



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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Director

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF JANUARY 24, 2007, 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; Cynthia Lashbrook; 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 APPLICATION No. ZV06-010 AND MINOR SUBDIVISION APPLICATION No. MS06-047 - Ernie Jones - To vary from the minimum A-1 parcel size and validate two parcels illegally split by deed after adoption of the Subdivision Map Act, dividing the land into two parcels: Parcel 1 = 4.7 acres, Parcel 2 = 2.3 acres. The parcels are located at the southeast corner of Early Dawn Rd & Clausen Rd in the Turlock area. The project site is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION.
KT**

B. ADMINISTRATIVE APPLICATION No. AA06-079 - Santa Rita Farms LLC (Gallo) - To construct an Anaerobic Digestion System which manages dairy bio-solids more effectively and produces a propane substitute as a by-product on an existing dairy located on the west side of Bert Crane Rd, approximately one mile south of Highway 140 in the Atwater area. The project site is designated Agricultural land use in the General Plan and zoned A-2 (Exclusive Agricultural). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION.
DG**

- C. **MINOR SUBDIVISION APPLICATION No. MS06-069 - Cheston Sumpter** - To reconfigure two existing parcels into three parcels consisting of 38.86 acres, 30.42 acres, and 30.42 acres located northeast of Highway 152 and Cozzi Rd., in the Dos Palos area. The project site is designated Agricultural and zoned A- 1 (General Agricultural). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. ON**
- D. **MINOR SUBDIVISION APPLICATION No. MS06-048 AND ZONE VARIANCE APPLICATION No. ZV06-006 - Richard Gaestel** - To divide an existing 29,322 square foot parcel into two parcels consisting of Parcel No. 1 = 15,725 square feet and Parcel 2 = 13,597 square feet. In addition, the applicant is requesting a zone variance for Parcel 2 to allow a flag shape configuration. The property is located on the north side of Emma Street and 360' east of 3rd Street in Snelling area. The subject property is designated Snelling SUDP - Residential in the General Plan and zoned R-1 (Single Family Residential). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. JH**
- E. **1ST MINOR MODIFICATION NO. MM06-019 TO CONDITIONAL USE PERMIT No. CUP00-023 - Jesus Garza** - To modify the existing land use permit to accommodate the development needs of the existing automotive shop on property located at the southeast corner of Santa Fe Drive & Gerard Avenue in the Winton area. The project site is designated Winton SUDP-Commercial land use designation in the General Plan and zoned C-2 (General Commercial). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. GB**
- F. **MAJOR SUBDIVISION APPLICATION No. MAS06-005 – Mike Raymond** – To divide an 18 acre residentially zoned property into 87 single family residential lots. The project site is located on the north side of Gertrude Avenue and 635 feet west of Winton Way in the Winton SUDP area on land designated as medium density residential in the General Plan and zoned R-1 (Single Family Residential). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. GB**

VI. **CORRESPONDENCE**

VII. **GENERAL BUSINESS**

VIII. **DIRECTOR'S REPORT**

IX. **ADJOURNMENT**

APPEALS

Any person may appeal any action of the Development Services 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 and Community Development 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 JANUARY 24, 2007

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of January 24, 2007, 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 January 24, 2007, 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 Cindy Lashbrook
 Commissioner Rudy Buendia

Staff Present: Robert Lewis, Development Services Director
 William Nicholson, Assistant Development Services Director
 Kim Anderson, Recording Secretary
 Kristinae Toomians, Planner I
 Gene Barrera, Planner II
 Robert King, Senior Planner

Legal Staff: Walter Wall, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

M/S LASHBROOK - MOBLEY, AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF JANUARY 10, 2007.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. ZONE VARIANCE APPLICATION No. ZV06-010 AND MINOR SUBDIVISION APPLICATION No. MS06-047 - Ernie Jones - To vary from the minimum A-1 parcel size and validate two parcels illegally split by deed after adoption of the Subdivision Map Act, dividing the land into two parcels: Parcel 1 = 4.7 acres, Parcel 2 = 2.3 acres. The parcels are located at the southeast corner of Early Dawn Rd & Clausen Rd in the Turlock area. The project site is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. KT**

Planner Kristinae Toomians presented the Staff Report and Recommendation dated January 24, 2007.

