



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF JANUARY 12, 2005, 9:00 A.M.
2222 "M" STREET, BOARD ROOM, THIRD FLOOR,
MERCED, CALIFORNIA**

I. CALL MEETING TO ORDER

II. ROLL CALL OF COMMISSIONERS

Jack Mobley; 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 APPLICATION No. 04009 – Blair and Tonetta Gladwin – To allow the on-site manufacture of fig wine from fruit that is grown on the property. The wine making will take place in an existing warehouse building. The property is 31 acres in size, located on the south side of Olive Avenue in the Merced area, designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Continued from the December 15, 2004 meeting. Project Planner James Holland**
- B. 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 September 8, 2004 meeting. Project Planner Robert King**

- C. **MINOR MODIFICATION No. 04017, FIRST MODIFICATION TO MAJOR SUBDIVISION APPLICATION NO. 04002 – Cotton Glen Estates** To remove Condition No. 7 of the approved tentative map that required the developer to release and relinquish all abutters' rights of access to and from the entire Christian Avenue frontage of lots 1, 116, 117, 118, 119, and 120 on property located south of Christian Avenue approximately 1000 feet west of State Highway 33 in the Dos Palos area designated as Dos Palos Specific Urban Development Plan (SUDP) Residential land use in the General Plan and zoned R-1 (Single Family Residential) and (R-3) Multiple Family Residential. **TO MAKE AN ENVIRONMENTAL FINDINGS AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Robert King
- D. **ANIMAL CONFINEMENT ORDINANCE TEXT AMENDMENT REVISIONS AND ZONE CODE TEXT AMENDMENT NO. 04002 - Merced County** -To make revisions to the Animal Confinement Ordinance and Zoning Code to enhance protection of water quality through development of improved Comprehensive Nutrient Management Plans for all confined animal facilities, and revised design requirements for retention ponds/settling basins at new or expanding facilities, and to provide locational criteria for new and existing facilities and offsite residences to ensure compatibility of animal confinement facilities with surrounding land uses. The Text Amendment will include repeal of Section 7.13 (Animal Confinement Facilities) to be renumbered as Chapter 18.48 of the Merced County Code and be effective Countywide in the unincorporated area. **TO RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE INITIAL STUDY/EIR ADDENDUM AND APPROVE, DISAPPROVE, OR MODIFY THE TEXT AMENDMENTS.** Project Planner Bill Nicholson and Environmental Health Director Jeff Palsgaard

VI. **CORRESPONDENCE**

VI. **GENERAL BUSINESS**

Discussion of procedures and policies related to additional dwellings on agricultural parcels.

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.

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Commissioner Tanner asked how long they had the diesel engine for this operation. Planner James Holland replied approximately 3 years. Commissioner Sloan asked if it was up to standards for a diesel engine. Planner Holland said the unit is rented each year and that according to the applicant it complies.

Tonetta Gladwin, applicant, stated that she doesn't understand why her neighbors complained about them. She states that she is in an agricultural zone and is making an agricultural zoning request. She has applied for an ABC (Alcohol Beverage Commission) and ATF license contingent with the zoning approval.

Commissioner Tanner asked Mrs. Gladwin how long the fig season is. Mrs. Gladwin replied approximately June to October. Commissioner Mobley asked if the refrigerator is rented during the operating months. Mrs. Gladwin answered yes, and the equipment is not there during the winter months.

Steve Spinelli, neighbor, states that he has no problem with agricultural operations. He also asked if there was a permit for the existing fig operation. Planner James Holland replied that a permit was not required for the existing use. Mr. Spinelli explained that his only problem with this operation is the noise from the refrigerator and that it runs constantly and it should be muffled.

Jennifer Hondeville, neighbor, states that her property is behind the Gladwin's property and that noise is her only issue with this operation. Noise was not a problem with the previous property owners. She worried about future expansion of this operation and impacts in the area.

Kay Flanagan-Spinelli, neighbor, is aware that this operation is allowed in an agricultural zone, but that noise is the issue. She is speaking on behalf of the Correa's too, that the noise is bad.

