

MERCED COUNTY PLANNING COMMISSION

MINUTES FOR MEETING OF SEPTEMBER 26, 2007

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of September 26, 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 9:09 a.m., on September 26, 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

Legal Staff: Fernanda Saude, Assistant County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

M/S MOBLEY – LASHBROOK, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF SEPTEMBER 12, 2007.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. ADMINISTRATIVE APPLICATION No. AA05-136 - Rodney DeJager / Redrock Dairy - To construct and operate a new 5,636 milk cow dairy and four farm worker housing units on property located on the east side of Highway 59 and 620 feet north of Canton Road in the Merced area. The project site is designated as Agriculture in the General Plan and zoned A-1 (General Agricultural) (550 acres). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. GB**

Planner Gene Barrera presented the Staff Report and Recommendation dated September 26, 2007.

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

Luciana Yackman, resident on E. Sandy Mush Rd, stated that the dairy business has been a positive impact on Merced County and the Redrock Dairy will provide tax money for the County and new jobs. She asked the Commissioners to support this project.

Randy Derr, neighbor southeast of the site, stated that he is not here to object to the dairy but is here to voice some concern regarding a letter from the San Luis refuge that says all the land was included in the wildlife enhancement area. His understanding is that nothing can be done about the owners selling their easements. He feels the property looks like a refuge right now. His concern is to not let the dairy get to the creeks where the refuge is. He wanted to remind the Commission that this property is a designated wildlife area.

The public hearing closed at 9:29 a.m.

Commissioner Lashbrook feels that this Environmental Impact Report is up to date with good plans and good water quality.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CERTIFIES THE ENVIRONMENTAL IMPACT REPORT, ADOPTS THE MITIGATION MONITORING PROGRAM AND CEQA FINDINGS OF FACT AND THE OVERRIDING CONSIDERATIONS PREPARED FOR ADMINISTRATIVE APPLICATION No. AA05-136.

MOTION: M/S TANNER – MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED SEPTEMBER 26, 2007, AND MAKES THE 13 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 13 FINDINGS, APPROVES ADMINISTRATIVE APPLICATION No. AA05-136 SUBJECT TO THE 32 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Conditions:

1. Administrative Permit Application No. AA05-136 is granted for the construction and operation of a 5,636 animal milk cow dairy on 130 acres of land.
2. The Red Rock 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. Additional Dwelling Occupancy Monitoring Permits will be shall be required for residences of agricultural workers.
4. The applicant shall inform in writing all contractors and subcontractors for the project of the potential discovery of significant archaeological and historical resources below the ground surface in the project area. If any cultural resources are found or disturbed during project operations, all work must be halted within the area and the Merced County Planning Department and a qualified archaeologist must be contacted to evaluate the find (Merced County Code §18.41). Should archeological resources be accidentally discovered, monitoring by an appropriate Native American to oversee ground-disturbing activities shall be required.
5. The project shall comply with all applicable regulations administered by the County Fire, Health, Planning and Public Works Departments.

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6. For the purpose of condition and mitigation monitoring, an annual conditions monitoring fee in the amount of **\$600.00** shall be paid prior to utilizing the administrative permit.
7. The applicant shall obtain all necessary permits, and comply with all applicable regulations administered by Federal, State, and County agencies.

State Water Resources Control Board:

8. Prior to the initiation of grading, the project applicant will be required by State law to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to water quality during construction of the project. Obtaining a General Construction Activity Stormwater Permit and a NPDES permit from the SWRCB and implementing all requirements of the permit, including those listed above, would avoid soil erosion and siltation effects.

California Department of Transportation:

9. As requested by Caltrans, improvements to an access driveway off of SR-59 must satisfy current Department standards and would require an encroachment permit for work done within Caltrans right-of-way. Further, the project would be subject to the current Regional Transportation Impact Fee (RTIF) pursuant to Merced County Code Chapter 5.68 and established by Ordinance No. 1749. The RTIF would be collected at the time of the issuance of a building permit, and may be paid in up to five equal annual installments that shall include interest subject to the approval of the county (Merced County Code 5.68.100).

