

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF MARCH 28, 2007**

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A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of March 28, 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 March 28, 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  
   Gene Barrera, Planner II  
   Robert King, Senior Planner

Legal Staff:                        Walter Wall, 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 MARCH 14, 2007 WITH MODIFICATIONS BEING MADE TO PAGE 3: SHOULD STATE “FINANCIAL CONFLICT OF INTEREST” AS THE REASON FOR COMMISSIONER LASHBROOK REQUESTING TO BE EXCUSED FROM THE ITEM, AND PAGE 2, ITEM B: THE APPLICANTS NAME SHOULD BE SPELLED ANDERSON.**

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

**A. GENERAL PLAN AMENDMENT No. GPA06-003, ZONE CHANGE No. ZC06-003 and MAJOR SUBDIVISION No. MAS06-008 – Winton Willows LLC - David Mensonides, Mid-Valley Engineering - To change the General Plan land use designation from Agricultural, Winton SUDP Industrial, and Winton SUDP Residential Reserve to Winton SUDP Low Density Residential, and Winton SUDP Commercial, and to change the zoning district from A-1 (General Agricultural) to R-1 (Single Family Residential) and C-2 (General Commercial). The Major Subdivision “Winn Ranch” is to divide 35 acres into 142 residential lots ranging in size from 6,000 square feet to 9,029 square feet, and includes a 1 acre commercial parcel. The project site is located east of the intersection of Winton Way and Manor Avenue in the Winton area. **THE ACTION REQUESTED IS TO RECOMMEND THE BOARD OF SUPERVISORS APPROVE, DISAPPROVE OR MODIFY THE APPLICATIONS. GB****

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Planner Gene Barrera presented the Staff Report and Recommendation dated March 28, 2007. Mr. Barrera requested that Condition #6 be modified and one additional Condition has been requested from the Public Works/Road Division for road maintenance.

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

Jay Callahan, Winton MAC, states that this project will be good for the growth of Winton. The Rock House will be a good site for the historical society and a traffic signal they will build in Winton Way will improve access to his neighborhood on the west side of Winton Way. He asked the Planning Commissioners to recommend approval to the Board of Supervisors.

Jack Freisen, Winton resident, stated that this property is not prime farmland. He said it used to have trees, but they didn't grow so they planted sweet potatoes. He farms land to the south. He asked that this project be approved.

Johnnie Baptista, Winton Water & Sanitary District, indicated that the water pipes to the south of the property are too small, this is a choke point. The new proposed well is an upgrade and is good for the Winton area. He is in favor of this application.

Bill Machado, Atwater resident, and property owner to the south, stated that this project is smart growth for the Community of Winton. The land is not utilized properly, and has not been planted in sweet potatoes for 3 to 4 years. He asked that this project be approved.

Al Souza, Winton Resident, indicated that much is not being done on the property and feels this project would be good for the Winton area especially to help improve traffic conditions with the new light. He asked that this project be approved.

Michael Bellulomeni, Planning Director for Merced Union High School District, states that he is in support of this subdivision. The property owner signed the agreement with the Merced Union High School District, formulated with the Building Industry Association of Merced County which supports High School facilities. The agreement signed provides for \$3.06 per square foot for the High School District which is paid through the Building permit.

Andy Krotik, Atwater resident, stated that he is interested in developing a nice Community. There will be another neighborhood park if project is approved and they tried to reduce the railroad noise by limiting number of homes adjacent to the railroad. This project will help improve traffic circulation. He does have some concerns with the Conditions. For the traffic circulation, they would not like to see Lot F have its access to Winton Way eliminated. They are ok with blocking the ingress/egress for Winton Way for Lot E, but would like to allow a right turn entrance and exit into the Rock House. The Historical Society will need that access. Regarding the Department of Transportation: he feels that they shouldn't have to contribute to the Highway 99 Interchange. They are already contributing to the signalization and feels that is sufficient enough. He feels that the property is not prime farmland and 1:1 ratio mitigation isn't needed. It's not good farm ground and a statement of overriding considerations is needed. Regarding the block wall required around the mobile home park, they are putting in about 2,000 ft. of wall against the railroad tracks as high as 14 ft. The block wall is more of a sound issue.

They are willing to put up a 6 foot cedar fence along the corridor or a chain link fence with slats. He feels the block wall is not necessary and only a financial hardship to the project. He also asked for some flexibility on the requirement of the grading and compaction being completed before pulling a building permit. He asked for a phased development.

