



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 3, 2004, 9:00 A.M.
2222 "M" STREET, BOARD ROOM, THIRD FLOOR,
MERCED, CALIFORNIA**

I. CALL MEETING TO ORDER

II. ROLL CALL OF COMMISSIONERS

Steve Sloan, Chairman; Lynn Tanner; Gloria Bettencourt; Rudy Buendia; Jack Mobley

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. 04052 – Jon Schmidt –** To divide one 55-acre parcel into two parcels of 27.5 acres in size. The subject property is located on the east side of Santa Fe Avenue, one quarter mile west of Clausen Road and 1.5 miles southeast of the Le Grand Specific Urban Development Plan (SUDP). The parcel is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**
- B. MAJOR SUBDIVISION APPLICATION No. 04004 - Ward Hansen -** To subdivide one 10.7- acre parcel into nine one-acre lots to be known as the 'Hansen Property' and located on the north side of State Highway 140, approximately one half mile east of McKee Road. The property is designated as Merced Rural Residential Center #1 in the General Plan and zoned A-R (Agricultural-Residential) (10.7 Acres). **TO APPROVE THE MITIGATED NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**

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- C. MINOR SUBDIVISION APPLICATION No. 04047 – Anthony Giannone – To divide 90.2 acres into 4 parcels: Parcel No. 1 = 22.3 acres; Parcel No. 2 = 22.5 acres; Parcel No. 3 = 22.6 acres; Parcel No. 4 = 22.8 acres on property located southeast of the intersection of Henry Miller Road and Badger Flat Road in the Los Banos area on land designated as Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King****
- D. GENERAL PLAN AMENDMENT APPLICATION No. 04005, ZONE CHANGE APPLICATION No. 04005, MAJOR SUBDIVISION APPLICATION No. 03019, PLANNED DEVELOPMENT No. 03001 - Waterson Enterprises - To change the General Plan designation from Hilmar SUDP Low Density Residential to Hilmar SUDP Medium Density Residential and zoning from R-1 (Single-Family Residential) to PD (Planned Development) and subdivide a 1.8 acre site into an 18-lot senior's community designed as a Planned Development. The site is located on the south side of Bloss Avenue and 120 feet west of Pearl Street in Hilmar. **TO RECOMMEND APPROVAL OF THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION TO THE BOARD OF SUPERVISORS. Project Planner John LeVan. Continued from the October 27, 2004 meeting.****
- E. CONDITIONAL USE PERMIT APPLICATION NO. 99009, JAXON MINE EXPANSION - To excavate and process 5.1 million cubic yards of aggregate material by: (1) Expanding an existing aggregate surface mine laterally from 90 acres to 304 acres; (2) deepening the mining depth up to 23 feet below surface elevation; (3) modifying the reclamation phasing from five to 20-acre increments; (4) adopting a revised reclamation plan with dry land grazing as the end use; and (5) revising the project hours to include nighttime operations, on property located on the south and east side of White Rock Road, 1/4-mile north of Le Grand Road in the Le Grand area, designated as Foothill Pasture in the General Plan and zoned A-2 (Exclusive Agricultural). **TO ADOPT A RESOLUTION (1) CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, (2) ADOPTING FINDINGS OF FACT, (3) AND ADOPTING A MITIGATION MONITORING PROGRAM, AND TO APPROVE, DISAPPROVE OR MODIFY THE CONDITIONAL USE PERMIT AND RECLAMATION PLAN. Consulting Planner Bruce Steubing****

VI. CORRESPONDENCE

VI. GENERAL BUSINESS

VII. DIRECTOR'S REPORT

VIII. 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 NOVEMBER 3, 2004

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of November 3, 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 9:06 a.m., on November 3, 2004, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Jack Mobley
 Commissioner Steve Sloan-Chairman
 Commissioner Lynn Tanner
 Commissioner Gloria Bettencourt
 Commissioner Rudy Buendia

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

Legal Staff: Ruben Castillo, County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

- A. MINOR SUBDIVISION APPLICATION NO. 04052 – Jon Schmidt – To divide one 55-acre parcel into two parcels of 27.5 acres in size. The subject property is located on the east side of Santa Fe Avenue, one quarter mile west of Clausen Road and 1.5 miles southeast of the Le Grand Specific Urban Development Plan (SUDP). The parcel is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland****

Planner James Holland presented the Staff Report and Recommendation dated November 3, 2004.

The public hearing opened at 9:20 a.m.

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Duane Andrews, Golden Valley Engineering, stated that there is no intent to build or sell the homes on the property and the purpose for the division is for estate planning purposes. He asked for approval of this project.

Scott Porter, resident on LeGrand Road, stated that he farms north of the proposed property. He feels this subdivision will cause problems with the neighbors that are non farming interests. He feels there is no other reason to divide other than for development.

The public hearing closed at 9:24 a.m.

MOTION: M/S TANNER - BETTENCOURT, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION NO. 04052 FROM CEQA.

