



**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](http://www.co.merced.ca.us)

**PLANNING COMMISSION AGENDA  
REGULAR MEETING OF FEBRUARY 23, 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. MINOR SUBDIVISION APPLICATION No. 04069 – Ronald Richards** - To subdivide one 99.3 acre parcel into two parcels to align with the current zoning districts. Proposed parcel sizes are Parcel No. 1 = 20 acres and Parcel No. 2 = 79.3 acres. The northern parcel is designated Foothill Pasture in the General Plan and zoned A-2 (Exclusive Agricultural). The southern parcel is also designated Foothill Pasture and zoned A-1 (General Agricultural). The property is located on the east side of Cunningham Road, 2,000 feet north of Hainline Avenue in the Le Grand area. **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the January 26, 2005 meeting. Project Planner Dave Gilbert**
- B. MINOR SUBDIVISION APPLICATION No. 04074 – David Parreira** - To redivide two parcels for the purpose of expanding an existing almond processing plant on Parcel 1: Parcel No. 1 = 20 acres; Parcel No. 2 = 20 acres; and Parcel No. 3 = 38.85 acres. The property is located on the east side of Ortigalita Road, approximately 1,300 feet south of Charleston Avenue in the Los Banos area and is designated Agricultural Land Use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Kristi Vahl**

- C. **MINOR SUBDIVISION APPLICATION No. 04077 – Bert & Nancy Crane** – To subdivide a 57.8 acre parcel into two parcels; Parcel 1 = 28.8 acres and Parcel 2 = 29.0 acres. The project is located on the south side of Cottonwood Road, 1,760 feet west of Highway 33 in the Gustine area. The project site is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dave Gilbert**
  
- D. **MAJOR SUBDIVISION APPLICATION No. 04012 – “Estancia” – Flansberg and Rucker** – To subdivide 35 acres into 25 one acre parcels located west of Hillcrest Drive approximately 1/8<sup>th</sup> of a mile south of Old Lake Road. The property is designated Merced Rural Residential Center-Agricultural Residential land use in the General Plan and zoned A-R (Agricultural Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Keith Woodcock**
  
- E. **CONDITIONAL USE PERMIT APPLICATION NO. 03011 – Ed and Mary Gomes** – To construct a new dairy facility to support 5,600 animal units on a 1,213 acre project site. The property is located on the west side of Coyote Road and on the north side of State Highway 152 in the El Nido area and is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT, AND TO APPROVE, MODIFY OR DISAPPROVE THE APPLICATION, AND ADOPT THE FINDINGS OF FACT AND MITIGATION MONITORING PROGRAM. Project Planner James Holland**
  
- F. **CONDITIONAL USE PERMIT APPLICATION No. 03008 – Betty Dart** - To allow the excavation of 250,000 cubic yards of sand and dirt over a five year period in order to level land for future farming operations. The maximum depth of excavation would be 25 feet as measured from the highest existing grade. The property is located on the north side of Shaw Avenue and 330 feet east of Shaffer Road in the Winton Area. The property is designated Agricultural in the General Plan and zoned A-1 (General Agricultural) (25.5 acres). **TO APPROVE THE MITIGATED NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Keith Woodcock**

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 FEBRUARY 23, 2005**

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A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of February 23, 2005, 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 9:13 a.m., on February 23, 2005, 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  
                                                                                         Kristi Vahl, Planner I  
                                                                                         Dave Gilbert, Planner III  
                                                                                         James Holland, Planner III

Legal Staff:                              Fernanda Saude, Senior Deputy County Counsel

Commissioners Absent:      None

**III. APPROVAL OF MINUTES**

**M/S MOBLEY - BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF FEBRUARY 9, 2005.**

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

**A.      MINOR SUBDIVISION APPLICATION No. 04069 – Ronald Richards - To subdivide one 99.3 acre parcel into two parcels to align with the current zoning districts. Proposed parcel sizes are Parcel No. 1 = 20 acres and Parcel No. 2 = 79.3 acres. The northern parcel is designated Foothill Pasture in the General Plan and zoned A-2 (Exclusive Agricultural). The southern parcel is also designated Foothill Pasture and zoned A-1 (General Agricultural). The property is located on the east side of Cunningham Road, 2,000 feet north of Hainline Avenue in the Le Grand area. **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the January 26, 2005 meeting. Project Planner Dave Gilbert****

Planner Dave Gilbert presented the Staff Report and Recommendation dated February 23, 2005.