Merced County Fire Department:

10. The following measures would be required as conditions of approval:
 - Dairy water storage facilities of 3,000 gallons or more shall have a 4 ½ inch male outlet with National Standard threads, with outlets parallel to grade and 18 – 30 inches above grade measured from the center of the connection. Water Storage tanks shall be clearly marked “Water” or “H₂O”, with any Fire Department connection marked “Fire Dept.” and shall be accessible at all times. Static water storage shall be adequately vented for drafting.
 - Hay, straw and similar agricultural products shall not be stored adjacent to buildings or combustible material unless a clewed horizontal distance equal to the height of the pile is maintained between such storage and combustible material and building. Loose bay storage or other loose feed commodities shall be limited to stacks of 100 tons and a clear space of not less than 20 feet shall be maintained between such stacks and property lines (UFC 2806).
 - Storage of baled hay or similar material shall be a minimum of 10 feet from a property line and shall not exceed 20 feet in height. Baled hay shall be limited to 25,000 cubic feet in volume and a minimum of 20 feet separation between piles (UPC 2805. 1).
 - Businesses or property owners in violation of Uniform Fire Code requirements, such as exceeding storage pile sizes, are subject to Cost Recovery, where the costs associated with a fire are collected from the business or owner by the Merced County Fire Department.
 - Approved addressing or numbers shall be placed on premises in such a position as to be plainly visible and legible from the street fronting the property (UFC 901.4.4).

Final Environmental Impact Report Mitigation Measures:

11. **Mitigation Measure AQ-4:** To reduce PM₁₀ and PM_{2.5} emissions, the applicant shall implement all air quality requirements of the ACO, including Chapter 18.48.50 U, HH, and OO; comply with all applicable SJVAPCD Rules including, but not limited to, Rule 2010, apply for a PTO; Rule 4550, prepare a CMP; Rule 8081 of Regulation VIII, which applies to farming operations; Rule 3135, Dust Control Plan Fee; and as determined by SJVAPCD BACT including but not limited to all required measures in Table 6-13 of the DEIR (aa, bb, dd, ee, ff, hh, ii, and jj). If implementation of all required and feasible BACT is not sufficient to reduce project emissions below permit levels, the PTO permit application process could include participating in SJVAPCD's emissions off-set program, and the project applicant may be required to purchase emission off-sets.
12. **Mitigation Measure AQ-6:** To reduce methane emissions from the proposed dairy, the applicant shall implement the requirements of Chapter 18.48.050 U and OO of the Merced County Animal Confinement Ordinance, BACT appropriate for this dairy operation to be developed during permit review in cooperation with SJVAPCD staff including but not limited to all required measures in Table 6-8 of the DEIR (a, b, c, d, e, g, i, k, n, o, p, q, r, s, t, u, v, w, and x), and any future regulations promulgated by the Environmental Protection Agency, the California Air Resources Board, and the San Joaquin Valley Air Pollution Control District.
13. **Mitigation Measure HYD-4a:** As set forth in the CNMP, proposed application rates of liquid and solid manure shall meet agronomic rates for best management farming practice. Nutrient samples shall be collected prior to and during applications periods to confirm agronomic rates and protect water supplies. Soil testing frequency for nitrogen, potassium, phosphorus and salts are described in the Merced County ACO and Red Rock Dairy CNMP. Modifications to the CNMP will be required as outlined in the individual WDR for the proposed Red Rock Dairy to be issued by the RWQCB.
14. **Mitigation Measure HYD-4b:** The wastewater lagoon shall be constructed with an impermeable synthetic membrane liner, and this liner shall meet the guidelines established by the RWQCB.
15. **Mitigation Measure HYD-4c:** The following Best Management Practices shall be implemented:
 - a. Positive drainage shall be included in project design and construction to ensure that excessive ponding does not occur.
 - b. Dirt or unpaved corrals, or unpaved lanes, shall not be located closer than 25 feet from the milking barn or closer than 50 feet from the milk house. Corral drainage must be provided.
 - c. A paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the milking barn. This paved area shall be curbed (minimum of 6 inches high and 6 inches wide) and sloped to a drain. Cow washing areas shall be paved (concrete or equivalent) and sloped to a drain. The perimeter of the area shall be constructed in a manner that will retain the wash water to a paved drained area. Paved access shall be provided to permanent feed racks, mangers, and water troughs. Water troughs shall be provided with: (1) a drain to carry the water from the corrals; and (2) pavement (concrete or equivalent) which is at least 10 feet wide at the drinking area.
 - d. All runoff and leachate from solid manure storage areas and silage and commodity pads shall be directed to the wastewater management system.
 - e. The cow standing platform at permanent feed racks shall be paved with concrete or equivalent for at least 10 feet back of the stanchion line.

