



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

William Nicholson
Director

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF AUGUST 11, 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; Gloria Bettencourt; Rudy Buendia

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. CONDITIONAL USE PERMIT No. 2794 (tracking number CUP 03013) – Joseph Amarant – To consider revocation of propane service and distribution facility due to failure to comply with previous conditions of approval. The property is located on the north side of Clover Avenue approximately 600 feet east of Buhach Rd. and designated Atwater SUDP – Agricultural and zoned M-1 (Light Manufacturing). **TO REVOKE, MODIFY OR RETAIN THE EXISTING PERMIT. Continued from the July 14, 2004 meeting. Project Planner Robert King****
- B. MINOR SUBDIVISION APPLICATION No. 04027- Marie Cabrel - To subdivide a 72.3 acre parcel into three parcels. Parcel No. 1 = 32.3 acres, Parcel No. 2 & 3 = 20.0 acres each. The property is located on the east side of Bert Crane Road, and 1,280 feet south of Highway 140 in the Atwater area and designated as Agricultural in the Merced County General Plan and zone A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the July 28, 2004 meeting. Project Planner Dan Skidmore****

- C. GENERAL PLAN AMENDMENT No. 03014, AND ZONE CHANGE APPLICATION NO. 03016 AND MAJOR SUBDIVISION APPLICATION No. 03017 – Silva Meadows –** To change the General Plan designation and zoning of 12.4 acres from Agricultural/A-1 (General Agricultural) to Atwater Rural Residential Center (RRC) No. 1/A-R (Agricultural Residential), and to change the designation and zoning of an adjacent 10.6 acres from Atwater RRC No.1/A-R to Agricultural/A-1 for a net increase in A-R lands of 1.8 acres. The applicant also proposes to re-subdivide four parcels totaling 110 acres into 85 one acre home sites. The properties are located on the west side of Quinley Avenue and north of Moran Avenue. **TO RECOMMEND APPROVAL OF THE MITIGATED NEGATIVE DECLARATION AND APPROVAL, DISAPPROVAL OR MODIFICATION OF THE APPLICATION TO THE BOARD OF SUPERVISORS.** Continued from the July 28, 2004 meeting. Project Planner James Holland
- D. GENERAL PLAN TEXT AMENDMENT NO. 03004 – Merced County -** For minor revisions to the Merced County Housing Chapter. Minor revisions are being recommended to the Housing Chapter of the Merced County General Plan in order to meet State Department of Housing & Community Development requirements. These revisions include text modifications for the following topic areas: Infrastructure capacities and financing, permit processing procedures for homeless shelters, housing accessibility for persons with disabilities, building fees, and subsidized units at risk for conversion. **TO RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE REVISED APPLICATION.** Project Planner John LeVan
- E. 1st MODIFICATION No. 04009 TO CONDITIONAL USE PERMIT No. 03012 - Vincent Ochoa - "Chikito Banano" -** To modify Condition # 5 of the Conditions of Approval of CUP 03012, as approved by the Planning Commission on Feb. 11, 2004. The modification proposes disc jockeying from Wednesday thru Sunday, and live bands on weekends. The property is located on the northwest corner of Winton Way and Gerard Avenue on land designated as Winton Specific Urban Development Plan (SUDP) Commercial land use in the General Plan and zoned C-2 (General Commercial) (.15 acres) **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Dan Skidmore
- F. MINOR SUBDIVISION APPLICATION No. 04038 AND ZONE VARIANCE APPLICATION No. 04007 – Jaime Fuentes –** To vary from the 20 acre minimum parcel size and divide a 4.3 acre parcel into two parcels: Parcel 1 = 3.3 acres and Parcel 2 = 1.0 acre on property located north of Gertrude Avenue approximately 1800 east of Winton Way in the Winton area designated as Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Robert King
- G. CONDITIONAL USE PERMIT APPLICATION NO. 03003 – Kelsey Ranch LP –** To legalize and expand an existing private 125 acre recreational Bass fishing lake by expanding fishing activity to include two additional ponds and constructing a Bed and Breakfast facility. The subject property is located on the north side of Merced Falls Road, four miles east of La Grange Road and is designated Exclusive Agricultural in the Merced County General Plan and zoned A-2 (Exclusive Agricultural). (2,589 Acres). **TO ADOPT THE MITIGATED NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner James Holland
- H. ADMINISTRATIVE APPLICATION No. 03112 – Bart Ramirez (Ramirez and Sons Trucking)** To review the applicant's progress in complying with the approval conditions required for Administrative Permit No. 241 and consider whether to revoke the permit or approve an extension of the compliance period. Administrative Permit No. 241 allowed the location and expansion of an agricultural trucking and equipment storage business located on the north side of Le Grand Road, at its intersection with Sante Fe Avenue. The project site is located within the Le Grand SUDP area, designated Le Grand SUDP Industrial in the General Plan and zoned M-1 (Light Manufacturing). **TO REVOKE, MODIFY, OR RETAIN THE EXISTING PERMIT.** Project Planner James Holland