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The public hearing opened at 9:21 a.m.

Ronald Richards, applicant, stated that he is available to answer any questions the Commission may have.

Chairman Sloan asked Mr. Richards if the property portion on the west is irrigated with a well. Mr. Richards replied that part of it is in a district and there are no private wells on his private.

Commissioner Mobley asked if his reason for the split is for estate planning. Mr. Richards replied that he just trying to utilize the A-1 zoned part of the parcel.

Larry Bowers, B.C.A. and representing the applicant, states that the Le Grand MAC approves of this proposal. The strip of land that is in the A-2 zone is only 5 ft. wide, so with all building setbacks, it can't be used for anything other than a strip of land.

The public hearing closed at 9:25 a.m.

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DENIES MINOR SUBDIVISION APPLICATION No. 04069 DUE TO THE INABILITY TO MAKE THE LISTED FINDINGS AND CONDITIONS IN THE STAFF REPORT.**

- B. MINOR SUBDIVISION APPLICATION No. 04074 – David Parreira - To redivide two parcels for the purpose of expanding an existing almond processing plant on Parcel 1: Parcel No. 1 = 20 acres; Parcel No. 2 = 20 acres; and Parcel No. 3 = 38.85 acres. The property is located on the east side of Ortigalita Road, approximately 1,300 feet south of Charleston Avenue in the Los Banos area and is designated Agricultural Land Use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Kristi Vahl****

Planner Kristi Vahl presented the Staff Report and Recommendation dated February 23, 2005.

The public hearing opened at 9:33 a.m.

Dennis Soares, speaking for the Parreira family, stated that the expansion facility to the north is just an expansion of the processing facility. The two 20 acre parcels are for estate planning. The existing uses are not changing. They are not expanding their facility at this time.

Chairman Sloan asked if Mr. Soares was willing to contain the runoff of water into the neighbors property. Mr. Soares has no problem with that. Chairman Sloan would like to add a condition #6 stating that the drainage from the site is to be contained on the property. Mr. Soares agrees. Mr. Soares also explained to the Commissioners the drainage flow patterns on the subject properties.

The public hearing closed at 9:40 a.m.

**MOTION: M/S TANNER – BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. 04074, FROM CEQA.**

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**MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED FEBRUARY 23, 2005, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. 04074 SUBJECT TO THE 6 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 Hearing Officer Approval date as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant shall comply with all County, State and Federal regulations.
3. The division shall conform to the Approved Exhibit and legal description.
4. The property owner shall dedicate to the County of Merced, annotated on the parcel map, an additional 10-foot width of right-of-way along the entire frontage of Ortigalita Road.
5. All access easements must be recorded prior to the recordation of the final parcel map.
6. All drainage generated from the property shall be retained on-site.

- C. MINOR SUBDIVISION APPLICATION No. 04077 – Bert & Nancy Crane – To subdivide a 57.8 acre parcel into two parcels; Parcel 1 = 28.8 acres and Parcel 2 = 29.0 acres. The project is located on the south side of Cottonwood Road, 1,760 feet west of Highway 33 in the Gustine area. The project site is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dave Gilbert****

Planner Dave Gilbert presented the Staff Report and Recommendation dated February 23, 2005. A letter was passed out to each Commissioner from neighbors, Alan & Shirley Santos stating their concerns with this application.

The public hearing opened at 9:50 a.m.

Bert Crane, applicant, stated that the purpose of this application is for estate planning. This will remain in agriculture. He is available for any questions.

Alan Santos, neighbor west of the subdivision, has concerns with the nut processing plant and the noise and traffic generated. Cottonwood Road has no adequate parking and there is too much traffic going down that road. He feels that the nut processing plant wants to purchase the divided land and expand their company.

