



**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 SEPTEMBER 22, 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. ZONE VARIANCE No. 02032 and MINOR SUBDIVISION No. 02060 – Ronald McDevitt -**
To vary from the 160 acre minimum parcel size in the A-2 (Exclusive Agricultural) zone and subdivide the 197-acre parcel into three lots; Parcel 1 = 52.0 acres, Parcel 2 = 74.0 acres, and Parcel 3 = 67.3 acres. The property is designated as Foothill Pasture in the Merced County General Plan and located 1 ¼ miles east of Bonita Rd. two miles south of Billy Wright Rd. in the Los Banos area. (197.0 acres). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the September 8, 2004 meeting. Project Planner Robert King**
- B. APPEAL No. 04002 – APPEAL OF HEARING OFFICER APPROVAL OF MINOR SUBDIVISION APPLICATION No. 04003 – Nathaniel Woodhouse – Appellant Jeff June**
– Appeal of the Hearing Officer decision of July 12, 2004, to approve the division of a 3.04 acre parcel into 3 parcels of approximately one acre in size. The minor subdivision is located south of La Loma Road, approximately 1,175 feet west of Los Olivos Road in the Merced area. The property is designated Merced Rural residential Center #1 in the General Plan and Zoned A-R (Agricultural-Residential). **TO DENY OR UPHOLD THE APPEAL. Project Planner James Holland**

- C. **MAJOR SUBDIVISION APPLICATION No. 04009 – “Savanna” Ranchwood Contractors, Inc.** – To subdivide a 9.19 acre parcel into 44 lots with a minimum of 6,000 square feet on property located at the southwest corner of Santa Fe Avenue and Savanna Road in the Le Grand SUDP area which is designated as Low Density Residential land use in the General Plan and is zoned R-1. **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Consulting Planner Skip Strathearn**
- D. **MAJOR SUBDIVISION APPLICATION No. 04006 – “Fleming Hills”** – To subdivide 28 acres into 24 parcels approximately one acre each on property located at the southwest corner of Fleming Road and Herrod Avenue in the Atwater area which is designated as Atwater Rural Residential Center-Agricultural Residential land use in the General Plan and is zoned A-R (Agricultural Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Consulting Planner Julie Reigelsberger**

VI. **CORRESPONDENCE**

None

VII. **GENERAL BUSINESS**

CLARIFICATION OF PLANNING COMMISSION DECISION ON APPEAL NO. 04001 - Val Court - To clarify the intent of the Planning Commission decision on June 9, 2004, to allow a former bar/cocktail lounge to maintain its non-conforming status by determining whether the rear yard was included as part of the non-conforming use. The property is located on the northwest corner of Lincoln and Westside Boulevards in the Livingston area on land designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (2.3 acres). **TO CLARIFY THE INTENT OF THE PLANNING COMMISSION**

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 – September 22, 2004

Page 2

Duane Andrews, Golden Valley Engineering, stated that he took over this project two years ago and there will be no uses that are not allowed in this zone. He doesn't feel that approval of this project will result in special privilege. This should be considered a right and not a special privilege. He doesn't feel that anyone would want to build a home in the back since it is such a remote area. He asked for consideration of approval regarding this application.

Paul Alldready, of the Los Banos School District, stated that he has concerns of creating 3 parcels rather than 1. He does feel that this project has a potential impact on the school district. He stated that once the applicant agrees to a full mitigation and an EIR in compliance with CEQA guidelines. He is opposed to this application.

The public hearing closed at 9:29 a.m.

MOTION: M/S TANNER - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION DENIES ZONE VARIANCE No. 02032 AND MINOR SUBDIVISION No. 02060 DUE TO THE INABILITY TO MAKE THE LISTED FINDINGS AND CONDITIONS AS STATED IN THE STAFF REPORT.

- B. APPEAL No. 04002 – APPEAL OF HEARING OFFICER APPROVAL OF MINOR SUBDIVISION APPLICATION No. 04003 – Nathaniel Woodhouse – Appellant Jeff June –** Appeal of the Hearing Officer decision of July 12, 2004, to approve the division of a 3.04 acre parcel into 3 parcels of approximately one acre in size. The minor subdivision is located south of La Loma Road, approximately 1,175 feet west of Los Olivos Road in the Merced area. The property is designated Merced Rural residential Center #1 in the General Plan and Zoned A-R (Agricultural-Residential). **TO DENY OR UPHOLD THE APPEAL. Project Planner James Holland**

Planner James Holland presented the Staff Report and Recommendation dated September 22, 2004.