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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 AUGUST 11, 2004

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of August 11, 2004, 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 9:10 a.m., on August 11, 2004, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Larry Whitney
 Commissioner Steve Sloan-Chairman
 Commissioner Lynn Tanner
 Commissioner Gloria Bettencourt
 Commissioner Rudy Buendia

Staff Present: William Nicholson, Planning and Community Development
 Director
 Kim Lewallen, Recording Secretary
 Robert King, Planner III
 James Holland, Planner III
 John LeVan, Senior Planner

Legal Staff: Ruben Castillo, County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

M/S BETTENCOURT - TANNER, AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF JULY 28, 2004.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT No. 2794 (tracking number CUP 03013) – Joseph Amarant – To consider revocation of propane service and distribution facility due to failure to comply with previous conditions of approval. The property is located on the north side of Clover Avenue approximately 600 feet east of Buhach Rd. and designated Atwater SUDP – Agricultural and zoned M-1 (Light Manufacturing). **TO REVOKE, MODIFY OR RETAIN THE EXISTING PERMIT. Continued from the July 14, 2004 meeting. Project Planner Robert King**

Planner Robert King presented the Staff Report and Recommendation dated August 11, 2004.

The public hearing opened at 9:16 a.m.

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Helen Amarant, applicant, stated that her husband could not be in attendance due to an illness. She did indicate that a lot of the propane tanks have been taken off of her property. Some tanks have to be kept on the property. She asked for additional time to clean up the property site more.

Commissioner Bettencourt asked Mrs. Amarant how much more time she needs to get the site cleaned up. Mrs. Amarant replied 2 more months.

William Nicholson, Planning Director, stated that there are plans to improve the intersection by the property location.

Steve Hamilton, Public Works/Road Division, stated that the intersection of SP and Buhach Road will soon be working on the curbs and the overpass. It is in design right now.

Jeff Palsgaard, Environmental Health, stated that they did an inspection on August 10th. He stated that a majority of the materials is still on the property. They have a long ways to go to get most of the material off the property.

Chairman Sloan asked Mr. Palsgaard if he concurs with continuing this project for another 30 days. Mr. Palsgaard replied yes, he concurs.

Mrs. Amarant indicated that the batteries and the old refrigerators will be removed from their property today. She also wants to clean up the property.

The public hearing closed at 9:26 a.m.

Commissioner Tanner indicated that he does not want to see this business close. Chairman Sloan stated that he doesn't want the situation to keep going on. Commissioner Bettencourt feels that 30 days will not be enough for the Amarant's to clean up the property. Chairman Sloan asked Mrs. Amarant if 30 days will be enough time to clean up the rest of the property. Mrs. Amarant responded that 30 days will make a big difference in the condition of the property. Chairman Sloan indicated that this has to be done in 30 days. Mr. Nicholson indicated to Mrs. Amarant that this business will shut down if the Commission revokes this permit in 30days.

MOTION: M/S WHITNEY - BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION AGREES TO CONTINUE THIS ITEM TO 30 DAYS AT THE SEPTEMBER 8, 2004 MEETING.

- B. MINOR SUBDIVISION APPLICATION No. 04027- Marie Cabrel - To subdivide a 72.3 acre parcel into three parcels. Parcel No. 1 = 32.3 acres, Parcel No. 2 & 3 = 20.0 acres each. The property is located on the east side of Bert Crane Road, and 1,280 feet south of Highway 140 in the Atwater area and designated as Agricultural in the Merced County General Plan and zone A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the July 28, 2004 meeting.****

Planner Robert King presented the Staff Report and Recommendation dated August 11, 2004.

The public hearing opened at 9:35 a.m.

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Garth Pecchinino, Fremming, Parson and Pecchenino, stated that the average parcels size are 19 acres on the project. The applicant plans to sell the remaining parcel to the adjoining property owner.

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

MOTION: M/S TANNER - BETTENCOURT, MAKES A MOTION TO DENY THIS APPLICATION AND CARRIED BY A VOTE OF 3 - 2, NAY BY CHAIRMAN SLOAN AND COMMISSIONER WHITNEY, THE PLANNING COMMISSION DENIES MINOR SUBDIVISION APPLICATION No. 04027 DUE TO THE INABILITY TO MAKE THE LISTED FINDING AND CONDITIONS AS SET FORTH IN THE STAFF REPORT.

