entire frontage of Ashby Road and the easterly 20 feet of westerly 30-foot portion of Trindade Road. The legal description(s) and exhibit(s) needed for the grant deed easement shall be prepared by a licensed land surveyor or by a civil engineer authorized to perform land surveying. Approved grant deed with accompanying legal description(s) and exhibit(s) shall be submitted for recordation within two months from the issuance date of this administrative permit.
14. The property owner(s) shall obtain an Encroachment Permit from the Department of Public Works/Road Division, pay the required permit fees, remove the existing paved driveway approach accessing Trindade Road and replace it with an acceptable physical barrier, such as the extension of the existing fence. All work shall be per Merced County Public Works Improvement Standards and Specifications and shall be accomplished within two months from the issuance date of this administrative permit.
15. Prior to building permit submittal, the applicant shall submit a landscaping plan to the Planning and Community Development Department that provides for installation of landscaping along the road frontage of Ashby Road that is marked as 'Grass Area' on the plot plan for the proposed project.

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 10

16. The Mobile Food Preparation Unit (MFPU) must conform to all requirements in California Uniform Retail Food Facilities Law (CURFFL), including the requirement that it report to the commissary each operating day. Restroom facilities meeting CURFFL requirements must be provided within 200 feet of the MFPU, for MFPU operators. Environmental Health will require a copy of a written agreement allowing the operators of the MFPU to use the Ashby Market restrooms. The operators of the MFPU would need to have a key for the store for restroom access during all hours of vehicle operation. Contact Mary Coakley, Food Program Specialist, at (209) 826-0166.

- F. CONDITIONAL USE PERMIT No. 03013 – Joseph Amarant –** To consider revocation of Conditional Use Permit No. 2794 for propane service and distribution due to failure to comply with previous conditions of approval, located on the north side of Clover Ave. approximately 600 feet east of Buhach Rd. on property designated Atwater SUDP – Agricultural and zoned M-1 (Light Manufacturing). **TO REVOKE, MODIFY OR RETAIN THE EXISTING PERMIT. Project Planner Robert King**

At the request of the applicant, this application has been continued to the May 12, 2004 Planning Commission meeting.

- G. MINOR SUBDIVISION APPLICATION No. 04012 - Rodney Bianchi -** To divide a 40.6-acre parcel of land into two parcels of 20.3 acres each. The property is located on the north side of Highway 140, approximately 1,230 feet west of Schmidt Road, in the Gustine area. The parcel is designated as Agricultural land use in the General Plan and is zoned A-1 (General Agricultural) (40.6 acres). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.**

Planner Robert King presented the Staff Report and Recommendation dated April 28, 2004.

The public hearing opened at 10:45 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 10:45 a.m.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. 04012, FROM CEQA.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION DENIES MINOR SUBDIVISION APPLICATION No. 04012 DUE TO THE INABILITY TO MAKE THE LISTED FINDINGS AND CONDITIONS IN THE STAFF REPORT.

- H. ADMINISTRATIVE APPLICATION No. 04012 - Brian Campbell -** To allow a home to be placed within the 1000' buffer of an established dairy. The property is located on the west side of Griffith Avenue, 1,320 feet north of August Road, in the Delhi area on land designated as Agricultural land use in the Merced County General Plan and zoned A-1 (General Agricultural) (9.9 acres). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Renee Foster**

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 11

Planner Renee Foster presented the Staff Report and Recommendation dated April 28, 2004.

The public hearing opened at 10:50 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 10:50 a.m.

Commissioner Tanner indicated that he has a problem with giving the variance due to the three criteria's that must be met to approve this application. Ruben Castillo, County Counsel, stated that the ordinance says what it says. If they are not satisfied, they cannot entertain a waiver. William Nicholson, Planning Director, explained that staff recommended that if it could be approved, then you can make the criteria. What was lacking was how they reached that conclusion. The first criteria that must be met states that the property prevents the proposed single family dwelling from meeting the 1,000 foot setback from the facility. The proposed home can be placed at the back of the parcel which is outside the buffer. They could meet the minimum setbacks of the zoning code which is a 25 ft. rear lot, by putting the home as far away from the dairy as possible and 25 ft from the western property line. It could be approved anywhere east of that depending on the Commissions judgment. The Commission has to approve the location of the home. The justification for supporting this is a hardship on the property owners by the putting the second home way in the back.