Commissioner Tanner asked Mr. Krotik if he has an idea of how he would like to do the phasing for development. Mr. Krotik indicated that they have not gotten that far, but in his experience if the property is less than 50 lots you can phase the whole thing. He indicated that the 1<sup>st</sup> row of homes against the trailer park would be the first phase.

Commissioner Lashbrook requested the road improvements and traffic signal be installed in an early phase.

Commissioner Mobley asked if Mr. Krotik had spoken with the residents in the mobile home park behind the subject property regarding the effects of sound between the properties. Mr. Krotik indicated that he had spoken with the manager of the park and they are in support of the development, and would prefer a wood fence. There is not a noise problem.

David Mensonides, Mid-Valley Engineering, stated that the fencing between the mobile home park and the subject property does represent a hardship. He feels there are better screening methods. He argued the property has not been farmed in years and is an "in fill" development. He said that the agricultural mitigation is not necessary but was imposed by Staff. He asked that this project be approved.

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

Chairman Sloan went through the requested change of conditions. The agricultural land mitigation is the most difficult to take care of. He agrees that there is no reason that mitigation should be required for this property. The County also does not have a formal policy requiring mitigation for conversion of agricultural land. He asked staff for an explanation.

Bill Nicholson, Assistant Development Director, explained that the area is over 20 acres in size and is identified as "prime" soils on the State's Important Farmland Map and has historically been farmed. So the Initial Study indicates this as a significant impact and must be mitigated. The option is to do an EIR where you can override the impact through a Statement of Overriding Considerations.

Chairman Sloan stated that he thought it is not a significant impact and asked how long it would take to amend the Initial Study and recirculate it. Mr. Nicholson said it would take a minimum of 60 days with another 30 day public review period.

Mr. Mensonides stated that he does not want to do an Environmental Impact Report. He asked if the County could come up with a dollar figure as a mitigation that the project would pay in lieu of 1:1 agricultural land conversion.

Robert King, Senior Planner, explained that he worked on a similar project in Hilmar where the in lieu fee was based on an appraisal done by an appraiser specializing in

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ag easements and based on the appraisal value, that becomes the basis of the fee. In that case, the value was approximately \$6,000 an acre.

Chairman Sloan stated that a dollar amount can't be given to the applicant at this point.

Curt Royer, Public Works/Road Division, stated that Lot E is adjacent to Lot F and part of Lot E can provide the access to Lot F. It is safer for traffic to come off of the new road, however, the right in/right out could be an option. He also indicated that the Highway 99 impacts are from Caltrans, not from the Public Works/Road Division. Four Commissioners agreed to delete this condition with Commissioner Lashbrook thinking the CalTrans condition should remain.

Chairman Sloan indicated that he has no problem replacing the cedar fence for the block wall. All the Commissioners agreed. Chairman Sloan also added that for Condition #25 will be appropriate to do improvements in phasing. Mr. Royer was in agreement with Condition #25.

Chairman Sloan requested a break to allow the applicants to discuss the mitigation issue.

BREAK - 15 minutes

Commissioner Lashbrook would like to see mitigation required. This land has not been farmed actively for 3-4 years due to the building boom. She would like to see farmland conserved, and the 1:1 ratio is the minimum we should accept.

Commission Tanner stated that agricultural land mitigation should be done Countywide, not per project. No City does agricultural mitigation, so it pushes growth to the Cities. An infill project has never been required to have agricultural mitigation. The County does not have a policy.

Mr. Krotik indicated that they support agricultural mitigation where appropriate. He noted that the Initial Study didn't talk about agricultural mitigation and it was added by Planning Staff. He asked that the in lieu fee be conditioned to be paid at the building permit stage and to agree to an appraiser who is hired by mutual agreement to set the fee amount.

Robert Lewis, Development Services Director, stated that the agreement can be put into the Development Agreement that may be approved by the Board of Supervisors.

Commissioner Lashbrook asked if the interchange cost had been determined at Winton Way and Highway 99 as referenced in Condition #28. The answer was, not at this time.

Commissioner Mobley suggested removing Condition #37 since there is no waterway within 300 feet of the project, but since it references cultural resources, the Commission agreed to keep the condition.

