



**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 AUGUST 25, 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. 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. Continued from the August 11, 2004 meeting. Project Planner Robert King****
- B. ZONE CHANGE No. 04003 and MINOR SUBDIVISION No. 04034 – H/S Development - To change the zoning of a 19.9 acre parcel from A-1 (General Agricultural) to R-1-5000 (Single-Family Residential) and subdivide the property into two parcels: Parcel A = 3 Acres and Parcel B = 17.20 Acres. The parcel is located within the Merced SUDP on the south side of Gerard Avenue, one quarter mile west of Tyler Road and is designated Low Density Residential in the General Plan. **TO RECOMMEND THE BOARD OF SUPERVISORS APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland****

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

A. Workshop on Revisions to the Animal Confinement Ordinance

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

APPEALS

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

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

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MINUTES FOR MEETING OF AUGUST 25, 2004

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of August 25, 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 9:04 a.m., on August 25, 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 Lynn Tanner (acting Chairperson)
 Commissioner Gloria Bettencourt
 Commissioner Rudy Buendia

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

Legal Staff: Fernanda Saude, Deputy County Counsel

Commissioners Absent: Chairman Steve Sloan, absent, excused

III. APPROVAL OF MINUTES

M/S WHITNEY - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF AUGUST 11, 2004 MODIFICATION TO THE MINUTES FOR THE SILVA MEADOWS SUBDIVISION AS PRESENTED BY STAFF.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. 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. Continued from the August 11, 2004 meeting. Project Planner Robert King**

Planner Robert King presented the Staff Report and Recommendation dated August 25, 2004.

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

Mike Smith, CCPS, asked for approval of this application. He also stated that a Minor Subdivision and Zone Variance application was approved one year ago to the

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north of this application. He stated that the area surrounding this property is A-R zoned.

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

Commissioner Larry Whitney stated he initially supported staff's recommendation, but after hearing the testimony, he now supports the applications.

Commissioner Lynn Tanner stated that he also would be in favor of approving this application.

MOTION: M/S WHITNEY - BETTENCOURT, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. 04038 AND ZONE VARIANCE APPLICATION No. 04007, FROM CEQA.

MOTION: M/S WHITNEY - BETTENCOURT, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED AUGUST 25, 2004, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. 04038 AND ZONE VARIANCE APPLICATION No. 04007 SUBJECT TO THE 10 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Approval of Minor Subdivision Application No. 04038 shall be contingent upon the approval of Zone Variance No. 04007.
2. A Parcel Map shall be recorded within two (2) years of the Planning Commission approval date as required by the Subdivision Map Act and Merced County Subdivision Code.
3. Prior to recordation of the final map, the property owner shall dedicate right of way along the Gertrude Avenue frontage to the satisfaction of the Department of Public Works.
4. Prior to issuance of building permits for either Parcel 1 or 2, the property owner shall obtain encroachment permits and satisfy Level 3 Improvements as required by the Public Works Department.
5. The Final Map shall indicate a 20 foot wide minimum non-exclusive easement for access from Gertrude Avenue to Parcel 2.
6. Prior to issuance of any Building Permit an all weather road along the reserved non-exclusive easement to Parcel 2 shall be constructed to the satisfaction of the Merced County Fire Department.
7. A Right-to-Farm Certificate shall be placed on the parcel map notifying the potential buyers of the resulting parcels that the subject property is in the vicinity of active farming operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of agricultural operation.

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8. The project shall comply with the standard conditions of approval as adopted in Planning Commission Resolution No. 97-1.
9. The applicant shall comply with all County, State and Federal regulations
10. The property owner shall obtain a “Non-Exclusive License Agreement” for crossing facilities of the Merced Irrigation District.

- B. ZONE CHANGE No. 04003 and MINOR SUBDIVISION No. 04034 – H/S Development -**
To change the zoning of a 19.9 acre parcel from A-1 (General Agricultural) to R-1-5000 (Single-Family Residential) and subdivide the property into two parcels: Parcel A = 3 Acres and Parcel B = 17.20 Acres. The parcel is located within the Merced SUDP on the south side of Gerard Avenue, one quarter mile west of Tyler Road and is designated Low Density Residential in the General Plan. **TO RECOMMEND THE BOARD OF SUPERVISORS APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**

Planner James Holland presented the Staff Report and Recommendation dated August 25, 2004.