MOTION: M/S TANNER - BETTENCOURT, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 3, 2004, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION NO. 04052 SUBJECT TO THE 4 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. A parcel map, including all parcels involved, 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.
2. The applicants shall comply with all applicable County, State and Federal regulations.
3. A Right-To-Farm statement shall be placed on the face of the Parcel Map consistent with Ordinance No. 1213.
4. The applicant shall provide for the delivery of irrigation water to each proposed parcel by providing easements that allow for the effective service of each parcel.

- B. MAJOR SUBDIVISION APPLICATION No. 04004 - Ward Hansen - To subdivide one 10.7-acre parcel into nine one-acre lots to be known as the 'Hansen Property' and located on the north side of State Highway 140, approximately one half mile east of McKee Road. The property is designated as Merced Rural Residential Center #1 in the General Plan and zoned A-R (Agricultural-Residential) (10.7 Acres). **TO APPROVE THE MITIGATED NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland****

This item has been continued to the November 17, 2004 meeting.

- C. MINOR SUBDIVISION APPLICATION No. 04047 – Anthony Giannone – To divide 90.2 acres into 4 parcels: Parcel No. 1 = 22.3 acres; Parcel No. 2 = 22.5 acres; Parcel No. 3 = 22.6 acres; Parcel No. 4 = 22.8 acres on property located southeast of the intersection of Henry Miller Road and Badger Flat Road in the Los Banos area on land designated as Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King****

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Planner Robert King presented the Staff Report and Recommendation dated November 3, 2004. He also passed out a letter in opposition to this application and a letter from the Road Department requesting that a new condition be added regarding the dedication and right of way.

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

No one spoke in favor or opposition to this application.

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

MOTION: M/S TANNER - BUENDIA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. 04047, FROM CEQA IN SECTION 1506 (b)(3).

MOTION: M/S TANNER - BUENDIA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED NOVEMBER 3, 2004, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. 04047 SUBJECT TO THE 5 CONDITIONS SET FORTH IN THE STAFF REPORT WITH THE ADDITION OF CONDITION #5 TO BE ADDED AS A REQUEST FROM THE PUBLIC WORKS/ROAD DIVISION TO READ AS FOLLOWS:

Conditions:

1. A parcel map, including all parcels involved, 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.
2. The project shall comply with the standard conditions of approval as adopted in Planning Commission Resolution No. 97-1.
3. 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.
4. The applicant shall comply with all County, State and Federal regulations.
5. The owner shall dedicate to the County of Merced, annotated on the parcel map, an additional 10 foot width of road right-of-way along the entire frontage of Henry Miller with a 50 foot radius fillet (curve) at the southeast corner of Henry Miller and Badger Flat Road intersection.

- D. GENERAL PLAN AMENDMENT APPLICATION No. 04005, ZONE CHANGE APPLICATION No. 04005, MAJOR SUBDIVISION APPLICATION No. 03019, PLANNED DEVELOPMENT No. 03001 - Waterson Enterprises - To change the General Plan designation from Hilmar SUDP Low Density Residential to Hilmar SUDP Medium Density Residential and zoning from R-1 (Single-Family Residential) to PD (Planned Development) and subdivide a 1.8 acre site into an 18-lot senior's community designed as a Planned Development. The site is located on the south side of Bloss Avenue and 120 feet west of Pearl Street in Hilmar. **TO RECOMMEND APPROVAL OF THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION TO THE BOARD OF SUPERVISORS. Project Planner John LeVan. Continued from the October 27, 2004 meeting.****

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Planner John LeVan presented the Staff Report and Recommendation dated November 3, 2004.

The public hearing opened at 9:54 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:54 a.m.

Commissioner Bettencourt questioned why there are no curb and gutters on the new subdivision map.

Thomas Owens, Owens & Design Consultants, stated that they are proposing curb and gutters in the subdivision and it will be a pedestrian oriented subdivision.

Commissioner Tanner asked if the resident's visitors will be allowed to park their vehicles on the road by the subdivision. Mr. Owens replied that there is a 12-14 foot driveway so there should be enough room for the visitors, but they are allowed to park on the road. He also stated that there will be designated parking for the visitors.

MOTION: M/S TANNER - BETTENCOURT, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS TO THE BOARD OF SUPERVISORS TO APPROVE THE NEGATIVE DECLARATION PREPARED FOR GENERAL PLAN AMENDMENT APPLICATION No. 04005, ZONE CHANGE APPLICATION No. 04005, MAJOR SUBDIVISION APPLICATION No. 03019, PLANNED DEVELOPMENT No. 03001.

MOTION: M/S TANNER - BETTENCOURT, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE GENERAL PLAN AMENDMENT APPLICATION No. 04005, ZONE CHANGE APPLICATION No. 04005, MAJOR SUBDIVISION APPLICATION No. 03019, PLANNED DEVELOPMENT No. 03001 DUE TO THE ABILITY TO MAKE THE LISTED FINDINGS AND CONDITIONS.