**MOTION: M/S TANNER – MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE THE MITIGATED NEGATIVE DECLARATION PREPARED FOR**

**GENERAL PLAN AMENDMENT No. GPA06-003, ZONE CHANGE No. ZC06-003  
and MAJOR SUBDIVISION No. MAS06-008.**

**MOTION: M/S TANNER – MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE GENERAL PLAN AMENDMENT No. GPA06-003, ZONE CHANGE No. ZC06-003 AND MAJOR SUBDIVISION No. MAS06-008 WITH THE ABILITY TO MAKE THE FINDINGS IN THE STAFF REPORT WITH MODIFICATIONS TO CONDITION #6 STATING THAT FEES WILL BE WORKED OUT BETWEEN THE DEVELOPER AND THE COUNTY ON AG LAND MITIGATION. CONDITION #15 BEING MODIFIED TO ALLOW RIGHT HAND TURN AND RIGHT TURN OUT ON LOT F. CONDITION #19 BEING MODIFIED TO BE A 6 FOOT CEDAR FENCE BETWEEN THE MOBILE HOME PARK AND THE SUBDIVISION. CONDITION #25 SHALL BE MODIFIED TO ALLOW THE PHASING TO BE WORKED OUT WITH PLANNING STAFF AND CONDITION #28 SHALL BE DELETED WITH CONDITION #38 BEING ADDED BY THE PUBLIC WORK/ROAD DIVISION .**

**Conditions:**

Merced County Planning and Community Development Department:

1. The Final Map, or all map phases, shall be recorded within two years.
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 “Right to Farm” certificate shall be recorded on the final map.
6. The project sponsors shall convey to the County or its designated agent a conservation easement or equivalent in-lieu fees that would permanently protect agricultural land of similar or better quality as that farmed on the project site. Such land will be placed under an Agricultural Conservation Easement at a ratio of 1 acre of Easement land for every 1 acre of land converted to nonagricultural uses and shall be paid or conveyed at the building permit stage. These mitigation lands may be located in the Winton vicinity, or in a location mutually agreed upon by the applicant and the County Planning and Community Development Director.
7. 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

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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. (EM)

8. The applicant shall prohibit direct truck traffic access to and from proposed Bridget Way through the installation of a traffic sign. The NO TRUCKS restriction (signs R5-2 and R5-2a) shall be provided by Board of Supervisors resolution. The applicant shall be required to install the signs and also prepare an exhibit map for the resolution showing the affected streets(s) to be subject to the restriction and the location of the sign.
9. The applicant shall comply with all applicable County, State and Federal regulations.
10. The applicant shall comply with all noise mitigation requirements as noted in Impact No XI, in Section 4 of the of the Mitigated Negative Declaration., and in Appendix C of the Mitigated Negative Declaration.

Department of Public Health Environmental Health Division:

11. An appropriate and effective sound mitigation method for Lot “D” shall be required to diminish the noise impact on the adjacent residential Lot 26.

Department of Public Works Road Division:

12. 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.
13. Dedicate on the final map a non-access strip across the dead-end of Costa Drive at the south boundary of the subdivision pursuant to Section 17.04.050.A.11 of the Merced County Code.
14. Costa Drive and Jared Drive shall be designated “Avenue” pursuant to Section 17.04.050.B of the Merced County Code. Bridget Court shall be designated “Street” or “Drive.” Jacob Drive shall be designated between Costa Drive and Jared Drive; Jacob Court shall be designated east of Jared Drive.
15. Release and relinquish all abutters' rights of access to and from the entire Winton Way frontage of Lots "C", and "E". Lot “F” will have its primary access through Lot E, but right in and right out access will be allowed on Winton Way.
16. Through Conditions, Covenants, and Restrictions recorded concurrent with the final map, access to and parking for Lot “F” shall be allowed through Lot “E.”.

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17. A second driveway approach to serve Lot "E" should be placed near the east boundary of the lot.
18. The developer shall construct traffic signals with raised medians at the intersection of Winton Way and Manor Avenue.
19. A six feet (6') high wood cedar fence between neighboring properties of different uses identified in Table 13 of the Zoning Code (the Mobile Home Park) shall be shown on the subdivision improvement plans and constructed with subdivision improvements.
20. The developer shall be responsible for providing all documentation and paying all fees associated with forming a landscape maintenance zone of benefit which also includes graffiti abatement of the proposed masonry wall along the Burlington Northern Santa Fe Railway right of way.
21. The developer shall be responsible for all costs associated with obtaining necessary road right of way and public utility easements, relocating utilities, and constructing all improvements for Bridget Way from the owner of Parcel 'C' as shown on the Parcel Map for Ruben P. Webb, Jr., recorded in Volume 66 of Parcel Maps at Pages 34 and 35, Merced County Records.
22. Provide a letter from M.I.D. accepting storm drainage water from this proposed development into their facilities prior to recording the final map.
23. The dual use storm drainage basin and recreation facility shall be designed pursuant to the Preliminary Draft Revision to the Storm Drainage Design Manual, dated May 3, 2004, attached.
24. Subdivision improvements shall be constructed to the Department of Public Works Improvement Standards and Specifications and with the following attached revised standards: Drawing DW-01, Driveway Approach (Adjacent Sidewalk); Drawing EB-01, Trench Excavation & Backfill; Drawing MS-08, Sidewalk; Drawing MS-09, Intersection Ramp (Vertical Curb); Drawings SN-02 and SN-04, Stop Sign (R1) and Foundation Detail; and, Electrolier Mounted Street Name Sign. A ¾ inch galvanized rod shall be placed across the curb face opening of the catch basin shown in Drawing SD-04.
25. 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 within the phase under construction. The developer shall enter into an agreement with Public Works that no occupancy shall take place until such time as all improvements are completed.
26. Provide centerline striping for those new roads which intersect the existing peripheral streets.
27. 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,