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16. **Mitigation Measure HYD-4d:** At a minimum, annual groundwater monitoring of onsite monitoring wells and soil monitoring on the project site shall be completed. A monitoring plan shall be prepared by the project applicant and approved by the RWQCB, which will detail the sampling elements.
17. **Mitigation Measure HYD-4e:** The Division of Environmental Health shall make a final inspection of the facility prior to the commencement of operations in Merced County to confirm the dairy meets all local and state requirements.
18. **Mitigation Measure HYD-4f:** Comply with requirements of the Merced County ACO and CNMP, and implement all applicable RWQCB requirements as required by an individual WDR for the proposed Red Rock Dairy. These requirements could include, but will not be limited to, those provisions set forth by the RWQCB in the May 2007 General Order for Milk Cow Dairies, including requirements set forth as measures A-N in Table 7-3 of the DEIR. Where the requirements and conditions of the WDR issued by the RWQCB for the dairy and the Merced County ACO are in conflict, the dairy owner shall comply with the more stringent of the two requirements unless one of the agencies formally amends its requirements as applicable to all similarly situated facilities.
19. **Mitigation Measure HYD-8:** To minimize potential impacts to surface water quality, spreading of manure or process water in flood plains during flooding, threat of flooding, or saturated soil conditions is prohibited.
20. **Mitigation Measure HYD-9:** All existing water supply wells at the facility site and property shall be inspected by the Merced County Division of Environmental Health to ensure that each well is properly sealed at the surface to prevent infiltration of waterborne contaminants into the well casing or surrounding gravel pack. If any of the wells are found not to comply with the Merced County Well Ordinance standards, the project applicant shall retain a qualified professional as described in the respective Ordinance to install the required seal or functional equivalent. Documentation of the inspections and seal installations, if any, shall be provided to the County Division of Environmental Health prior to commencement of dairy operations.
21. **Mitigation Measure HAZ-1a:** The Vector Control Plan for mosquitoes required by the Merced County ACO, shall contain, but not be limited to, the following operational measures to be implemented during project operations as identified by University of California Cooperative Extension (UCCE):
 - a. Owners are responsible for weed and floatage control.
 - b. Separator bypass drains must be equipped to prevent pond floatage.
 - c. Solids floating on the surface of ponds and lagoons shall be removed no less frequently than weekly.
 - d. Lagoon/Pond-to-field discharges shall not stand more than 4 days.
22. **Mitigation Measure HAZ-1b:** If requested, the project proponent will pay any excess treatment cost expended by the Mosquito Abatement District.
23. **Mitigation Measure BIO-1:** The project proponent shall implement *one of the following options* to mitigate for the loss of 170 acres of moderate quality Swainson's hawk foraging habitat on the project site:

Prior to grading activities, purchase conservation easements and or fee title acquisition of suitable foraging habitat (within 10 miles of a Swainson's hawk nest tree) at a 0.75:1 ratio (e.g. 127.5 acres for 170 acres impacted), as well as establishment of an associated management endowment to fund management of these lands in perpetuity.