The public hearing closed at 9:45 a.m.

Chairman Sloan indicated that the focus today is on the application for making fig wine, not the noise.

MOTION: M/S TANNER - BETTENCOURT, AND CARRIED BY A VOTE OF 4 – 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT APPLICATION No. 04009 FROM CEQA.

MOTION: M/S TANNER - BETTENCOURT, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED DECEMBER 15, 2004, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES CONDITIONAL USE PERMIT APPLICATION No. 04009 SUBJECT TO THE 12 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Conditional Use Permit Application No. 04002 is to allow the manufacturing, storage and distributing of fig wine from fruit that is grown on the property

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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. No vehicle parking, truck turnaround area, or similar land use, shall be extended toward the southern (Bear Creek) property boundary.
4. Prior to final project approval, the applicants shall submit a site design that provides for safe on-site truck maneuvering.
5. The applicant shall dimension, paint and sign a minimum of three vehicle parking spaces in the parking area illustrated on the site plan. At least one of these spaces shall be dimensioned, painted and signed as a handicapped parking stall consistent with the requirements of subsection 18.40.03E of the Zoning Code.
6. All parking and maneuvering areas and driveways shall be surfaced with materials identified as suitable by the Department of Public Works.
7. The application will be subject to compliance with the Standard Conditions of Approval contained in Planning Commission Resolution No. 97-1 (copy attached to applicants staff report).
8. The property owners shall dedicate to the County of Merced for road purposes, an additional 10-foot width of road right-of-way along the entire frontage of Olive Avenue. The legal description and exhibit map needed for the dedication 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 and exhibit map shall be submitted for recordation within two months from approval of this application.
9. The property owner shall obtain an Encroachment Permit from the Department of Public Works Road Division, pay the required permit fees, and construct a rural “agricultural” type paved driveway approach at the access point onto Olive Avenue. The minimum width of the approach shall be 18 feet while the maximum shall be 35 feet. All work shall be in accordance with Merced County Public Works Improvement Standards and Specifications. The work shall be accomplished within two months from approval of this application.
10. The applicants shall obtain a ‘Non-Exclusive Driveway License Agreement’ for the existing driveway crossing and any additional crossings over or under any MID facility, including new driveways, utilities and pipelines.
11. An engineer shall be retained at the applicants expense to calculate loading of the driveway approach required by Condition No. 10 and recommend any improvements needed to the design in order to preserve the integrity of MID facilities.

12. A mitigation-monitoring fee of **\$184.00** shall be paid prior to the issuance of final approval for this proposal. Should additional staff time be required for review of 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.

B. 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 September 8, 2004 meeting. Project Planner Robert King**

Planner Robert King presented the Staff Report and Recommendation dated January 12, 2005.

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

Jeff Palsgaard, Environmental Health, stated that he concurs with Staff's recommendation to revoke this Conditional Use Permit.

Tim Miller, with Miller & Associates and representing the Amarant's, states that the Amarant's are doing what they can to get their property cleaned up, but that progress is slow. He also stated that the vehicles have been scheduled already for removal from the property. He asked that the Commission continue to work with the Amarant's and that this application be continued for another 30 days, so the Amarant's can have the opportunity to speak before the Commission.

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

Chairman Steve Sloan stated that the Planning Commission does not want to revoke this license; however, the Amarant's have been given many chances to conform. He states that the Amarant's have made promises continually and asked for more time. The Amarant's are no where near being in compliance and he is against giving the applicants more time.

Commissioner Gloria Bettencourt stated that this nonconforming issue has been going on since February of 2003 and feels that is plenty of time to get the property cleaned up.

Commissioner Lynn Tanner feels compassion for the Amarant's and would be in agreement to have this project continued for another 30 days.

Commissioner Jack Mobley states that he would like to hear from the Amarant's and he doesn't understand why they haven't come into compliance when given plenty of notice.

Commissioner Bettencourt responded that Mr. Amarant never came to the Commission, and always sent his wife.