Chairman Sloan states that the nut processing plant is not pertinent to this application. If in the future, if the divided land was purchased by the nut processing plant, and if they would want to expand, that would be a different application and Mr. Santos' concern can be addressed then. Mr. Santos understands.

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Waleen Bederman, owner of the home adjacent to the property that is being split, is concerned with the smell of the dairy and feels it is a legitimate concern if a home is going to be built on the split. Chairman Sloan indicated that the location of the dairy has no bearing on the consideration of this parcel split.

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

**MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. 04077, FROM CEQA.**

**MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED FEBRUARY 23, 2005, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. 04077 SUBJECT TO THE 3 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. 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.
3. The applicant shall pay for and submit a new Williamson Act Contract to encumber the resulting 57.8 acre prior to recordation of the Certificate of Compliance.

- D. MAJOR SUBDIVISION APPLICATION No. 04012 – “Estancia” – Flansberg and Rucker –** To subdivide 35 acres into 25 one acre parcels located west of Hillcrest Drive approximately 1/8<sup>th</sup> of a mile south of Old Lake Road. The property is designated Merced Rural Residential Center-Agricultural Residential land use in the General Plan and zoned A-R (Agricultural Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Keith Woodcock**

Assistant Director Keith Woodcock presented the Staff Report and Recommendation dated February 23, 2005. Alfred Alvarez of County Public Works/Road Division also added that Condition #2 needs a sentence added regarding improvements needing to be designed to meet City of Merced standards. Condition #20 also needs to be changed regarding the ditches being maintained by property owners and noticed and recorded in CC& R's. Condition #24 needs to be reworded so that trees shall not be placed within road right of ways or any public utility easements. He asked for consideration on Condition #28, that they would rather have a 90 degree road than an angled driveway.

The public hearing opened at 10:06 a.m.

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Garth Pecheninno, representative for Rucker Construction, wants to clarify for the Commission the changes to the conditions. He states that the whole area is being developed into 1 acre lots. The property owner to the south wishes to develop it into 1 acre lots. The remainder of the area will be developed into Rural Residential one acre lots and area to the north is the church. There eventually will be four points of access to the subdivision. The only issue he has with the conditions Mr. Alvarez pointed out was the 20 ft. access road to the parcel that fronts on G Street; the City wanted that as an option if for some reason they couldn't provide access to that parcel from the properties to the north. Another issue is the street trees; in the final letter from the City, the street trees were not included in that letter; they withdrew that request and would like to remove that condition. Also, on Condition #25, they will build the streets to the City street standards, but will not have the street extend into the south line.

Chairman Sloan asked Mr. Pechennino if he had any problem with the language change on Condition #20. Mr. Pechennino replied no, it was fine. Chairman Sloan asked if condition #2 as far as language to construct the improvements to the City of Merced standards would be ok also. Mr. Pechennino replied yes.

Mr. Pechennino indicated that a road circulation plan could be done as agreed by the City, County and the applicant.

William Nicholson, Planning Director, explained that one alternative could be to stay with the original map and if a letter is received from the City of Merced confirming that they don't want the north/south road, then that map could be recorded. If the City of Merced says no, then we could use the revised map. The applicant could ask to modify the map and bring it back to revisit.

Bob Rucker, Rucker Construction, states that he is fine with and agrees to all the conditions.

Alfred Alvarez, Public Works/Roads Division, also agrees to the conditions.

The public hearing closed at 10:16 a.m.

**MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION APPLICATION No. 04012.**

**MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED FEBRUARY 23, 2005, AND MAKES THE 12 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 12 FINDINGS, APPROVES MAJOR SUBDIVISION APPLICATION No. 04012 SUBJECT TO THE 30 CONDITIONS SET FORTH IN THE STAFF REPORT WITH CHANGES BEING MADE TO CONDITION #2 AND CONDITION #20 TO READ AS FOLLOWS:**