- C. GENERAL PLAN AMENDMENT No. 03014, AND ZONE CHANGE APPLICATION NO. 03016 AND MAJOR SUBDIVISION APPLICATION No. 03017 – Silva Meadows – To change the General Plan designation and zoning of 12.4 acres from Agricultural/A-1 (General Agricultural) to Atwater Rural Residential Center (RRC) No. 1/A-R (Agricultural Residential), and to change the designation and zoning of an adjacent 10.6 acres from Atwater RRC No.1/A-R to Agricultural/A-1 for a net increase in A-R lands of 1.8 acres. The applicant also proposes to re-subdivide four parcels totaling 110 acres into 98 one acre home sites. The properties are located on the west side of Quinley Avenue and north of Moran Avenue. **TO RECOMMEND APPROVAL OF THE MITIGATED NEGATIVE DECLARATION AND APPROVAL, DISAPPROVAL OR MODIFICATION OF THE APPLICATION TO THE BOARD OF SUPERVISORS. Continued from the July 28, 2004 meeting. Project Planner James Holland****

Planner James Holland presented the Staff Report and Recommendation dated July 28, 2004. He also passed out a letter from Jeff Palsgaard requesting an added condition regarding fees associated with annexing the project into the Willow Crest Estates Lighting, Storm Drainage and Landscape maintenance zone of Benefit No. 263 in the County Service Area No. one.

The public hearing opened at 9:46 a.m.

Anthony Beebe, Atwater resident, requested a copy of the letter from Jeff Palsgaard. He was provided with a copy. He summarized a letter he submitted dated July 19, 2004. He stated that this application does not meet applicable standards. He recommended that an analytical study be done on this application and felt the environmental study is not adequate. He feels there is not enough resources for fire protection, police protection and the McSwain school can not handle overcrowding at an already crowded school if this subdivision gets built. He asked the Commission to deny this application.

William Nicholson, Planning Director, explained that in terms of land use, there's historic land use of agricultural in the area. In the General Plan, the additional territory that this subdivision is including is only 1.8 acres since being swapped for Mr. Green's property to the north which is under current agricultural use. The standard zoning out there is a minimum of 20 acres. There is no need for mitigation. In terms of Biological impact, the project was referred to the Fish & Wildlife Service and State Fish & Game and neither has responded positively or negatively. With the absence of their comments, the Planning Department felt they could support the conclusion in the Initial Study. In terms of the water study, Mr. Palsgaard responded with the additional conditions regarding the monitoring wells and creation of an assessment district for this project, where the future property owners will be paying Environmental Health to monitor groundwater. Regarding schools, the Initial Study

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states that the School District has the ability to collect fees to offset the impacts. He stated that the Commission can't deny a project because of overcrowding schools, due to State law which requires Cities to set impact fees.

Duane Andrews, Golden Valley Engineering, asked for clarification on the block wall. He asked that the Commission consider adding the block wall along the Horta property. He agreed with the added conditions from Jeff Palsgaard at Environmental Health. He recommends approval to the Board of Supervisors.

James Holland, Planner III, explained that there was concern for the protection of Mr. Horta's agricultural property. The General Plan does call for a definite buffer between ag lands and non agricultural uses. The wall should arguably be extended to the entire western property boundary.

Mr. Andrews responded that this is the first time this has been required, they've never had to do this before adjacent to ag land. The developer has agreed to put that wall up along that section. He feels it is wrong to have to extend it up all the way. A normal wood fence will be put up.

Ray Franco, the applicant for this project, stated that he is looking forward to building these homes. He feels there won't be a big impact on the students at the McSwain School. He will be employing local sub-contractors for the project building. He agrees to all the listed conditions and added conditions in the staff report.

Stan Mollart, McSwain School Superintendent, asked the Commission to recommend approval of this project. He asked that mitigation fees be included for McSwain School, it is overcrowded and they need help.

Chairman Sloan asked what he thinks the recommended adequate fee would be. Mr. Mollart stated that a report will be available later today, but he doesn't have the figures yet.

Larry Silva, one of the owners of the property, indicated that he understands the concerns of Mr. Beebe but this property has been planned for development for many years. He asked the Commission to recommend approval to the Board of Supervisors.

Jay Callahan, resident in Winton, indicated that there is a dairy adjacent to the proposed application and asked what the wall being put up is going to do for the smell and flies from the dairy to the new Subdivision.

The public hearing closed at 10:37 a.m.

Mr. Nicholson explained that the wall condition in the Initial Study was written to include the entire west side of the project. That will be the boundary of the RRC. This is the first project where a block wall was used as a buffer. The area on the west end is an MID canal and it is not proposed to be pipelined. Chairman Sloan indicated that he doesn't see the need for a wall along the entire property line. Mr. Nicholson added that the property immediately to the west is owned by Mr. Horta under the Williamson Act, but not the Green property.

Ruben Castillo, County Counsel, explained that SB50 was passed in 1998 by the Legislature, which took County and Cities out of the school impact fee business. There has to be a report prepared on school overcrowding adopted by the School

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Board and a request has to be made asking that the Board of Supervisors or City Council impose these fees or place restrictions on development until Mitigation Measures are accepted by new development.

MOTION: M/S TANNER – WHITNEY, AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS ADOPT THE CEQA MITIGATED NEGATIVE DECLARATION PREPARED FOR GENERAL PLAN AMENDMENT NO. 03014, AND ZONE CHANGE APPLICATION NO. 03016 AND MAJOR SUBDIVISION APPLICATION NO. 03017.