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

Ann Bean, neighbor of Nathaniel Woodhouse, stated that her concern is the water situation. She stated that the wells will have to be lowered. Chairman Steve Sloan asked how big Ms. Bean's parcel is. Ms. Bean replied 6 acres.

David Heinrichs, of Fremming, Parsons & Pechennino, passed out a map to each of the Commissioners showing the drainage easements and the surrounding area. He stated that the improvements for drainage have never been installed.

The public hearing closed at 9:51 a.m.

Commissioner Tanner commented that Ms. Bean doesn't have an easement because it goes through the center of the property. Planner James Holland explained the southern easement was intended to drain. Chairman Sloan asked if the drainage easement goes west then? Planner Holland stated that it terminates at the property line. There is no formal arrangement for the management of the runoff to the west.

MOTION: M/S TANNER - BETTENCOURT, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION DENIES APPEAL No. 04002 – APPEAL OF HEARING OFFICER APPROVAL OF MINOR SUBDIVISION APPLICATION No. 04003.

- C. MAJOR SUBDIVISION APPLICATION No. 04009 – “Savanna” Ranchwood Contractors, Inc. – To subdivide a 9.19 acre parcel into 44 lots with a minimum of 6,000 square feet on property located at the southwest corner of Santa Fe Avenue and Savanna Road in the Le Grand SUDP area which is designated as Low Density Residential land use in the General Plan and is zoned R-1. TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Consulting Planner Skip Strathearn**

Planner Skip Strathearn presented the Staff Report and Recommendation dated September 22, 2004.

Desmond Johnston, Deputy Director, suggested going ahead and approving the proposed application and then later dealing with the merger as a separate action. Chairman Sloan agreed. Duane Andrews, Golden Valley Engineering and representing the applicant, stated that he would like to get approval on this project today rather than continue this item.

The public hearing opened at 10:31 a.m.

Duane Andrews, Golden Valley Engineering, stated that the well site will go on a triangular piece of land just outside the proposed subdivision, just east of the Savanna subdivision. There will be no well site within the subdivision.

Brian Stice, Ranchwood Homes, stated that his position would be to have the Planning Commission approve this Major Subdivision today and he will come back in the near future to apply for a merger.

The public hearing closed at 10:35 a.m.

Planner Strathearn, indicated that Finding #1 will need to be changed to create 44 single family lots instead of 43. Chairman Sloan indicated that Condition #15 shall be deleted as well. Chairman Sloan stated that Finding #1 shall read “The proposed project to subdivide 9.19 acres into 44 single family residential lots to be known as the Savanna Subdivision”.

MOTION: M/S TANNER - AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION APPLICATION No. 04009.

MOTION: M/S TANNER - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED SEPTEMBER 22, 2004, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES MAJOR SUBDIVISION APPLICATION No. 04009 SUBJECT TO THE 29 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. The Final Map, or all map phases, shall be recorded within two years of the Planning Commission approval date.
2. The project proponents shall obtain and submit an Unconditional Water and

MERCED COUNTY PLANNING COMMISSION

Minutes – September 22, 2004

Page 4

- Sewer Commitment Notice from the Le Grand Community Services District prior to recordation of the Final Map, or a first phase Final Map.
3. Water and sewer improvements shall be constructed and applicable user fees paid as per the specifications and requirements of the Le Grand Community Services District.
 4. Any phasing of the proposed subdivision shall be subject to review by the Merced County Fire Department.
 5. The minimum fire hydrant flow of 1,000 gallons per minute for residential areas shall be required by the Merced County Fire Department.
 6. All abandoned wells and septic tanks must be properly destroyed in accordance with Merced County standards and under permit and inspection from the Division of Environmental Health.
 7. 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.
 8. All lot and street 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 project proponent shall enter into an agreement with public works that no occupancy shall occur until such time as all improvements are completed.
 9. The project proponent shall release and relinquish all abutter's rights of access to and from the entire Santa Fe Avenue frontage of the subdivision.
 10. The applicant shall install landscaping with automatic irrigation systems along the noise wall and rear yard wall along Savanna Road to the satisfaction of the Planning Director in consultation with the Parks & Recreation Division. Walls adjacent to these landscaped areas shall be masonry.
 11. The project proponent shall pay all costs and provide all documents necessary to form or annex into the landscaping and park maintenance zone of benefit for McPherson Subdivision No. 03001 prior to recording of the Final Map. The areas to be covered by the zone of benefit are landscaping along all perimeter walls and participation in the park maintenance in the adjacent McPherson subdivision.
 12. The project proponent shall be financially responsible for all cost associated with upgrading the existing storm drain pump station located within the American Heritage Homes No. 1 Major Subdivision No. 898 with the inclusion of storm water runoff from the Savanna Subdivision. The project proponent shall be financially responsible for all costs associated with expanding the American Heritage Homes No. 1 storm drain retention basin within McPherson Subdivision No. 03001. Should it be demonstrated that the upgraded storm water drainage basin is inadequately sized to serve as both a drainage basin and park, the project proponent shall dedicate land

MERCED COUNTY PLANNING COMMISSION

Minutes – September 22, 2004

Page 5

within the Savanna subdivision for park use.