Chairman Sloan indicated that he can't make the findings to grant this application.

Ruben Castillo, County Counsel, indicated that the problem is that you have to satisfy the criteria's listed. The number one criteria, the size of the property prevents the dwelling from meeting. The requirements Chairman Sloan stated that there is no way to meet these criteria in order to grant a waiver. He has no problem with granting the waiver for this residence either, however, he can't make the criteria. Ruben Castillo indicated that all three criteria's have to be satisfied before granting the waiver.

MOTION: M/S WHITNEY – TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. 04012, FROM CEQA.

MOTION: M/S WHITNEY – TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION DENIES ADMINISTRATIVE APPLICATION No. 04012 DUE TO THE INABILITY TO MAKE THE LISTED FINDINGS AND CONDITIONS AS SET FORTH IN THE STAFF REPORT.

- I. **EXTENSION APPLICATION No. 04005 – FIFTH EXTENSION OF MAJOR SUBDIVISION No. 98003 NEW CENTURY PARK PHASE TWO - Farnsworth Family** - To approve a one year extension of a subdivision which was approved on May 13, 1998, which created 116 residential lots on a 19.9 acre parcel located on the south side of Childs Avenue and west of Plainsburg Road. The property is designated as Planada Specific Urban Development Plan Low Density Residential land use in the General Plan and zoned R-1-5000 (Single Family Residential). **TO APPROVE OR DISAPPROVE THE EXTENSION. Project Planner James Holland**

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 12

Planner James Holland presented the Staff Report and Recommendation dated April 28, 2004.

The public hearing opened at 11:09 a.m.

Laverne Caldeira, Century 12, Salvador Realty, and representing the Farnsworth family, asked for approval of this extension and is available to answer any questions the Commission may have. He stated that Public Works has all of the drawings regarding the drain.

Rod Hawkins, engineer at H/S Development, stated that they have submitted improvements plans for the remainder of the subdivision and they have the final map ready to submit.

Commissioner Tanner asked if Planada Community is ready to give a can and will serve letter. Mr. Hawkins answered that they do and they have a can and will serve letter for the property adjacent to the north and they have had that transferred for the 98 lots. They will be able to build 98 of the lots.

The public hearing closed at 11:15 a.m.

MOTION: M/S WHITNEY – TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION EXEMPTS EXTENSION APPLICATION No. 04005 – FIFTH EXTENSION OF MAJOR SUBDIVISION No. 98003 NEW CENTURY PARK PHASE TWO, FROM CEQA.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED APRIL 28, 2004, AND MAKES THE 6 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 6 FINDINGS, APPROVES EXTENSION APPLICATION No. 04005 – FIFTH EXTENSION OF MAJOR SUBDIVISION No. 98003 NEW CENTURY PARK PHASE TWO SUBJECT TO THE 2 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. The applicant shall submit the following material to the Merced County Department of Public Works in advance of the recordation of any final map:
 - a. Final 'As Built' or 'Record' drawings showing the storm drain line relocated by the Planada School District at the applicants request.
 - b. Legal documents providing for abandonment of the easement required for the previously approved storm drain line location.
 - c. Deeds granting an easement to Merced County for the new storm drain line location.
2. Condition 11 of Major Subdivision Application No. 98003 shall be modified to read as follows:

'The applicant shall replace existing curb and gutter facilities

MERCED COUNTY PLANNING COMMISSION

Minutes – April 28, 2004

Page 13

constructed as part of Phase 1 of the New Century Park Subdivision with similar facilities that meet the specifications provided in the 2003 Planada Community Plan'.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

Lynn Tanner was appointed as a new representative for the General Plan Steering Committee meeting.

The next General Plan Steering Committee meeting will be held on May 12, 2004 at 1:30 p.m.

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 11:28 a.m.