The public hearing opened at 9:18 a.m.

Mike Smith, CCPS, asked for approval of this application.

The public hearing closed at 9:19 a.m.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS ZONE VARIANCE APPLICATION No. ZV06-010 AND MINOR SUBDIVISION APPLICATION No. MS06-047 FROM CEQA.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JANUARY 24, 2007, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES ZONE VARIANCE APPLICATION No. ZV06-010 AND MINOR SUBDIVISION APPLICATION No. MS06-047 SUBJECT TO THE 9 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. A parcel map, which should include both parcels involved, shall be recorded within two (2) years of the approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant shall comply with all applicable County, State and Federal regulations.
3. A Right-to-Farm Certificate shall be recorded prior to issuance of any building permits to notify subsequent occupants of the inconveniences of farming operations and the priority to which Merced County places on such operations.

Environmental Health Division

4. The applicant shall show wells and sewage disposal systems and 100% replacement areas on the plot plan.

Department of Public Works Road Division

5. The applicant shall have a Parcel Map prepared by a California licensed land surveyor or civil engineer authorized to perform land surveying. The parcel map shall notate existing county rights-of-ways, additional dedications, and any easements that affect the property.
6. If it is determined that the subject property fronts Early Dawn Road, the property owner shall dedicate to the County of Merced, notated on the Parcel Map an additional 10 feet of road right-of-way to comply with the property owner's half of a 60 ft ultimate right-of-way width for Early Dawn Road.

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7. Since the legal Parcel Map must contain at least two parcels and the boundary in question is the easterly property line of the subject parcel, the Department of Public Works recommends the property adjoining the subject parcel to the east known as Assessor's Parcel Number 041-220-017 be included on this Parcel Map.

Turlock Irrigation District

8. An open irrigation ditch belonging to Improvement District 304, the Allinson, runs from the east to west along the southern property line, then turns north to parallel Early Dawn Rd. before turning west again into a siphon under the road to serve other downstream parcels. District Standards require the dedication of a 40 ft easement, centered on the ditch, for routine maintenance and operation.
9. In order for the District to accept the necessary easements, a Certificate of Acceptance must be signed and filed by the TID Civil Engineering District Manager.

- B. ADMINISTRATIVE APPLICATION No. AA06-079 - Santa Rita Farms LLC (Gallo) - To construct an Anaerobic Digestion System which manages dairy bio-solids more effectively and produces a propane substitute as a by-product on an existing dairy located on the west side of Bert Crane Rd, approximately one mile south of Highway 140 in the Atwater area. The project site is designated Agricultural land use in the General Plan and zoned A-2 (Exclusive Agricultural). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. DG****

Planner Robert King presented the Staff Report and Recommendation dated January 24, 2007.

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

No one spoke in favor or opposition to this application.

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

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION ADOPTS THE NEGATIVE DECLARATION PREPARED FOR ADMINISTRATIVE APPLICATION No. AA06-079.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JANUARY 24, 2007, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES ADMINISTRATIVE APPLICATION No. AA06-079 SUBJECT TO THE 6 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Department

1. Administrative Application No. AA06-079 to installed an anaerobic digestion system that converts manure (dairy bio-solids) into methane gas (bio-gas) that is piped to a nearby cheese plant to fuel a boiler, which shall be located and operated in a manner

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as described on the approved plot plan, submitted application and operational statement. Minor modifications may be approved by the Planning Director.

2. The digester system and pipelines shall be maintained and in properly working order at all times.
3. The application 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.
4. If the use authorized by this permit is abandoned or discontinued for over one year, the Planning and Community Development Department shall initiate revocation proceedings at a public hearing before the body that originally approved the permit.
5. For the purpose of condition monitoring, an inspection fee in the amount of **\$294** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of the inspection.

Environmental Health Division

6. A new dairy lagoon in accordance with the requirements of the California Regional Water Quality Control Board shall be constructed

- C. MINOR SUBDIVISION APPLICATION No. MS06-069 - Cheston Sumpter** - To reconfigure two existing parcels into three parcels consisting of 38.86 acres, 30.42 acres, and 30.42 acres located northeast of Highway 152 and Cozzi Rd., in the Dos Palos area. The project site is designated Agricultural and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. ON**

Planner Gene Barrera presented the Staff Report and Recommendation dated January 24, 2007.