MOTION: M/S TANNER - WHITNEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED AUGUST 11, 2004, AND MAKES THE FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE FINDINGS, RECOMMENDS TO THE BOARD OF SUPERVISORS TO APPROVE GENERAL PLAN AMENDMENT No. 03014, AND ZONE CHANGE APPLICATION NO. 03016 AND MAJOR SUBDIVISION APPLICATION No. 03017 WITH MODIFICATIONS BEING MADE TO CONDITION #26 AND CONDITION #28 AND A NEW CONDITION BEING ADDED TO MAKE 33 LISTED CONDITIONS TO READ AS FOLLOWS.

1. The Final Map shall be recorded within two years of the Planning Commission approval date.
2. The applicant 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, streetlighting, storm drainage system and underground or relocate utilities and irrigation facilities.
3. The applicant shall release and relinquish all abutters' rights of access to and from the entire Quinley Avenue and Moran Avenue frontages of the subdivision.
4. The applicant shall provide the County with a letter from M.I.D. accepting storm drainage water from this proposed development into their facilities prior to recording the final map.
5. 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.
6. Provide centerline striping for those new roads which intersect the existing peripheral streets.
7. 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 and 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916) 341-5537,

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e-mail: stormwater@swrcb.ca.gov, or visit their website at www.swrcb.ca.gov.

8. Pursuant to Section 17.04.050.B of the Merced County Code, streets which run in an east-west direction shall be designated as “Street” or “Drive. Streets which run in a north-south direction shall be designated “Avenue.” Cul-de-sacs shall be designated “Court.”
9. Jeffrey Way is a duplication of an existing Merced County road name and shall be changed to the satisfaction of the Department of Public Works and Fire Department.
10. If the developer is successful in enlarging the existing offsite Greenfields by Books Subdivision No. 1018 storm drainage detention basin over Parcel 1 as shown on the Parcel Map for Ed & Lisa Sanchez (Assessor’s Parcel Number 056-431-020), then the developer shall provide all documentation and shall pay all fees associated with annexing the project into the Greenfields by Brooks Street Lighting and Drainage Zone of Benefit No. 252 in County Service Area No. One.
11. The developer shall be responsible for all costs associated with obtaining necessary easements and for roadway widening along the Moran Avenue frontage of Parcel 1 as shown on the Parcel Map for Joe M. Silva, recorded in Volume 21 of Parcel Maps at Page 21, Merced County Records (Assessor’s Parcel Number 056-140-076).
12. The developer shall pay, at the building permit state, Atwater RRC#1 Bridge and Major Thoroughfare Area of Benefit fees.
13. The developer shall construct, with subdivision improvements, speed humps on Josie Lane and Johnny Lane at the direction of the Department of Public Works.
14. The developer shall improve Quinley Avenue consistent with current Department of Public Works standards.
15. The developer shall submit a Dust Control Plan to the SJVUAPCD in order to comply with Regulation VIII Rule 8021 for earth moving operations for residential projects greater than 10 acres in size. This plan should provide for the maintenance of daily records. The applicant should refer to the April 2004 U.S. Environmental Protection Agency Region 9 finalized approval of the San Joaquin Valley 2003 PM-10 Plan as meeting the Clean Air Act requirements for serious PM-10 nonattainment areas.
16. Prior to final map approval, the applicant shall provide the Environmental Health Division with an overlay identifying soil types on each proposed parcel and submit percolation tests and soils profiles for all parcels with moderate and severe soil types. Information on groundwater elevation must also be provided.
17. The abandoned well located on the project site shall be properly destroyed with the necessary permit being obtained and inspections made.
18. The applicant shall underground both the Stickney and Bloss Laterals in pipeline assemblies that meet MID standards.