**Conditions:**

1. The Final Map shall be recorded within two years of the Planning Commission approval date.

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2. The developer shall satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code. Such improvements generally include dedication of right-of-way and public utility easements, roadway construction and installation of matching pavement along existing roadways, streetlighting, storm drainage system and undergrounding or relocation of utilities and irrigation facilities. Improvements shall be designed to meet the City of Merced standards.
3. The applicant shall release and relinquish all abutter's rights of access to and from the entire G Street frontage of Lots 16, 17 and 18.
4. Prior to recording the final map, the developer shall enter into a 'Subdivision Drainage Agreement' with the Merced Irrigation District Drainage Improvement District No. 1 and provide the County with a letter from the District stating that they will accept storm drainage water from this subdivision and that all applicable fees have been paid.
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. Streets shall be named and designated pursuant to Section 17.04.050.B of the Merced County Code.
7. Dedicate a 10-foot wide public utility easement along G St. and Hillcrest Rd.
8. Dedicate 25-foot radii at the intersections of Vista a la Montana Road and Hillcrest Road.
9. Dedicate to the City of Merced by separate instrument, road right of way along the G Street frontage of the subdivision. Dedicate on the final map a landscape easement, per City of Merced requirements, to the County of Merced. A signature block for the City of Merced approval shall be placed on the title sheet of the improvement plans.
10. A temporary turn-around shall be dedicated and installed on either Lot 18 or 19 and a non-access easement shall be dedicated at the dead-end street
11. A residential cul-d-sac bulb shall be constructed at the north end of Vista a la Sierra Road if a modification to Minor Subdivision No. 03009 is not approved.
12. Any required fencing along the G Street frontage of the subdivision to be maintained through a zone of benefit administered by the County shall be constructed of masonry. The developer shall provide all documentation and shall pay all fees associated with the formation of a landscaping maintenance zone of benefit in County Service Area No. 1 for the maintenance of any required landscaping along the G Street frontage of the subdivision or along the Vista a la Montana Road frontage of the storm drainage basin.



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13. The storm detention drainage basin shall be constructed to the City of Merced standards and unless otherwise contravened by city standards shall be constructed with 4:1 (horizontal:vertical) or flatter side slopes beginning 10 feet inside of the fence line along with an 8:1 sloped ramp to allow access to the bottom of the basin.
14. Hillcrest Road shall be reconstructed from centerline.
15. The developer shall enter into an appropriate crossing agreement with the Merced Irrigation District (MID) for any crossings over or under MID facilities including, but not limited to, driveways, utilities or conduits.
16. The developer shall enter into a Joint Use Agreement between MID and the County for that portion of Links Avenue coterminous with MID's 20 foot wide easement.
17. A minimum distance shall be kept between septic systems and MID facilities.
18. The developer shall underground both the Lower Golf Lateral and the Six Mile Drain to the satisfaction of the Merced Irrigation District.
19. The developer shall provide centerline striping for those new roads which intersect existing peripheral streets.
20. The proposal shall provide for side and back yard drainage ditches, as applicable, on the lots in order to convey off site storm water runoff through the lot to a public roadside transmission facility and to prevent runoff onto an abutting lot. Property owners shall maintain all required drainage ditches. This condition shall be included in the CC & R's.
21. A signature block shall be provided for the Merced Irrigation District on all improvement plans associated with storm drainage discharge to MID facilities.
22. Prior to recording the final map, the developer shall submit a landscaping plan to the Merced County Planning Department that provides for the installation of a fence and landscaping screen around the proposed storm water detention basin.
23. 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 prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to water quality during construction of the project.
24. 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.
25. The original tentative map is approved subject to the receipt of a letter from the City of Merced confirming their acceptance of the road system depicted

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on the original tentative map. However, if the City does not agree with the original tentative map, the revised map presented at the February 23, 2005 Commission hearing shall be the approved map. The revised map identifies “Vista A La Sierra Road” connecting to the adjacent property to the south.

26. Access to the project’s street system shall be provided to the back end of any existing homesteads fronting “G” Street that would be created as separate parcels by the proposed map so as to access to be reversed at a later date, to the interior street system, if the City finds it necessary for safety and efficiency purposes to shift access points away from “G” Street.
27. A 20-foot easement shall be provided for APN 052-390-002 for access to the roadway shown as “Vista A La Montana” on the tentative map, unless an alternative access is agreed to by the City of Merced and Merced County Planning and Public Works Departments.
28. This project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1.
29. 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.