The public hearing opened at 9:34 a.m.

Larry Bowers, BCA, stated that the purpose for this subdivision is for family planning only. He asked for approval of this application. He also noted that the financial parcel will stay in place which is part of Parcel #1.

Bill Nicholson, Assistant Development Services Director, explained that a financial parcel is called a financial parcel map waiver. The boundary line will disappear once the loan is paid off. There will be a separate parcel number as well. If they default on the loan, they will need that financing parcel as collateral. One parcel is excluded and stays as a separate legal parcel. Financing parcel is part of Parcel 1, but there is a potential that it could be a separate parcel if they default on the loan.

The public hearing closed at 9:38 a.m.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 – 1, NAY BY COMMISSIONER LASHBROOK THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. MS06-069 FROM CEQA.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 1, NAY BY COMMISSIONER LASHBROOK, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JANUARY 24, 2007, AND MAKES THE 12 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 12 FINDINGS, APPROVES MINOR SUBDIVISION

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APPLICATION No. MS06-069 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 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 project shall comply with the standard conditions of approval as adopted in Planning Commission Resolution No. 97-1.
4. The applicant shall comply with all applicable County, State and Federal regulations.
5. An irrigation easement shall be required to provide water for all parcels.
6. This project is within the access restricted portion of SR-152. The project's access shall be from the existing county roads.

- D. MINOR SUBDIVISION APPLICATION No. MS06-048 AND ZONE VARIANCE APPLICATION No. ZV06-006 - Richard Gaestel -** To divide an existing 29,322 square foot parcel into two parcels consisting of Parcel No. 1 = 15,725 square feet and Parcel 2 = 13,597 square feet. In addition, the applicant is requesting a zone variance for Parcel 2 to allow a flag shape configuration. The property is located on the north side of Emma Street and 360' east of 3rd Street in Snelling area. The subject property is designated Snelling SUDP - Residential in the General Plan and zoned R-1 (Single Family Residential). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. JH**

Planner Robert King presented the Staff Report and Recommendation dated January 24, 2007. He handed out a letter from the Snelling MAC stating their opposition to this application.

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

Richard Gaestel, applicant, stated that he is requesting the flag shape configuration since his neighbors have been allowed to the same thing. There is currently a fence between him and his neighbor. He is also asking for a deferment until an application is applied for a building permit.

Commissioner Tanner asked how he will change the plot plan. Mr. Gaestel indicated that the flag shape configuration will be on the right side of the plot plan. He stated that he pays for two sewer hookups. One home burned down on the property years ago.

Planner King stated that the zoning code requires areas in an SUDP to be paved to allow vehicle access.

Chairman Sloan questioned the addition of another well on Parcel 1. Mr. Gaestel explained that the property is big enough to possibly have a mobile home put on that parcel. Chairman Sloan is concerned with having 2 wells on one parcel.

Steve Silva, neighbor, stated that the container on his property is only temporary. He states that all his neighbors are against the proposed split. He does not want a 20 foot easement next to his home. The Snelling MAC is in disapproval of this project and he feels that the property value of his home will go down. He is against this project. He also stated that the properties nearby haven't done the flag shape reconfiguration in about 20 years.

The public hearing closed at 10:02 a.m.

Commissioner Lashbrook would like to see conditions followed by the applicant to keep the property looking nice. Planner King replied that there are requirements on how the driveway should be constructed. Staff feels that the width should be 20 feet. There is enough room for landscaping as well.

Commissioner Mobley asked for clarification regarding the prohibition of flag lots. Bill Nicholson, Assistant Development Services Director, explained this is not an ordinance for Snelling, but a Countywide Zoning Code. There is a 60 ft. requirements. The variance is for having the parcel front on the street being only 20 feet wide.

Commissioner Tanner asked how the Snelling MAC felt at the meeting. Planner Oksana Newmen indicated that she was in attendance to the meeting and she explained that the MAC expressed their concern with the well addition and the flag configuration. All members of the Snelling MAC were opposed.

MOTION: M/S TANNER – MOBLEY, AND CARRIED BY A VOTE OF 4 - 1, NAY BY CHAIRMAN SLOAN, THE PLANNING COMMISSION DENIES MINOR SUBDIVISION APPLICATION No. MS06-048 AND ZONE VARIANCE APPLICATION No. ZV06-006 DUE TO THE INABILITY TO MAKE THE FINDINGS AND CONDITIONS IN THE STAFF REPORT.