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19. The developer shall work with the MID to purchase and/or exchange existing fee strips and easements to provide for the proper location of, access to, and maintenance of the Stickney and Bloss Laterals.
20. Septic system leach fields for residential parcels adjacent to MID pipelines shall be located a minimum of 20 feet from the pipeline in order to protect the facility from contamination and protect the septic system from possible leakage from the MID facility.
21. The applicant shall enter into a construction agreement with the MID for work associated with MID facilities.
22. The applicant shall obtain a 'Non-Exclusive License Agreement' for all crossings over or under any MID facilities, including driveways, bridges, utilities and pipelines.
23. Fences for the residential parcels adjacent to Quinley Avenue shall be located outside of the new MID easement in order to allow proper access for repair and maintenance.
24. The applicant shall place an MID signature block on the subdivision improvement plans and Final Map.
25. The applicants shall install 5 foot wide landscaped strips along Quinley Avenue and Moran Avenue, in accordance with County requirements. All proposed landscaping shall be identified on the subdivision improvement plans and be approved prior to the recording of the final map.
26. The developer shall: 1) Provide all documentation and shall pay fees associated with annexing the project into the Willow Crest Estates Lighting, Storm Drainage, and Landscape Maintenance Zone of benefit No. 263 in County Service Area No. One for landscape maintenance and/or lighting and storm drainage maintenance and 2) and form Silva Meadows Sewage Zone of Benefit #268 in County Service area No. one for groundwater monitoring of on-site sewage systems.
27. The developer shall provide landscape irrigation water by connecting to the existing system at the north boundary of the subdivision. The developer shall reimburse the developer(s) of Willow Crest Estates Subdivision No. 00009 and Green Acres Subdivision No. 03009 for their pro-rata share, based upon linear feet of Quinley Avenue and Moran Avenue frontage, of the cost of well development and the landscape irrigation system upgrades to accommodate Silva Meadows Major Subdivision No. 03017. The Department of Public Works will administer the reimbursement.
28. To address concerns over potential impacts of the project on adjacent farmland, the project applicant shall construct a 7-foot masonry wall along the subdivision boundary with the Horta property.
29. To complement the required landscaping, the applicant shall construct monumented and landscaped entrance features identifying the subdivision at the Moran and Quinley Avenue entrances.
30. The design, color and materials proposed for the required masonry wall and entrance features shall be reviewed and approved by the Planning

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Department prior to the issuance of any building permits.

31. The applicant shall pay the Parkland Dedication and/or Improvement fees consistent with Ordinance No. 1090 prior to recording the Final Map.
32. For the purpose of mitigation and/or condition monitoring, a fee in the amount of **\$460.00** shall be required. The fee shall be paid prior to recordation of the Final Map.
33. Three (3) groundwater-monitoring wells shall be constructed to the standards and locations determined by the Division of Environmental Health. These monitoring wells shall be monitored at least twice a year for the constituents determined by the Division of Environmental Health.

- D. GENERAL PLAN TEXT AMENDMENT NO. 03004 – Merced County -** For minor revisions to the Merced County Housing Chapter. Minor revisions are being recommended to the Housing Chapter of the Merced County General Plan in order to meet State Department of Housing & Community Development requirements. These revisions include text modifications for the following topic areas: Infrastructure capacities and financing, permit processing procedures for homeless shelters, housing accessibility for persons with disabilities, building fees, and subsidized units at risk for conversion. **TO RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE REVISED APPLICATION. Project Planner John LeVan**

Planner John LeVan presented the Staff Report and Recommendation dated August 11, 2004.

The public hearing opened at 11:10 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 11:10 a.m.

MOTION: M/S WHITNEY - BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION RECOMMENDS TO THE BOARD OF SUPERVISORS TO APPROVE GENERAL PLAN TEXT AMENDMENT NO. 03004.

- E. 1st MODIFICATION No. 04009 TO CONDITIONAL USE PERMIT No. 03012 - Vincent Ochoa - "Chikito Banano" -** To modify Condition # 5 of the Conditions of Approval of CUP 03012, as approved by the Planning Commission on Feb. 11, 2004. The modification proposes disc jockeying from Wednesday thru Sunday, and live bands on weekends. The property is located on the northwest corner of Winton Way and Gerard Avenue on land designated as Winton Specific Urban Development Plan (SUDP) Commercial land use in the General Plan and zoned C-2 (General Commercial) (.15 acres) **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.**

Planner Robert King presented the Staff Report and Recommendation dated August 11, 2004.

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

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Mike Smith, CCPS, indicated that Mr. Ochoa, the owner was going to talk with the property owner to the south to get permission to use the parking at his business for his customers at the bar. He also feels that Mr. Ochoa is in his rights for adding the requested modification to this application. Mr. Ochoa has done a lot of improvements on this property and the noise shouldn't be a concern.

Brenda Williams, Winton MAC member, stated that this bar is in the middle of commercial property. She feel the bar owner wants a night club. They are only allowed to have live entertainment 6 times a year and they have the live entertainment more than that. She asked the Commission to deny the modification.

Bernie Williams, a resident on Center Street, stated that he sent around a petition for neighbors to sign to deny this application. That petition was handed out to the Commissioners.

Gloria Rodriguez, a resident on Center Street, stated that she has not heard any noise and she does go outside and walk around and talks with neighbors. She feels that the bar does not have an impact on her. She is in favor of this modification.

Bill Blake, Undersheriff, stated that the bar is not maintained and is unruly. There are constant problems there. He is opposed to this modification.

Tom Cavallero, Sheriff, stated that there has been 29 police calls to come out to the bar. 22 arrests have been made there since March 1, 2004. He feels if this modification is approved, it could get much worse there.

Jay Callahan, resident on Golden Rule Rd. in Winton, and a member on the Winton MAC, stated that there have been shootings in Winton. He is against this project.

Marlys Flores, Chairperson on the Winton MAC, wants to see the reputation of Winton change for the better. She asked for denial of this modification.