13. Pay the local parkland dedication and improvement fees as required by County Ordinance No. 1090 prior to recording the final map.
14. The project proponent shall enter into a "Subdivision Drainage Agreement" with the Merced Irrigation District Drainage Improvement District (MIDDID No. 1), paying all applicable fees, prior to the recordation of the Final Map, or first phase Final Map.
15. The project proponent shall construct temporary turnarounds at the Santa Maria Drive and/or McPherson Drive dead-end streets if the Savanna Final Map, or any phase of the Final Map which encompasses the dead-end street areas, records prior to the McPherson Subdivision No. 03001 Final Map.
16. The project proponent shall reconstruct Savanna Road from its centerline. The project proponent shall share in the cost to reconstruct the north half of Savanna Road. The project proponent shall realign Savanna Road to intersect Santa Fe Avenue as nearly as possible at a right angle and reconstruct the intersection.
17. The project proponent shall construct speed humps with subdivision improvements if McPherson Drive and Santa Maria Drive go through to Taylor Avenue with McPherson Subdivision No. 03001.
18. The developer shall provide centerline striping for those new roads which intersect the existing peripheral streets.
19. The terms of a Deferment of Construction Agreement recorded in Volume 3372 at Page 261, Merced County Records, shall be implemented by the project proponent.
20. The owner of Parcel 1 as shown on the Parcel Map for Toby Rolfe & Terry Rolfe recorded in Volume 84 of Parcel Maps at Pages 5 and 6, Merced County Records, shall quitclaim all right, title, and interest in the temporary leach/septic easement shown on said map prior to recordation of the Final Map for the Savanna Subdivision, or any phase Final Map encompassing the affected area.
21. A sound wall shall be constructed to reduce exterior noise exposure in outdoor activity areas and the level of noise affecting exterior building facades. The wall shall be constructed in accordance with Table II of the *Acoustical Analysis, Savanna Subdivision, Merced County California, July 23, 2004, Revised August 1, 2004*, prepared by Brown-Buntin Associates, Inc. The sound wall shall be continuous without gaps or openings and should be constructed of a dense material such as masonry blocks or stucco on both sides of a wood/steel frame. The sound wall shall be constructed in accordance with Chapter 18.37.07 of the Merced County Zoning Code, Title 18. The sound wall shall be constructed prior to the issuance of a certificate of occupancy for any lot which is affected by railroad noise as identified in the Acoustical Analysis.

MERCED COUNTY PLANNING COMMISSION

Minutes – September 22, 2004

Page 6

22. Acoustic baffles shall be installed on the interior side of attic vents on the residences that face, or are perpendicular to, the Santa Fe railway on Lots 1, 3, 4, and 44. Certificates of occupancy shall not be issued for the residences on these parcels if acoustical baffles are not installed on the residences on these parcels.
 23. A Right-To-Farm statement shall be placed on the face of the Final Map or any phased Final Maps consistent with County Ordinance No. 1213.
 24. 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.
 25. The project proponent may be required to comply with Federal Regulations for stormwater runoff issued by the Environmental Protection Agency on November 16, 1990 (40 Code of Federal Regulations Part 122, 123, and 124). Construction activities disturbing five 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 proponent shall contact the State Water Resource Control Board's Construction Activity Storm Water Hotline at (916) 657-1146 to determine if the project is subject to applicable stormwater runoff permits. If subject to this permitting the project proponent will be required to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to water quality during construction of the project. If the project is subject to this permitting process, the project proponent shall obtain all required permitting and submit a copy of the approved plans to the Merced County Planning and Community Development Department prior to the issuance of grading permits for the project. If not subject to this permitting process, the project proponent shall submit verification to that effect to the Planning and Community Development Department.
 26. Street trees shall be provided in the front yard of each lot. The tree species shall be accepted by the County Department of Public Works Parks and Recreation Division and Planning Department as part of the improvement plan approval process.
 27. The project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1
 28. 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. MAJOR SUBDIVISION APPLICATION No. 04006 – “Fleming Hills” – To subdivide 28 acres into 24 parcels approximately one acre each on property located at the southwest corner of Fleming Road and Herrod Avenue in the Atwater area which is designated as Atwater Rural Residential Center-Agricultural Residential land use in the General Plan and is zoned A-R (Agricultural Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.****

MERCED COUNTY PLANNING COMMISSION

Minutes – September 22, 2004

Page 7

Planner Skip Straethearn presented the Staff Report and Recommendation dated September 22, 2004.