- E. 1ST MINOR MODIFICATION NO. MM06-019 TO CONDITIONAL USE PERMIT No. CUP00-023 - Jesus Garza - To modify the existing land use permit to accommodate the development needs of the existing automotive shop on property located at the southeast corner of Santa Fe Drive & Gerard Avenue in the Winton area. The project site is designated Winton SUDP-Commercial land use designation in the General Plan and zoned C-2 (General Commercial). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. GB****

Planner Gene Barrera presented the Staff Report and Recommendation dated January 24, 2007.

The public hearing opened at 10:34 a.m.

Joe Avilos, representative for the applicant, stated that the applicant, Mr. Garza, only wants to improve the look of the property to make better for the Community.

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

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MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS 1ST MINOR MODIFICATION NO. MM06-019 TO CONDITIONAL USE PERMIT No. CUP00-023, FROM CEQA.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JANUARY 24, 2007, AND MAKES THE 14 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 14 FINDINGS, APPROVES 1ST MINOR MODIFICATION NO. MM06-019 TO CONDITIONAL USE PERMIT No. CUP00-023 SUBJECT TO THE 12 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Department Conditions:

1. The Minor Modification is granted for the demolition and reconstruction of office space for the project site. Additionally, the applicant will be allowed to relocate the existing car stereo show room from the existing tire shop office to the westernmost section of the building located closest to Santa Fe Avenue.
2. The application shall comply with all applicable regulations administered by the County. These regulations include, but are not limited to, Performance Standards of the Merced County Zoning Code, Section 18.41, and standards administered by the County Fire, Health, Planning, and Public Works Departments.
3. For the purpose of condition monitoring, an inspection fee in the amount of **\$392** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of the inspection.
4. Prior to the issuance of permits for the proposed minor modification, the applicant shall be required to comply with the conditions required for approving Conditional Use Permit No CUP 00-023 (see attachment Code Compliance Letter and list of conditions for approving CUP00-023). For those conditions that have not been met which require construction or development (paving , landscaping), a Payment Bond may be submitted by the applicant to secure funds for the deferment of construction until the modifications outlined in this Staff Report have been completed.
5. The applicant shall be required to install two additional parking spaces for the expansion of the proposed office space, bring total parking to 44 spaces.
6. All storm water drainage shall be maintained entirely onsite.
7. To ensure compliance with the noise standards, Staff will require, upon the first complaint generated by the public, that an acoustical analysis be conducted by a licensed engineer to determine the use's compliance with the adopted noise standards. All expenses incurred for the acoustical analysis shall be encumbered by the applicant.

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8. The applicant shall comply with all of the standard conditions of approval listed in the Planning Commission Resolution No 97-1.
9. The conditions of approval granted for Conditional Use Permit CUP00-023 remain in place for this modification.

Department of Public Works Road Division Conditions:

10. The applicant/property owner shall retain a California Licensed Civil Engineer to design an on-site storm drainage basin and inspect construction. The storm drainage plan shall be designed to Merced County standards.
11. If the property owner/applicant wishes the Department of Public Works to review the onsite storm drainage plan, a plan check and review fee of \$500 shall be paid to the Merced County Department of Public Works.

- F. MAJOR SUBDIVISION APPLICATION No. MAS06-005 – Mike Raymond –** To divide an 18 acre residentially zoned property into 87 single family residential lots. The project site is located on the north side of Gertrude Avenue and 635 feet west of Winton Way in the Winton SUDP area on land designated as medium density residential in the General Plan and zoned R-1 (Single Family Residential). **TO APPROVE, DISAPPROVE, OR MODIFY THE APPLICATION. GB**

Planner Gene Barrera presented the Staff Report and Recommendation dated January 24, 2007.

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

Duane Andrews, Golden Valley Engineering, stated that he has an issue with Condition #19 in the staff report. He states that this property is in the Atwater Sphere of Influence and Atwater has adopted the fee for the interchange. He asked that Condition #24 be deleted.

Curt Royer, Public Works/Road Division, stated that he is in support of removing the Condition. This particular property is out of the sphere of influence and out of the SUDP.