Vincent Ochoa, owner of the bar, stated that he hasn't had any problems since he became the owner of the bar in March. He has insulated the building to improve the loudness of the bar. The previous owner had the problems with the bar, not him. He stated that the business won't make it if there is no live entertainment.

Chairman Steve Sloan indicated to Mr. Ochoa that there has been live entertainment since the bar opened up.

Gloria Rodriguez feels that the Sheriff's Department and surrounding neighbors are harassing the bar, simply because they don't want it there.

The public hearing closed at 11:45 a.m.

MOTION: M/S TANNER - BETTENCOURT, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DENIES 1st MODIFICATION No. 04009 TO CONDITIONAL USE PERMIT No. 03012 DUE TO THE INABILITY TO MAKE THE MODIFICATION TO CONDITION #5 REGARDING LIVE ENTERTAINMENT.

- F. MINOR SUBDIVISION APPLICATION No. 04038 AND ZONE VARIANCE APPLICATION No. 04007 – Jaime Fuentes – To vary from the 20 acre minimum parcel size and divide a 4.3 acre parcel into two parcels: Parcel 1 = 3.3 acres and Parcel 2 = 1.0 acre on property located north of Gertrude Avenue approximately 1800 east of Winton Way in the Winton area designated as Agricultural in the**

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General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King**

Project Planner Robert King indicated that the applicant requested that this application be continued to the August 25, 2004 meeting. The Commission agreed to the applicants request.

- G. CONDITIONAL USE PERMIT APPLICATION NO. 03003 – Kelsey Ranch LP – To legalize and expand an existing private 125 acre recreational bass fishing lake by expanding fishing activity to include two additional ponds and constructing a Bed and Breakfast facility. The subject property is located on the north side of Merced Falls Road, four miles east of La Grange Road and is designated Exclusive Agricultural in the Merced County General Plan and zoned A-2 (Exclusive Agricultural). (2,589 acres). **TO ADOPT THE MITIGATED NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland****

Planner James Holland presented the Staff Report and Recommendation dated August 11, 2004.

The public hearing opened at 12:02 p.m.

Brett Jolley, representative for the Kelsey's, feels that this project is good for the Community. He asked for support of this application.

The public hearing closed at 12:05 a.m.

Commissioner Tanner asked where the two other lakes are located. Planner James Holland indicated that the original map drawn was drawn on a large scale. He did indicate that they are to the north of the property.

Chairman Sloan asked how far away from the main reservoir are those two ponds.

Jon Kelsey, owner and applicant, stated that are located about 1 mile to the north and slightly west to the main lake. That pond is not used very much. There is no fresh water source coming into it. The 2nd pond is located about 300 yards west of the lake. The 3rd pond is located to the south. Chairman Sloan asked if all the ponds are outside of the Williamson Act Contract. Mr. Kelsey stated that the northern most pond may be under contract.

Ruben Castillo, County Counsel, is concerned with the County not back into a Williamson Act Contract violation. He can't say whether or not this will be a problem.

Planner James Holland indicated that the Williamson Act does allow for limited use of parcels under Williamson Act conservation for uses other than agricultural. This would not be inconsistent with General Plan provisions.

Commissioner Tanner asked if they are planning to do upgrades on the road to the north pond. Chairman Sloan indicated that has no effect on the Williamson Act.

William Nicholson, Planning Director, stated that this item should be continued so County Counsel can look into this further.

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Chairman Sloan asked Mr. Kelsey if he can withdraw the northern pond from the proposal. Mr. Kelsey replied that there are no changes occurring in the north pond. Chairman Sloan stated that charging for fishing might interpreted by the Department of Conservation under very strict interpretation as modifying the use of the pond under the Williamson Act Contract. Mr. Jolley replied that deleting the north pond from this application would be ok in order to allow approval today. Ruben Castillo stated that would be acceptable deleting the north pond.

MOTION: M/S WHITNEY – BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVES THE MITIGATED NEGATIVE DECLARATION PREPARED FOR CONDITIONAL USE PERMIT APPLICATION NO. 03003 WITH 3 MITIGATION MEASURES.

MOTION: M/S WHITNEY - BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED AUGUST 11, 2004, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES CONDITIONAL USE PERMIT APPLICATION NO. 03003 SUBJECT TO THE 19 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS WITH THE NORTHERN POND TO BE REMOVED FROM THE APPLICATION.