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e-mail: [stormwater@swrcb.ca.gov](mailto:stormwater@swrcb.ca.gov), or visit their website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov).

### Merced Irrigation District:

28. The Developer of the proposed subdivision is required to underground the Gertrude Lateral in an adequately sized pipeline assembly through the entire project within an appropriate width easement. The pipeline will be constructed to MID standards. MID will sell and quit claim to the developer its 60-foot wide fee strip and acquire an appropriate sized easement for Well 155 and the new pipeline. Recorded access to the abovementioned facilities will also be required, if needed.
29. According to the Environmental Information Form, the developer proposes to use MID facilities to convey storm water, via a drainage basin into the MID's Gertrude Lateral; because of this connection, a "subdivision Drainage Agreement" must be executed with the Merced Irrigation District Drainage Improvement District No. 1, (MIDDID No 1), paying all applicable fees.
30. A suitable block wall with appropriate sized access gates meeting MID standards must be placed around MID's Well 155, for sound attenuation and security.
31. No buildings, permanent structures, fences or walls to be constructed or placed on the new MID easement without approval of the MID.
32. If access to the MID easement is blocked by MID approved curbs, fences, walls or landscaping, the MID will require the developer to provide an ingress and egress easement through their property to the MID well and pipeline easement.
33. An MID signature block be provided on the Improvement Plans.
34. The developer must enter into a "Construction Agreement" with MID for any work associated with MID facilities and pay all applicable fees.
35. The property owner must obtain a "Non-exclusive Driveway License Agreement" for all crossings over or under any MID facilities, including utilities, bridges, driveways and pipelines. If any dedicated facilities overlap with MID easements, a Joint Use Agreement with the County shall be executed.

### The Amah Mutsun Tribal Band:

36. Where there is construction to be completed within 300 feet of a natural waterway that a monitor be hired to observe construction within the area.

### Public Works

37. Prior to recordation of the final map creating new County roads, the owner shall provide all documentation and pay all fees associated with forming a road maintenance zone of benefit in County Service Area Number One for extended road maintenance services which includes, but is not limited to, street sweeping.

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- B. CONDITIONAL USE PERMIT No. CUP07-001 - Sebero Guzman** - To establish a Semi-Mobile Food Vendor business on property located at the northeast corner of Winton Way and Santa Fe Drive in the Winton area. The project site is designated Winton SUDP- General Commercial land use in the General Plan and zoned C-2 (General Commercial). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. GB**

Planner Gene Barrera presented the Staff Report and Recommendation dated March 28, 2007.

The public hearing opened at 11:02 a.m.

Mike Smith, CCPS, stated that he attended a MAC meeting in March and discussed the access into the subject project location. He asked the Commissioners to approve this application. He stated that at the new site behind the building, traffic going north on Santa Fe Drive won't see it, so it is the best area available.

Marlys Flores, Winton MAC, expressed her concern with the addition of another taco truck in the area. There will be a problem with the cars coming out of that property and going on to Santa Fe Drive. It would be better in another location so it will not compete with restaurants on Winton Way. She asked for denial of this application, as they already have 2 taco trucks.

Jay Callahan, Winton MAC, has concerns with the traffic coming in to the property and feels that it will cause problems. The plot plan is not accurate and people will make bad left turns out of this site. He asked the Commission to deny this application.

Al Souza, Winton MAC, indicated that there is a trash problem in the Winton area and allowing another taco truck will add to the problem. He asked that this application be denied.

Ms. Flores added that there is not enough space between the building and the corner of Santa Fe Drive. There is not enough room there for the taco truck, the plot plan is wrong.