Commissioner Tanner asked what happens if there is an agreement with the City of Atwater before the building permits are pulled.

Chairman Sloan states that the Commission should follow Public Works recommendation to delete Condition #24.

Mr. Andrews stated that the applicant has several other fees he must pay already. They should not be suggest to paying Condition #24.

Ramon Rodriguez, neighbor, asked what impact this project will have on his property. Planner Gene Barrera explained that he is within the 300 ft. area of the project and this project will have no impact on his property.

Dennis Freisen, neighbor, stated that he is concerned with the water and drainage off the property. The water currently does not drain off. He is not against the new homes being built.

Chairman Sloan stated that the Conditions in the staff report discuss the drainage and the applicants responsibility.

Planner Barrera stated that the water will accumulate into a drainage basin.

Tony Pedro, neighbor, asked if there will be any street changes and will fencing be put up and how high will the applicant raise the dirt.

Mr. Andrews replied that the dirt will match the adjacent streets and a retaining wall will be put in and the frontage will be improved. Fencing will also be put in around the property.

The public hearing closed at 11:00 a.m.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 1, NAY BY COMMISSIONER LASHBROOK, THE PLANNING COMMISSION ADOPTS THE MITIGATED NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION APPLICATION No. MAS06-005.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 1, NAY BY COMMISSIONER LASHBROOK, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JANUARY 24, 2007, AND MAKES THE 15 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 15 FINDINGS, APPROVES MAJOR SUBDIVISION APPLICATION No. MAS06-005 SUBJECT TO THE 28 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Planning and Community Development Department Conditions:

1. Final Map, or all map phases, shall be recorded within two years of the Planning Commission approval date.
2. For the purpose of mitigation and/or condition monitoring, a fee in the amount of **\$392.00** shall be required. The fee shall be paid prior to recordation of the Final Map
3. The project proponents shall obtain and submit an Unconditional Water and Sewer Commitment Notice from the Winton Water and Sanitary District prior to recordation of the Final Map, or a first phase Final Map.
4. The applicant shall comply with all of the standard conditions of approval listed in the Planning Commission Resolution No 97-1
5. A document shall be recorded in official Merced County records and referenced on the final map for the project providing constructive notice to prospective purchasers of property within the subdivision that the subdivision is located adjacent to agriculturally zoned land and that a slaughterhouse/meat packing facility with livestock holding pens is located in this zone. The document shall state that residents of the subdivision may be subject to noise, odor and other agriculturally-related impacts arising from the use of adjacent property for agricultural operations, including the

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slaughterhouse/meat packing facility. The notice shall also include the language of applicable state Civil Code sections that afford existing and lawfully operating meat production facilities protection from nuisance actions when residential uses encroach near the facility. The notice shall apply to those parcels located within 1,000 feet of the slaughterhouse/meat packing facility.

6. A one-time pre-construction survey within 0.25 miles of the project site shall be conducted by a qualified biological consultant to determine the presence of nesting Swainson's hawks prior to the initiation of any ground breaking/construction activities occurring on the project site between March 1 and August 15, the nesting season for the species. Should a nest be discovered within 0.25 miles of the project site, temporal construction restrictions may be necessary to eliminate the potential for noise disturbance to the nesting hawks, which may cause nest abandonment or forced fledging. The consultant shall base the necessity for restrictions on the location of the nest in relation to construction activities. A survey shall not be required to be conducted should initiation of ground breaking/construction activities occur outside of the March 1-August 15 nesting season.
7. The applicant shall comply with all applicable County, State and Federal regulations.
8. The applicant shall dedicate Lot 34, as shown on the Vesting Tentative Subdivision Map for Gertrude Estates, for the purposes of constructing a park, specifically a basketball court, for use by the neighborhood as a recreational area. Additionally, may be required to pay fees as codified in Section 17.44.080 of Merced County Subdivision Code which provides the criteria for park land space dedication and/or the payment of fees in lieu thereof.