MOTION: M/S BETTENCOURT - MOBLEY, AND CARRIED BY A VOTE OF 3 – 1, NAY BY COMMISSIONER TANNER, THE PLANNING COMMISSION

**REVOKES CONDITIONAL USE PERMIT No. 2794 (tracking number CUP 03013)
DUE TO NON-COMPLIANCE FROM THE APPLICANTS.**

The Planning Commissioners took a brief recess.

- C. MINOR MODIFICATION No. 04017, FIRST MODIFICATION TO MAJOR SUBDIVISION APPLICATION NO. 04002 – Cotton Glen Estates** To remove Condition No. 7 of the approved tentative map that required the developer to release and relinquish all abutters' rights of access to and from the entire Christian Avenue frontage of lots 1, 116, 117, 118, 119, and 120 on property located south of Christian Avenue approximately 1000 feet west of State Highway 33 in the Dos Palos area designated as Dos Palos Specific Urban Development Plan (SUDP) Residential land use in the General Plan and zoned R-1 (Single Family Residential) and (R-3) Multiple Family Residential. **TO MAKE AN ENVIRONMENTAL FINDINGS AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King**

Planner Robert King presented the Staff Report and Recommendation dated January 12, 2005. He also brought up a newer issue concerning the need for fencing and landscaping around the storm water basin, which is proposed as a new Condition #24.

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

Desmond Johnston, Thompson-Hysell Engineers, stated that they have no problem with the deletion of Condition #7. They accept the proposed landscaping and wood fence for the drainage basin. He is available to answer any questions.

Barbara Weaver, a direct neighbor to this subdivision, stated that she runs a daycare center in her home and this project is affecting her property. She asked how close to her property will the owner of the subdivision put the fence. She doesn't want fences that close to her property line. The pond nearby is a problem as well. She is concerned for the children in her daycare.

Chairman Sloan indicated that this project has been approved already. He does want to keep the daycare children out of the pond area however.

Scott Montgomery, owner of the development, states that he was made aware of Ms. Weaver's concern and his intent was not to disturb her property. He is willing to meet with Ms. Weaver in the future to discuss any new changes to the subdivision. He states that no groundwater is going into her property. He has no concerns with the addition of Condition #24.

Chairman Sloan indicated that he would like to see the fence put up as soon as possible because he is concerned with the children next door at the daycare.

Evelyn Adams, Community Way, Dos Palos resident, states that the water in the basin is not only from the rain. It has been full for quite some time. She is also concerned for the children in the area also.

Planner Robert King explained that a major problem is a high ground water level. The basin will be created above ground. The water is pumped in and gravity fed to drain it.

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

MOTION: M/S TANNER – MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 12, 2005, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR MODIFICATION No. 04017, FIRST MODIFICATION TO MAJOR SUBDIVISION APPLICATION NO. 04002 SUBJECT TO THE 23 CONDITIONS SET FORTH IN THE STAFF REPORT AND THE ADDITION OF CONDITION #24 AS FOLLOWS:

Conditions:

1. The Final Map shall be recorded within two years of the Planning Commission approval date.
2. Water and sewer improvements shall be constructed and applicable user fees paid as per the specifications and requirements of the Midway Community Services District.
3. The developer shall satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code, to include 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.
4. Street designations shall conform to Section 17.04.050.B of the Merced County Code with north\south s being avenues and east\west being streets.
5. Street names shall be to the satisfaction of the County Fire Department with Moore and Whitney being renamed.
6. The Christian Avenue roadway section along the subdivisions frontage shall be constructed to provide a minimum of 24 feet from centerline to curb face.
7. Provide a letter from the Central California Irrigation Water District (CCID) accepting storm drainage prior to recordation of the final map.
8. The developer shall ensure continued delivery of irrigation operations to the satisfaction of CCID for facilities on or impacted by their development.
9. Prior to the issuance of building permits the property defined as Assessor's Parcel Number 089-220-049 shall be detached from CCID.
10. The developer shall construct a storm drainage facility within the boundary of the Cotton Glen Estates subdivision as shown on the tentative map.
11. 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 all improvements are completed.
13. The developer shall provide centerline striping for those new roads of intersecting Christian Avenue,