Conditions:

1. Conditional Use Permit Application No. 03003 is to legalize the existing Kelsey Bass Ranch private fishing club and to allow expansion of fishing activities to three small lakes, construction of a picnic pavilion and construction of a 'Bed and Breakfast' facility.
2. The applicants 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.
3. Bass Ranch lake facility and Bed and Breakfast facility on-site sewage disposal systems must be approved by the Merced County Division of Environmental Health.
4. The Bed and Breakfast facility must meet the requirements of the California Uniform Retail Food Facilities Law (CURFFL) of the California Health and Safety Code. Complete food service plans and specifications must be submitted to the DEH for review and approval prior to construction.
5. The applicant shall submit a new site plan that provides for a reserved handicapped parking area at the lake side fishing club facilities and submit a parking design for the Bed and Breakfast facility that provides for 18 parking spaces, including one space that is dimensioned, painted and signed as a handicapped parking stall consistent with the requirements of subsection 18.40.03E of the Zoning Code.
6. The property owner(s) shall dedicate to the County of Merced, a 40-foot width of road right-of-way (property owner's half of an 80-foot ultimate right-of-way width) along the entire frontage of Merced Falls Road. The legal

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description(s) and exhibit(s) needed for the grant deeds shall be prepared by a licensed land surveyor or by a civil engineer authorized to perform land surveying. Approved grant deeds with accompanying legal description(s) and exhibit(s) shall be submitted for recordation prior to the issuance of the Certificate of Occupancy by the DPW/Building and Safety Division (Building Permit & Inspection) for the any new buildings or within three months from the date on which this permit was approved, which ever occurs first.

7. The property owner(s) shall obtain an Encroachment Permit from the Department of Public Works/Road Division, pay the required permit fees, and perform acceptable repairs to the existing driveway approach onto Merced Falls Road. All work shall be in accordance to the Merced County Public Works Improvement Standards and Specifications. This work shall be accomplished prior to the issuance of the Certificate of Occupancy by the DPW/Building and Safety Division (Building Permit & Inspection) for the any new buildings or within three months from the date on which this permit was approved, which ever occurs first.
8. The property owner(s) shall obtain an Encroachment Permit from the Department of Public Works/Road Division, pay the required permit fees, and install and operate at all times for the life of this conditional use permit, a street light at the driveway entrance onto Merced Falls Road. The street light may be mounted on an electrical type wood pole. The expense of maintaining and operating the street light shall be paid by the property owner. This work shall be accomplished prior to the issuance of the Certificate of Occupancy for the any new buildings or within three months from the date on which this permit was approved, which ever occurs first.
9. The existing 14 foot wide access road shall have a vertical clearance of at least 13 feet 6 inches, and extend to 150 feet of all portions of significant buildings. An all-weather driving surface is required for developed properties, capable of supporting highway loads (UFC 901 and 902).
10. Provisions for on-site fire protection may be required when the overnight facilities or other significant buildings are constructed. An overall plan of the site should be submitted to the Fire Department at that time.
11. Access gates, if any, must be provided with a Merced County coded 'Knox' key switch or a 'Knox' padlock, whichever is most appropriate (UFC 902.4).
12. Approved addressing or numbers shall be placed on premises in such a position as to be plainly visible and legible from the street fronting the property (UFC 901.4.4).
13. The parcel shall be maintained in a condition that will not be dangerous or injurious to neighboring property. Weeds, rubbish and other dangerous or injurious materials are a public nuisance and required to be abated under MCC Section 9.25.
14. The applicant shall provide the Department of Public Works with a storm drainage plan that provides for management of stormwater generated by the project facilities in a manner that is consistent with County standards.
15. All parking and maneuvering areas and driveways shall be surfaced with materials identified as suitable by the Department of Public Works.

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16. a) The project proponent shall comply with the dust control regulations of the SJVAPCD during construction, including Rule 8021 or successor regulation by implementing the following requirements during construction: (CMM):

CONTROL MEASURE OPTIONS FOR CONSTRUCTION, EXCAVATION, EXTRACTION, AND OTHER EARTHMOVING ACTIVITIES

PRE-ACTIVITY:

A1 Pre-water site sufficient to limit VDE to 20% opacity, and
A2 Phase work to reduce the amount of disturbed surface area at any one time.

DURING ACTIVE OPERATIONS:

B1 Apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity; or
B2 Construct and maintain wind barriers sufficient to limit VDE to 20% opacity. If utilizing wind barriers, control measure B1 above shall also be implemented; or
B3 Apply water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas sufficient to limit VDE to 20% opacity and meet the conditions of a stabilized unpaved road surface.

TEMPORARY STABILIZATION DURING PERIODS OF INACTIVITY:

C1 Restrict vehicular access to the area; and
C2 Apply water or chemical/organic stabilizers/suppressants, sufficient to comply with the conditions of a stabilized surface. If an area having 0.5 acres or more of disturbed surface area remains unused for seven or more days, the area must comply with the conditions for a stabilized surface area as defined in Rule 8011.