- E. CONDITIONAL USE PERMIT APPLICATION NO. 03011 – Ed and Mary Gomes – To construct a new dairy facility to support 5,600 animal units on a 1,213 acre project site. The property is located on the west side of Coyote Road and on the north side of State Highway 152 in the El Nido area and is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). TO CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT, AND TO APPROVE, MODIFY OR DISAPPROVE THE APPLICATION, AND ADOPT THE FINDINGS OF FACT AND MITIGATION MONITORING PROGRAM. Project Planner James Holland**

Planner James Holland presented the Staff Report and Recommendation dated February 23, 2005. Gene Smith of Quad Knopf also spoke on the proposal, providing an overview of the CEQA process followed on the project.

Chairman Sloan commended Gene Smith and Planner James Holland for their work on this project.

The public hearing opened at 11:05 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 11:06 a.m.

**MOTION: M/S TANNER - BETTENCOURT, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR CONDITIONAL USE PERMIT APPLICATION NO. 03011.**

**MOTION: M/S TANNER – BETTENCOURT, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED FEBRUARY 23, 2005, AND ADOPTS THE RESOLUTION TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT, ADOPTS THE FINDINGS OF FACT, THE STATEMENT OF OVERRIDING CONSIDERATIONS AND THE MITIGATION MONITORING PLAN AND MAKES**

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**THE 13 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 13 FINDINGS, APPROVES CONDITIONAL USE PERMIT APPLICATION NO. 03011 SUBJECT TO THE 5 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

1. Conditional Use Permit No. 03011 is granted for the construction and operation of a 5,600 animal unit milk cow dairy on 1,213 acres of land.
2. The Gomes Dairy project shall be located, developed and operated in a manner described on the approved plot plan, Comprehensive Nutrient Management Plan, mitigation measures, mitigation monitoring and reporting program, and conditions of this permit. Any changes or proposed modifications to the approved project would be based on a written request of the applicant to the Planning Director.
3. All mitigation measures identified in the Environmental Impact Report are adopted and incorporated by reference as project conditions.
4. The project shall comply with all applicable regulations administered by the County Fire, Health, Planning and Public Works Departments.
5. For the purpose of condition and mitigation monitoring, an annual conditions monitoring fee in the amount of **\$480.00** shall be paid prior to utilizing the conditional use permit.

- F. CONDITIONAL USE PERMIT APPLICATION No. 03008 – Betty Dart - To allow the excavation of 250,000 cubic yards of sand and dirt over a five year period in order to level land for future farming operations. The maximum depth of excavation would be 25 feet as measured from the highest existing grade. The property is located on the north side of Shaw Avenue and 330 feet east of Shaffer Road in the Winton Area. The property is designated Agricultural in the General Plan and zoned A-1 (General Agricultural) (25.5 acres). **TO APPROVE THE MITIGATED NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Keith Woodcock****

Assistant Director Keith Woodcock presented the Staff Report and Recommendation dated February 23, 2005. Alfred Alvarez, of County Public Works/Road Division, states that they are asking for an additional 10 ft. road dedication along Shaw Avenue.

The public hearing opened at 11:25 a.m.

Mike Smith, CCPS, stated that he has reviewed the Initial Study and Staff Report. He added that Condition #10 is missing from the staff report and if it was a numbering error; it was acknowledged that it was a number error.

Jeff Welch, of Black Diamond Aggregates, states that he intends to comply with standards. His intent is to compact and base rock the actual access road into the site. He would like to strike the 2<sup>nd</sup> paragraph on Page 2 of staff report regarding Bell Drive.

Chairman Sloan asked Mr. Welch if he had problems with the conditions from the Road Department. Mr. Welch replied no.

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Commissioner Tanner asked if the driveway entrance is going to be compacted. Mr. Welch responded that they'll be paving right off the roadway into the driveway.

The public hearing closed at 11:28 a.m.