BREAK

- E. CONDITIONAL USE PERMIT APPLICATION NO. 99009, JAXON MINE EXPANSION - To excavate and process 5.1 million cubic yards of aggregate material by: (1) Expanding an existing aggregate surface mine laterally from 90 acres to 304 acres; (2) deepening the mining depth up to 23 feet below surface elevation; (3) modifying the reclamation phasing from five to 20-acre increments; (4) adopting a revised reclamation plan with dry land grazing as the end use; and (5) revising the project hours to include nighttime operations, on property located on the south and east side of White Rock Road, 1/4-mile north of Le Grand Road in the Le Grand area, designated as Foothill Pasture in the General Plan and zoned A-2 (Exclusive Agricultural). **TO ADOPT A RESOLUTION (1) CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, (2) ADOPTING FINDINGS OF FACT, (3) AND ADOPTING A MITIGATION MONITORING PROGRAM, AND TO APPROVE, DISAPPROVE OR MODIFY THE CONDITIONAL USE PERMIT AND RECLAMATION PLAN. Consulting Planner Bruce Steubing****

Assistant Director Keith Woodcock and Bruce Steubing of Resource Design Technology presented the Staff Report and Recommendation dated November 3, 2004.

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

Bryant Owens, Le Grand Resident, submitted a letter for the record stating his opposition to this project.

Lydia Miller, San Joaquin Raptor Rescue Center, submitted and read a letter into the record stating that she is asking the Planning Commission to deny this application because she feels the County's responses to comments were inadequate and deferred to permitting processes not yet completed.

Ruth Stone, resident in Le Grand, passed out a copy of the road conditions in Le Grand on Le Grand Road. She feels the business trucks are the cause of the bad road conditions.

Scott Porter, Chairman of the Le Grand MAC, stated that the existing route is problematic. He feels that White Rock Road is a good alternative. He stated that the applicant violated the Conditional Use Permit for years. He is in opposition to the project because he feels it does not meet the standards.

Jack Baker, owner of the Jaxon Mine Expansion, stated that he does agree that the road is not adequately designed for the truck operation that is going on. He has entered into an agreement with the County to improve the road from White Rock Road to the Community of Le Grand. He explained that they don't like to operate at night since it is more difficult and expensive to operate.

Commissioner Lynn Tanner asked about how many nights a year they operate the plant. Mr. Baker replied approximately 20 nights a year.

Mr. Baker also indicated that they don't work at night unless there is a requirement from public agencies. Commissioner Jack Mobley asked if he envisioned night activity in the future. Mr. Baker replied that there will be more nighttime projects on Hwy 99 because of traffic congestion.

Chairman Steve Sloan stated that he doesn't see any conditions requiring groundwater monitoring on this site. Typically, on other projects groundwater monitoring is required. Mr. Steubing replied because this is an existing operation and they don't have existing groundwater monitoring requirements for this operation, they are required to comply with the existing use of groundwater so that there won't be an increase.

The public hearing closed at 11:24 a.m.

Commissioner Tanner stated that there could be problems with the nighttime operation. He would feel more comfortable if it were run 10 nights a year only.

William Nicholson, Planning Director, responded to some comments made by the public. He stated that he can not respond to Bryant Owens letter because of the length of the letter and presenting the letter so late in the meeting. He indicated that another letter was submitted by Mary Bowles a Le Grand resident that is also in opposition to this project. He responded on Mrs. Miller's letter that you mine where the resources are. Mrs. Miller referenced that the MRZ zone was removed and there was never an MRZ zone adopted by Merced County. The project was not reviewed under General Plan policies that don't exist. It is an area that has aggregate resources. This project complies with how projects are reviewed. This project is

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consistent with the General Plan. He stated that the County works with the State and Federal agencies to review this EIR and comment. Regarding the Williamson Act preserve, it does not preclude this application and does not require this property being taken out of the preserve before or after acting on this application. The Air district doesn't have special mining related modeling or for ag operations, so there is no way for an EIR to test the impacts from mining or to reach a conclusion that air impacts from mining would be significant beyond what is generated by agriculture.

Legal Counsel, Ruben Castillo, stated that he objects to the late delivery of the letter presented by Bryant Owens as such an action prevents accurate review and response.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION ADOPTS THE RESOLUTION AND CERTIFIES THE FINAL EIR AND ADOPTS THE MITIGATION MONITORING PROGRAM PREPARED FOR CONDITIONAL USE PERMIT APPLICATION NO. 99009.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 3, 2004, AND RECOMMENDS THE BOARD OF SUPERVISORS APPROVE CONDITIONAL USE PERMIT APPLICATION NO. 99009.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

None

VIII. DIRECTOR'S REPORT

There will be a special meeting on November 10, 2004 regarding the UC Community Plan.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 11:35 a.m.