- b) The project sponsor shall implement the following requirements of SJVAPCD Rule 8061 during special events where more than 35 vehicles are projected to access the Kelsey Reservoir area. The calculation of the number of vehicles shall be based on the number of expected participants divided by two persons per vehicle.
- i. On each day that 75 or more vehicle trips will occur on an unpaved road segment, the owner/operator shall limit VDE to 20% opacity from the unpaved road segment by application and/or maintenance of at least one of the following control measures:
- Watering;
 - Uniform layer of washed gravel;
 - Chemical/organic dust suppressant;
 - Vegetative materials;
 - Paving;
 - Any other method that effectively limits VDE to 20% opacity.
- ii. On each day that 100 or more vehicle trips will occur on an unpaved road segment, the owner/operator shall limit VDE to 20% opacity and comply with the requirements of a stabilized unpaved road surface by the application and/or maintenance of at least one of the following control measures:
- Watering;

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- Chemical/organic stabilizers/suppressants in accordance with the manufacturer's specifications;
 - Roadmix;
 - Paving;
 - Any other method that results in a stabilized unpaved road surface.
17. a) No grading or development shall occur in potential wetland areas located in the ponded depression of the proposed roadway. Prior to initiating clearing or grading of the proposed roadway, and during late spring, the County shall require the project sponsor to retain a qualified biologist to perform a wetland delineation for the site. If it is determined that the ponded area would qualify as a jurisdictional wetland, the road corridor shall be modified to avoid the wetland feature.
- b) Signs shall be posted to limit the speed of vehicles traveling along the main ranch road to 15 mph to minimize Merced kangaroo rat mortality. In addition, the project sponsor shall include information on potential effects to the Merced kangaroo rat in the Kelsey Bass Ranch literature to increase member awareness.
- c) There are a few scattered willow and cottonwood trees around the perimeter of the reservoir. Most are small and dead due to fluctuating water levels. These snags provide poor nest sites for raptors. Nonetheless, it is possible that a raptor could establish a nest in one. If construction of the cabins or pavilion occurs during raptor nesting season (generally spring and early summer), no longer than 30 days prior to construction, a qualified biologist shall, as a precautionary measure, check for active raptor nests within a quarter mile of the construction site. If a nest is discovered, construction shall either be delayed or modified, depending on species and distance of the nest from the construction site, until the young have fledged. (MM)
18. Should any adverse traffic operations be reported by law enforcement or road operations agencies (CHP, CalTrans, Merced County Sheriff, or Public Works Department) during special events, Merced County shall require that the applicant prepare and implement a traffic control plan to minimize adverse traffic operations and maintain travel safety. The traffic control plan shall be reviewed and approved by the Merced County, Department of Public Works, Road Division, prior to implementation. (MM)
19. A mitigation-monitoring fee of **\$480.00** shall be paid prior to submittal of any building plans. Should additional staff time be required for review of the development plans or condition monitoring, the applicant shall reimburse the County for staff time at the established hourly rate at the time of plan review or inspection.

H. ADMINISTRATIVE APPLICATION No. 03112 – Bart Ramirez (Ramirez and Sons Trucking) To review the applicant's progress in complying with the approval conditions required for Administrative Permit No. 241 and consider whether to revoke the permit or approve an extension of the compliance period. Administrative Permit No. 241 allowed the location and expansion of an agricultural trucking and

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equipment storage business located on the north side of Le Grand Road, at its intersection with Santa Fe Avenue. The project site is located within the Le Grand SUDP area, designated Le Grand SUDP Industrial in the General Plan and zoned M-1 (Light Manufacturing). **TO REVOKE, MODIFY, OR RETAIN THE EXISTING PERMIT. Project Planner James Holland**

Planner James Holland presented the Staff Report and Recommendation dated August 11, 2004.

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

Bart Ramirez, owner, stated that he will vacate the property by the end of the almond season. On December 31st he will close the business completely. He did ask if he can keep the fruit bins on the corner of the property since they are hard to move around. He will take them out on December 31st however. He is moving his business to Madera County. There is no other agricultural land in Le Grand that he could use.

Chairman Sloan reminded Mr. Ramirez that the fruit bins must be removed by December 31st. Mr. Ramirez agreed.

The public hearing closed at 12:37 a.m.

MOTION: M/S WHITNEY – BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION REVOKES ADMINISTRATIVE APPLICATION No. 03112 EFFECTIVE ON DECEMBER 31, 2004.

VI. CORRESPONDENCE

William Nicholson, Planning Director, discussed with the Planning Commission to receive comments for the Winton School District on a potential elementary school site at the southwest corner of Walnut Avenue and Chestnut Lane in the Community of Winton. The Commissioners agreed to have Mr. Nicholson provide a letter of comments regarding the potential school site to the Winton School District.

Mr. Nicholson also invited the Planning Commissioners to attend the Planning Commissioners Conference in Pleasanton.

VII. GENERAL BUSINESS

The Board of Supervisors approved the appeals for Minor Subdivision/John Zoria, Administrative Application/Patricia Campbell and Minor Subdivision/Rodney Bianchi projects that were denied by the Planning Commission.

Ruben Castillo indicated that he will not be attending the August 25th meeting and Fernanda Saude will be taking his place for that meeting.

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

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There being no further business, the meeting adjourned at 12:54 p.m.