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14. The developer is advised that they 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 contact the State Water Resources Control Board, Construction Activity Storm Water Hotline 916-341-5537 or www.swrcb.ca.gov
15. 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.
16. This project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1.
17. An approved water system capable of a minimum fire flow of 1,000 gallons per minute is required for single family residential. (UFC Appendix III-A and MCC 9.24.280)
18. A secondary access for emergency purposes, either on a temporary or permanent basis be obtained for the southern half of this subdivision prior to recordation of the final map.
19. Non-access strips shall be dedicated at all dead end streets pursuant to Section 17.04.050.A11 of the Merced County Code.
20. A block wall shall be constructed along the eastern property line of lots 90 through 99.
21. Prior to submission of improvement plans or Final Subdivision Maps, the project sponsor shall determine the capacities of offsite stormwater transmission facilities and detention ponds to receive storm flows from the project area. Should any deficiencies be noted, the project applicant shall be required to either improve downstream facilities or retain or detain stormwater on site to avoid potential adverse effects. The results shall be reviewed and approved by the Merced County Department of Public Works prior to approval of improvement plans or the Final Subdivision Map.
22. Enter into a Development Agreement in accordance with Section 65864 et seq. of the California Government Code, pay \$500.00 per lot at issuance of each house building permit as a proportionate share of the cost to finance a comprehensive traffic and circulation study for subsequent road impact fees due to new development.
23. 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.
24. Chain-link fencing shall be erected along the perimeter of the storm drainage basin but with slats only required along the northern and eastern sides. Wood fencing will be constructed behind lots 15, 16 and 17 and placed along the western perimeter. Both the northern and eastern perimeters shall be landscaped; the former to a Type A standard and the latter to a Type B

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standard as described in Section 18.38 Figure 10 of the Merced County Zoning Code.

- D. ANIMAL CONFINEMENT ORDINANCE TEXT AMENDMENT REVISIONS AND ZONE CODE TEXT AMENDMENT NO. 04002 - Merced County** -To make revisions to the Animal Confinement Ordinance and Zoning Code to enhance protection of water quality through development of improved Comprehensive Nutrient Management Plans for all confined animal facilities, and revised design requirements for retention ponds/settling basins at new or expanding facilities, and to provide locational criteria for new and existing facilities and offsite residences to ensure compatibility of animal confinement facilities with surrounding land uses. The Text Amendment will include repeal of Section 7.13 (Animal Confinement Facilities) to be renumbered as Chapter 18.48 of the Merced County Code and be effective Countywide in the unincorporated area. **TO RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE INITIAL STUDY/EIR ADDENDUM AND APPROVE, DISAPPROVE, OR MODIFY THE TEXT AMENDMENTS. Project Planner Bill Nicholson and Environmental Health Director Jeff Palsgaard**

Environmental Health Director Jeff Palsgaard presented the Staff Report and Recommendations dated January 12, 2005 and passed out the Merced County Zoning/Animal Confinement Ordinance Revisions to the Planning Commissioners.

The public hearing opened at 10:55 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 10:55 a.m.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 12, 2005 AND RECOMMENDS THE BOARD OF SUPERVISORS APPROVE ANIMAL CONFINEMENT ORDINANCE TEXT AMENDMENT REVISIONS AND ZONE CODE TEXT AMENDMENT NO. 04002.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

Planning Director Bill Nicholson and Assistant Director Keith Woodcock presented a brief presentation to the Commissioners on procedures and policies related to additional dwellings on agricultural parcels.

Mr. Nicholson indicated that he will talk to the Board of Supervisors to get further direction prior to drafting possible text amendments to bring to the Planning Commission. The Commission indicated a concern with ensuring there is a legitimate need for the additional units and that they not create conflicts for agriculture.

VIII. DIRECTOR'S REPORT

None

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IX. ADJOURNMENT

There being no further business, the meeting adjourned at 11:55 a.m.