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

Cheryl Brummett, neighbor, has a concern with the traffic and noise in the area. She asked what the size limit of the houses being built will be.

Garth Pechennino stated that the homes will be at a minimum of 3,000 square feet each and the traffic from the Subdivision will exit from Fleming Road. Ms. Brummett stated that the well will impact people in the area already. Mr. Pechennino also added that he agrees with all the conditions and are in agreement with Public Works regarding the usage of one storm drainage basin as opposed to two in hopes to reduce maintenance costs.

Commissioner Tanner asked Mr. Pechennino if he saw the letter from Merced Irrigation District and asked if he had any problems with it. Mr. Pechennino responded no, they have worked with staff already to relocate the lateral in a position that can be maintained.

Ms. Brummett was also concerned the increase of population and the protection from Fire and Police services in the area. Bill Nicholson, Planning Director, indicated that the area will have to pay impact fees for increased Fire protection.

The public hearing closed at 10:32 a.m.

MOTION: M/S TANNER - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION APPLICATION No. 04006.

MOTION: M/S TANNER - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED SEPTEMBER 22, 2004, AND MAKES THE 12 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 12 FINDINGS, APPROVES MAJOR SUBDIVISION APPLICATION No. 04006 SUBJECT TO THE 19 CONDITIONS WITH CONDITION #20 BEING ADDED AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. The Final Map shall be recorded within two years of the Planning Commission approval date.
2. Individual water and sewer improvements shall be constructed on each lot.
3. The developer shall coordinate storm drainage improvements with the developer of Presidio Estates Major Subdivision No. 02001 (Assessor's Parcel Number 005-041-009) so that one retention basin and pump station serves both subdivisions. Storm drain easements shall be 15 feet in width. The project applicant shall also reserve space within the Fleming Hills project site for a storm water detention basin in the event the basin in the Presidio Estates project site does not have the capacity to serve the storm water generated by the project. The project applicant shall submit information to the Merced County Department of Public Works – Road

MERCED COUNTY PLANNING COMMISSION

Minutes – September 22, 2004

Page 8

Division verifying that the existing basin in the Presidio Estates project has the capacity to serve the Fleming Hills project. If the Presidio Estates basin cannot serve Fleming Hills, the subdivision shall be redesigned to include a stormwater basin.

4. Any phasing of the proposed subdivision shall be subject to review by the Merced County Fire Department.
5. The project proponents shall submit an updated letter from M.I.D. accepting storm drainage water from this proposal prior to recordation of the final map.
6. All abandoned wells and septic tanks must be properly destroyed in accordance with Merced County standards and under permit and inspection from the Division of Environmental Health.
7. 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.
8. Public Works Department has approved a deviation from the minimum roadway centerline radius of 300 feet serving A-R zoned areas to a minimum centerline radius of 200 feet.
9. All lot and street 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.
10. The developer shall provide centerline striping for those new roads, which intersect the existing peripheral streets.
11. The 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) 657-1146.
12. Interior roadways shall be constructed pursuant to Merced County Department of Public Works Improvements Standards and Specifications Drawing ST-06B.
13. 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.
14. Construction activities disturbing five 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

MERCED COUNTY PLANNING COMMISSION

Minutes – September 22, 2004

Page 9

prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to water quality during construction of the project.

15. This project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1.
16. The developer shall comply with the terms of Deferment of Construction Agreement recorded in Volume 2730 of Official Records at Page 201, Merced County Records, and satisfy Improvement Level I 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.
17. The developer shall include the design of Fleming Road improvements along the frontage of Parcels 1 and 2 as shown on the Parcel Map for Hilda Cabral, recorded in Volume 87 of Parcel Maps at Pages 5 & 6, Merced County Records, (Assessor's Parcel Numbers 056-350-033 and 056-350-034) in the subdivision improvement plans.
18. Streets shall be named and designated to the satisfaction of the Fire Department and the Merced County Department of Public Works.
19. 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.
20. An MID signature block on the improvements plans and the Final Map.

VI. CORRESPONDENCE

A letter was received from the Merced Union High School District asking for referrals on all projects regarding the possible school impacts. Currently, referrals are sent to the school districts, but the Planning Department can expect more response from the School Districts.

VII. GENERAL BUSINESS

Mr. Nicholson discussed the Val Court project and indicated that the issued had been fixed. The issue was the liquor license regarding the back portion of the bar.

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:55 a.m.