Department of Public Works Road Division Conditions:

9. 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, streetlighting, storm drainage system and to install underground or relocate utilities and irrigation facilities.
10. Release and relinquish all abutters' rights of access to and from the entire Gertrude Avenue frontage of Lots 1 and 87.
11. Monterey Drive is a duplication of an existing County road name and shall be changed to the satisfaction of the Department of Public Works and Fire Department. Street designations shall conform to Section 17.04.050.B of the Merced County Code with the exception of the continuation of Monica Way.
12. A curb ramp conforming to Caltrans Standard Plan RSP A88A, Case C, shall be constructed offsite at the northeast corner of the intersection of Monica Way and April Avenue. Existing April Avenue, including the north leg of the intersection with Monica Way, shall be crack sealed prior to application of a sand slurry seal with all work conforming to Chapter A of the Caltrans Maintenance Manual.

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13. Gertrude Avenue Improvement Level 1 improvements shall include Parcel 1 as shown on the Parcel Map for Anthony and Esther Lopez, Assessor's Parcel Number 147-180-038, pursuant to Deferment of Construction Agreement recorded in Volume 3207 of Official Records at Page 623, Merced County Records.
14. The detention basin shall be constructed with 4:1 (horizontal:vertical) or flatter side slopes 10 feet from the property line with an 8:1 or flatter ramp to the bottom of the basin. If landscaping is required along the Monterey Drive frontage of the detention basin, the owner shall submit all documentation and pay all fees necessary to form a landscaping maintenance zone of benefit.
15. The developer shall participate in resolving an existing drainage problem at the intersection of Monica Way and April Avenue subject to reimbursement from the Winton Manor Drainage Zone of Benefit No. 207.
16. Provide a letter from M.I.D. accepting storm drainage water from this proposed development into their facilities prior to recording the final map.
17. 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.
18. Provide centerline striping for those new roads which intersect the existing peripheral streets.
19. 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) 341-5537, e-mail: stormwater@swrcb.ca.gov, or visit their website at www.swrcb.ca.gov.

California Regional Water Quality Control Board Conditions:

20. Compliance with the National Pollutant Discharge Elimination System (NPDES) General Permit No CAS000002 for discharges of storm water associated with construction activity will be required for potential discharges to surface waters, including ephemeral and intermittent discharges.
21. Before construction begins, the project proponent must submit a Notice of Intent (NOI) to comply with the permit, the site map, and appropriate fee to the State Water Resources Control Board and they must prepare a Storm Water Pollution Prevention Plan (SWPPP).

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22. The SWPPP must contain at a minimum all items in Section A of the General Permit including descriptions of measures that will be taken to prevent or eliminate unauthorized non-storm water discharges, and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, riparian buffers, etc.) best management practices (BMPs) that will be implemented to prevent pollutants from discharging with storm waters into waters of the United States.
23. If the project will involve the storage of petroleum products in above ground tanks, with a single tank capacity of greater than 660 gallons or a cumulative capacity of greater than 1,320 gallons, the project proponent will be subject to State above ground petroleum tank regulations. The project proponent must file a storage statement with the SWRCB, pay a facility fee, and prepare a federal spill prevention control and countermeasure plan.

Merced Irrigation District Conditions:

24. If storm water is to be discharged to any MID facility, now or in the future, the owner/applicant shall enter into a “subdivision drainage agreement” or a “Deferred Fee Subdivision Drainage Agreement” with the Merced Irrigation District Drainage Improvement District No 1 (MIDDID No 1), paying all applicable fees.

Merced Union High School District Conditions:

25. The applicant shall abide by the 1992 developer fee agreement between the district covering the project site, which would yield \$2.466 / sq. ft. of house floor area to the high school district.

The San Joaquin Valley Air Pollution control District Conditions:

26. The project may be subject to Rule 9510, Indirect Source Review, and will be subject to Regulation VIII (Fugitive PM10 Prohibitions); Rule 3135 (Dust Control Plan Fee); Rule 4102 (Nuisance); Rule 4103 (Open Burning); Rule 4601 (Architectural Coatings); Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations); Rule 4901 (Wood Burning Fireplaces and Wood Burning Heaters); Rule 4902 (Residential Water Heaters); and Rule 951 (Indirect Source Review). Please contact District staff to further discuss the regulatory requirements that are associated with this project. Contact Debbie Johnson, Air Quality Control Specialist, Central Region at, (559) 230-5800, or at sivapcd@valleyair.org

The Winton Elementary School District Conditions:

27. The developer shall construct a safe environment for the children in the community by providing play areas in their project and a safe walkway to the local schools or bus stops.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

None

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 11:06 a.m.