Commissioner Tanner stated that Condition #17 can be just added to Condition #10 since it was number incorrectly on the staff report.

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVES THE MITIGATED NEGATIVE DECLARATION PREPARED FOR CONDITIONAL USE PERMIT APPLICATION No. 03008.**

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED FEBRUARY 23, 2005, AND MAKES THE 8 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 8 FINDINGS, APPROVES CONDITIONAL USE PERMIT APPLICATION No. 03008 SUBJECT TO THE CONDITIONS SET FORTH IN THE STAFF REPORT WITH A MODIFICATION BEING MADE TO CONDITION #9 AND TWO ADDED CONDITIONS FOR A TOTAL OF 16 CONDITIONS TO READ AS FOLLOWS:**

**Conditions:**

1. Conditional Use Permit No. 03-008 is granted only for the following:
  - a. Maximum production – 250,000 cubic yards.
  - b. Life of Permit: Maximum of five years (until 12/31/2011).
  - c. Maximum Area to be excavated: 25.5 acres.
  - d. Maximum depth of excavation: 25 feet below highest pre-mining surface grade - elevation 180 to 184 feet.
  - e. All mining and related uses shall be located, developed, and operated in a manner described on the approved plot plan, cross sections, elevations, and the conditions of this permit.
2. Hours of Operation shall be limited to the following:  
Excavation shall be limited to 7AM to 6 PM, Monday through Friday.
3. Reclamation of the site shall conform to the approved Reclamation Plan. Reclamation shall commence within one year of the end of mining. Reclamation shall be completed within two years of the start of reclamation activities.
4. The operation of the site shall comply with the Mitigation Measures as adopted by the Merced County Planning Commission.
5. The project shall comply with standard conditions listed in Planning Commission Resolution No. 97-1.
6. Prior to exercising the permit, the applicant shall provide the County with a financial guarantee for reclamation of the site in the amount acceptable to the Planning and Community Development Director and incorporating relevant recommendations of the Department of Conservation's Office of Mine Reclamation.

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7. Upon completion of the project, all the machinery and equipment associated with the mining operation shall be removed from the property, unless it will be used for the planned reclaimed use of the site.
8. Prior to commencing mining activities, the project sponsor or operator shall enter into an Agreement with the Merced County Department of Public Works to mitigate project impacts to County maintain roads. Said agreement shall include dedication of ten feet of right of way among the Shaw Avenue frontage of the property. A road impact fee of \$0.08 per ton shall be collected to offset impacts to County maintained roads.
9. The applicant shall furnish the Planning and Community Development Director with a report describing compliance with the reclamation plan by July 1st of each year. With each report, the permittee shall provide a map to scale, showing current progress and mining reclamation.
10. The Planning and Community Development Director or his designee shall review the report and inspect the mining operation to determine and assure continuing compliance with the approved reclamation plan and the Conditions of Approval. The applicant shall pay the County the actual cost of conducting inspections, annually or at other times, and shall make available to the Planning and Community Development Director such information necessary for determining compliance.
11. If the Conditional Use Permit is not used within one year, it shall become automatically void without further action. The Planning Commission may extend the Conditional Use Permit if a request is filed by the applicant prior to its expiration. (Zoning Code Section 18.50.09B).
12. If the use authorized by the Conditional Use Permit is abandoned or discontinued for a period of one year or more, the Planning and Community Development Department may initiate revocation proceedings at a public hearing before the Planning Commission.
13. During the life of the project, the project sponsor shall comply with the requirements of regional, state, and local agencies with jurisdiction over the project or resources affected by the project.
14. Prior to the sale/transfer/lease of the project site and/or operations, the applicant shall notify the Planning Department of said transaction. The intent of this condition is solely to keep the County apprised of the owner and operator of the site.
15. A commercial driveway approach shall be considered off Shaw Avenue.

**VI. CORRESPONDENCE**

None

**VII. GENERAL BUSINESS**

There will be a General Plan Review Steering Committee meeting at 1pm today in the Board Chambers.

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**VIII. DIRECTOR'S REPORT**

None

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 11:31 a.m.