OR

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Prior to grading activities, place 127.5 acres of suitable agricultural land within 10 miles of the nearest Swainson's hawk nest tree into an agricultural easement managed by CDFG for Swainson's hawk foraging. Suitable agricultural easements would include areas limited to production of crops such as alfalfa, dry land and irrigated pasture, and cereal grain crops. Certain low growing row or field crops are appropriate as well. Vineyards, orchards, cotton fields and other dense vegetation do not provide adequate foraging habitat.

24. **Mitigation Measure BIO-2:** To minimize potential adverse effects to terrestrial or aquatic biota due to the introduction of heavy metals into the environment by the application of dairy waste to agricultural fields and retention in ponds, the following measures would be required.
25. **Mitigation Measure BIO-2a:** Comply with monitoring and remediation of waste, soil, and groundwater criteria set forth by the Merced County ACO Chapters 18.48.050 and 18.48.055.
26. **Mitigation Measure BIO-2b:** Implement Mitigation Measures HYD-4, HYD-8, and HYD-9.
27. **Mitigation Measure BIO-4a:** To minimize take of the California tiger salamander from construction activities and land conversions for the Red Rock Dairy, a Worker Awareness Program (environmental education) must be conducted before construction to inform project workers of their responsibilities regarding sensitive biological resources, including CTS. If a California tiger salamander is observed during construction, construction activities shall cease immediately and the USFWS shall be contacted for instructions regarding protection of the individual and potential further surveys for other individuals and occupied habitat. This may include exclusion or directing fencing to guide individuals away from active areas of the construction zone and dairy along safe corridors to appropriate habitats outside of the project site.
28. **Mitigation Measure BIO-4b:** The proposed Red Rock Dairy is located within the watershed of a vernal pool system south and southwest of the project action area. A berm is already in place on the southern boundary of the property to route water that may come into contact with animal waste or wastewater into a tailwater return system and away from Dutchman Creek and any wetlands south of the project. This berm shall remain in place for the life of the project to minimize any adverse impact from overland flow of wastewater into nearby riparian and wetland areas.
29. **Mitigation Measure BIO-4c:** To minimize any adverse affect on the adjacent vernal pool habitat to the north, the project shall be set back 200 feet from the road edge and a 100-foot buffer strip of undeveloped land shall remain between the proposed dairy and the vernal pool habitat. This will reduce the impact caused by a possible disruption of the aquatic regime and/or deposition of dust from grading activities.
30. **Mitigation Measure BIO-5a:** To reduce the potential for substantial adverse effects on wildlife movement, a minimum buffer zone of 200 feet of undeveloped open space (pasture, cropland, or natural habitat) shall be maintained between the edge of development and the edge of any stream corridor, riparian habitat, grassland habitat, or wetland. Development includes permanent constructed features such as barns, corrals, and wastewater ponds.
31. **Mitigation Measure BIO-5b:** Lights used during construction or dairy operation that are on the north side of the project shall be shielded or directed away from the adjacent habitat to the north to minimize potential disturbance to night-active wildlife.
32. **Mitigation Measure BIO-6:** Implement Mitigation Measures BIO-4c, BIO-5a, and BIO-5b.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

Robert Lewis talked about the next series of Focus Groups for the Merced County General Plan Update that will be starting in November.

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:41 a.m.



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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Director

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF SEPTEMBER 26, 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; Cindy Lashbrook; Lynn Tanner; Rudy Buendia; Steve Sloan, Chairman

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. ADMINISTRATIVE APPLICATION No. AA05-136 - Rodney DeJager / Redrock Dairy -**
To construct and operate a new 5,636 milk cow dairy and four farm worker housing units on property located on the east side of Highway 59 and 620 feet north of Canton Road in the Merced area. The project site is designated as Agriculture in the General Plan and zoned A-1 (General Agricultural) (550 acres). **THE ACTION REQUESTED IS 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 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, and for subdivisions, the deadline is the following Monday at 5:00 pm. Please note that appeals may not be submitted on days that the County is officially closed.

Appeals of Development Services 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.