Mike Smith explained his plot plan drawing and compared it to maps from the Assessor's Office.

The public hearing closed at 11:19 a.m.

The Commission discussed the poor access to this site and how it is a problem already for the gas station.

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION DENIES CONDITIONAL USE PERMIT No. CUP07-001 DUE TO THE INABILITY TO MAKE FINDINGS #7 AND #8 IN THE STAFF REPORT.**

- C. MINOR SUBDIVISION APPLICATION No. MS06-036 - Jack Soares** - To divide a 103 acre parcel into 5 parcels, each being approximately 20 acres more or less in size on property located on the west side of Whelan Road and south of Mission Avenue in the Merced area. The project site is designated Agricultural land use in

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the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. BK**

Planner Robert King presented the Staff Report and Recommendation dated March 28, 2007.

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

Duane Andrews, Golden Valley Engineering, stated that the purpose for this property is for estate planning. He stated that 20 acre parcels are allowed in that area. He states that the land will stay in farming and he looks at old divisions into 20 acre parcels and they are all being farmed still. He asked for approval of this application.

Commissioner Tanner asked how the property will be irrigated. Mr. Andrews indicated that he is not sure but the property is irrigated with Merced Irrigation District water. Chairman Sloan added that an additional condition is being added by MID that states "MID irrigation water delivery will be ensure to all new parcels and an irrigation easement be provided from the existing irrigation delivery gate currently serving the whole property if there is not an irrigation delivery located within each new parcel".

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

Commissioner Lashbrook indicated that she does not agree with the inconsistency of the average parcel sizes in that area and can only see the land being used for homesites with incidental farming.

**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. MS06-036 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 MARCH 28, 2007, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. MS06-036 SUBJECT TO THE 5 CONDITIONS WITH CONDITION #6 BEING ADDED AS REQUESTED BY MERCED IRRIGATION DISTRICT AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning & Community Development Department

1. A parcel map, including all 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.

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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.
4. The applicant shall comply with all of the standard conditions of approval listed in Planning Commission Resolution No. 97-1.

Public Works, Roads Division

5. To complete the property owner's half of a 60-foot right of way width: the property owner shall dedicate to the County of Merced, annotated on the parcel map, an additional 10-foot width of road right-of-way along the entire frontage of Whealan Road.

Merced Irrigation District

6. MID irrigation water delivery will be ensured to all new parcels and an irrigation easement be provided from the existing irrigation delivery gate currently serving the whole property if there is not an irrigation delivery located within each new parcel.

- D. MINOR SUBDIVISION APPLICATION No. MS07-001 - Peter Lee - To divide a 140 acre parcel into 3 parcels; Parcel 1 = 50 acres, Parcel 2 = 40 acres and Parcel 3 = 50 acres in size on property located on the south side of Hwy 152 and east of Billie Wright Road in the Los Banos area. The project site is designated Highway-Interchange-Center and Agricultural in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. BK****

Planner Robert King presented the Staff Report and Recommendation dated March 28, 2007.

The public hearing opened at 11:38 a.m.

Larry Bowers, BCA, stated that this property has been dry land for some time and the split is for financing purposes only.

Commissioner Lashbrook feels that the reasoning for parcel splits shouldn't be for financing purposes only. She asked what crops are grown and Mr. King said it is dryland grass. She asked how long the applicant has owned the property.

Mr. Bowers indicated that the property owners have owned the property for a few years and there are two rows of peach trees. The County went through a period back in the 1980's where banks were coming through and foreclosing on properties. The parcels can be split into a minimum of 20 acre parcels, with the ability to get money to improve farming.

Commissioner Lashbrook stated she spoke to an agricultural lender and there were other options to finance improvements. She asked how long the present owner has been the owner of the property. Chairman Sloan said it was sold about 4 years ago.

The public hearing closed at 11:40 a.m.

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**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. MS07-001, 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 RECOMMENDATIONS DATED MARCH 28, 2007, AND MAKES THE 8 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 8 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. MS07-001 SUBJECT TO THE 4 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning & Community Development Department

1. A parcel map, including all 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.

Department of Public Health, Division of Environmental Health.

4. This area is believed to have little or no groundwater for use as a water supply. It would need to be demonstrated, through well pump tests approved by the Division of Environmental Health that an adequate and sustainable water supply is available prior to approval for any residences or other structures being placed on these parcels.

**VI. CORRESPONDENCE**

None

**VII. GENERAL BUSINESS**

None

**VIII. DIRECTOR'S REPORT**

None

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 11:45 a.m.