The public hearing opened at 9:31 a.m.

Rod Hawkins, representing H/S Development, stated that there will be no development until this property is annexed into the City of Merced.

The public hearing closed at 9:32 a.m.

MOTION: M/S WHITNEY - BETTENCOURT, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS TO EXEMPT THIS PROJECT FROM CEQA PROVISIONS TO THE BOARD OF SUPERVISORS.

MOTION: M/S WHITNEY - BETTENCOURT, AND CARRIED BY A VOTE OF 4 – 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE ZONE CHANGE No. 04003 AND MINOR SUBDIVISION No. 04034.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

A. Workshop on Revisions to the Animal Confinement Ordinance

Jeff Palsgaard, Division of Environmental Health presented the revisions to the Animal Confinement Ordinance. He stated that the schedule for the Animal Confinement Ordinance will be a September 2004 Dairy Technical Advisory meeting. Also in September 2004 there will be a Planning Commission public hearing. In October 2004, there will be a Board of Supervisors public hearing. Some revisions to discuss will include relocating the Animal Confinement Ordinance into the Zoning Code. Another revision would be to revise the setback for a new facility from ½ mile to 1,000 feet from State and Federal wildlife areas. Another revision would be to add a setback requirement for goat facilities of 500 feet from State/Federal wildlife areas and offsite residences. In terms of expansions, one proposal would allow for consideration of an expansion of existing facilities within 1,000 feet of an existing residence with written permission from the offsite property owner. And also, to allow

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processing of an application for the expansion of existing facilities within ½ mile of an SUDP or closer than 1,000 feet from an existing offsite residence as long as the expansion is no closer than the existing separation distance. More revisions relate to homes within 1,000 feet of a facility. The changes would allow offsite residences closer than 1,000 feet from an existing facility with facility owner permission and to allow an existing offsite dwelling located closer than 1,000 feet from be remodeled or replaced without obtaining a waiver. The changes would provide clarification for the waiver process by adding owner/family member/farm worker residences may be allowed by waiver, and also to allow offsite residences closer than 1,000 feet to existing facilities for hardship cases (care and safety or elderly or disabled family member).

The public was asked to provide any comments.

Tom Terpstra, of Herrum, Crabtree, Brown in Stockton, supports the proposed revisions to the Animal Confinement Ordinance. These revisions clarify and improve the process to allow neighbors to work together.

Joe Ramos, of Western United Dairyman, is in support of the proposed revisions. He asked for another amendment to allow proposed dairies to receive protection from the 1,000 foot setback from adjacent homes.

Joshua Bernard, Hilmar Dairy Owner, asked for consideration of these revisions. He stated that when a dairyman is in the process of buying a facility, they make sure that the property fits with existing regulations. But a neighbor can add a house while they are in the approval process and it has a large impact on the application.

Denise Malnax, Hilmar Cheese Co., is in support of these revisions. She suggested that language be added regarding the existing dwelling being remodeled that they be able to breach the 1,000 feet. She would like to see the new language to state that as long as the new construction does not diminish the existing separation. She also stated that we should not be automatically granting waivers to some proposed dwelling for off-site property owners, and asked if the operator of the dairy or the landowner could sign-off on a dwelling within 1,000 feet.

William Nicholson, Planning Director, explained that when the County issues a permit it goes to the landowner. The owner could change the leaseholders for a dairy, so there needs to be a legal link to the landowner being authority for what is going on the property.

Jeff Palsgaard added that the issue with the offsite residence construction during the application process was discussed at the Dairy Technical Advisory Committee and there was concern for that situation.

Fernanda Saude, Deputy County Council, indicated to the Commission that further thought should be considered on rewording the provisions if this was to be considered.

Tom Terpstra, attorney, stated that by working with County Council, they could come up with something to protect the rights of both sides. He feels that there is a way to work it out that respects the rights of both property owners. Commissioner Tanner has no problem with it. Mr. Palsgaard agreed.

The public opportunity to speak was closed at 10:07 a.m.

VIII. DIRECTOR'S REPORT

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None

IX. ADJOURNMENT

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